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List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1969, and specifies how they are affected.

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11446

AUTHORIZING THE ACCEPTANCE OF SERVICE MEDALS AND RIBBONS FROM MULTILATERAL ORGANIZATIONS OTHER THAN THE UNITED NATIONS

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, I hereby authorize the Secretary of Defense, with respect to members of the Army, Navy, Air Force, and Marine Corps, and the Secretary of Transportation, with respect to members of the Coast Guard when it is not operating as a service in the Navy, to prescribe regulations for the acceptance of medals and ribbons which are offered by multilateral organizations, other than the United Nations, to members of the Armed Forces of the United States in recognition of service conducted under the auspices of those organizations. A determination that service for a multilateral organization in a particular geographical area or for a particular purpose constitutes a justifiable basis for authorizing acceptance of the medal or ribbon offered to eligible members of the Armed Forces of the United States shall be made with the concurrence of the Secretary of State.

Lyndon B. Johnson

THE WHITE HOUSE,
January 16, 1969.

[F.R. Doc. 69-797; Filed, Jan. 16, 1969; 4:50 p.m.]

Executive Order 11447

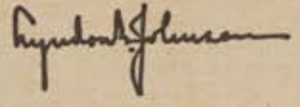
INTERAGENCY ADVISORY COMMITTEE ON COMPENSATION FOR MOTOR VEHICLE ACCIDENT LOSSES

By virtue of the authority vested in me by Section 4 of Public Law 90–313 (82 Stat. 127), and as President of the United States, it is ordered as follows:

SECTION 1. The following are hereby appointed to the Interagency Advisory Committee on Compensation for Motor Vehicle Losses:

Secretary of Transportation, *Chairman*
Secretary of Commerce
Secretary of Defense
Secretary of Health, Education, and Welfare
Secretary of Housing and Urban Development
Secretary of Labor
Secretary of the Treasury
Attorney General
Chairman of the Federal Trade Commission
Chairman of the Interstate Commerce Commission
Chairman of the Securities and Exchange Commission
Administrator of Veterans Affairs

SEC. 2. Each member of the Committee appointed in Section 1 hereof may appoint an alternate to represent him at Committee meetings which he is unable to attend.



THE WHITE HOUSE,
January 16, 1969.

[F.R. Doc. 69–798; Filed, Jan. 16, 1969; 4:50 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter II—Consumer and Marketing Service (Consumer Food Programs), Department of Agriculture

SUBCHAPTER A—SCHOOL LUNCH PROGRAM

[Amdt. 10]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Requirements for Participation

Regulations for the operation of the National School Lunch Program (28 F.R. 1247), as amended (28 F.R. 11531, 29 F.R. 311, 29 F.R. 14619, 30 F.R. 15402, 31 F.R. 14921, 32 F.R. 33, 32 F.R. 12083, 33 F.R. 15631, 33 F.R. 18006), are hereby amended as follows:

In § 210.8, paragraph (c), subparagraph (3), is revised to read as follows:

§ 210.8 Requirements for participation.

* * * * *

(c) * * *

(3) Except as provided in this subparagraph, no school which operates the food or milk service in any attendance unit under a contractual arrangement with a concessionaire or food service management company or under a similar arrangement shall be eligible for participation in the program with respect to such attendance unit, even though the school or such attendance unit obtains no profit from the operation of such food or milk service. The State agency, or CFPDO where applicable, may authorize a school to operate under the program, through fiscal year 1970, under a contract with a food service management company, on a pilot, experimental basis: *Provided*, That (i) such operation will extend food service to needy children not previously benefiting from the program, (ii) the contract with the food service management company is one which is substantially in conformity with the applicable prototype contract published in the FEDERAL REGISTER and (iii) the contract is approved by the State agency, or CFPDO where applicable, and the Department in advance of the beginning of the food service.

* * * * *

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER.

Approved: January 15, 1969.

[SEAL] TED J. DAVIS,
Assistant Secretary.

[F.R. Doc. 69-705; Filed, Jan. 17, 1969; 8:47 a.m.]

[Amdt. 1]

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Requirements for Participation

Regulations for the operation of the Special Milk Program for Children (32 F.R. 12587) are hereby amended as follows:

In § 215.7, paragraph (c), subparagraph (4), is added as follows:

§ 215.7 Requirements for participation.

* * * * *

(c) * * *

(4) That is authorized by the State agency, or CFPDO where applicable, to operate the food or milk service in any attendance unit, during any period through fiscal year 1970, under a contract with a food service management company, when such operation will extend food service to needy children not previously benefiting from the program. The contract with the food service management company must be one which is substantially in conformity with the applicable prototype contract published in the FEDERAL REGISTER and must be approved by the State agency, or CFPDO where applicable, and the Department in advance of the beginning of the food service.

* * * * *

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER.

Approved: January 15, 1969.

[SEAL] TED J. DAVIS,
Assistant Secretary.

[F.R. Doc. 69-707; Filed, Jan. 17, 1969; 8:48 a.m.]

[Amdt. 4]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Requirements for School Participation

The regulations for the operation of the School Breakfast and Nonfood Assistance Programs and State Administrative Expenses (32 F.R. 33) as amended (32 F.R. 13215, 33 F.R. 14513, 33 F.R. 15631) are amended as follows:

In § 220.7, paragraph (d) is revised to read as follows:

§ 220.7 Requirements for school participation.

* * * * *

(d) Except as provided in this paragraph, no school which operates the food or milk service in any attendance unit under a contractual arrangement with a concessionaire or food service management company or under a similar arrangement shall be eligible for participation in the School Breakfast Program with respect to such attendance unit, even though the school or such attendance unit obtains no profit from the operation of such food or milk service. The State agency, or CFPDO where applicable, may authorize a school to operate under the School Breakfast Program, through fiscal year 1970, on a pilot, experimental basis, under a contract with a food service management company; *Provided*, That (1) such operation will extend food service to needy children not previously benefiting from the School Breakfast Program, (2) the contract with the food service management company is one which is substantially in conformity with the applicable prototype contract published in the FEDERAL REGISTER, and (3) the contract is approved by the State agency, or CFPDO where applicable, and the Department in advance of the beginning of the food service.

* * * * *

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER.

Approved: January 15, 1969.

[SEAL] TED J. DAVIS,
Assistant Secretary.

[F.R. Doc. 69-706; Filed, Jan. 17, 1969; 8:47 a.m.]

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—COMMODITY DISTRIBUTION

[Amdt. 4]

PART 250—DONATION OF FOOD COMMODITIES FOR USE IN UNITED STATES FOR SCHOOL LUNCH PROGRAMS, TRAINING STUDENTS IN HOME ECONOMICS, SUMMER CAMPS FOR CHILDREN, AND RELIEF PURPOSES, AND IN STATE CORRECTIONAL INSTITUTIONS FOR MINORS

Supplemental Food Program

The regulations for the operation of the Commodity Distribution Program, as amended (31 F.R. 14297, 32 F.R. 20837, 33 F.R. 402, 33 F.R. 6973), are hereby amended by adding the following new section:

§ 250.14 Supplemental food program.

(a) *Definitions.* For the purposes of this section:

(1) "CFPDO" means the Consumer Food Program District Office, C&MS.

(2) "Health facility" means any public or nonprofit private center or agency which provides free or substantially free, health services to low-income persons.

(3) "Supplemental food" means commodities specifically made available by the Department for persons in low-income groups vulnerable to malnutrition.

(4) "Low-income groups, vulnerable to malnutrition" means (i) infants and preschool children and (ii) women during and 12 months after pregnancy.

(b) *Eligibility for supplemental food.* Persons in low-income groups vulnerable to malnutrition who have, after consideration of age and income (location and income of parents, in the case of a minor), been found eligible for benefits under existing Federal, State or local food, health or welfare programs for low-income persons, shall be eligible to receive supplemental food donated under section 416, section 32 or other applicable authority through authorizations issued by professional or supervisory personnel of a health facility, or by other personnel the health facility may designate, or by physicians serving money-payment recipients under public welfare programs, in accordance with the provisions of this section. The food benefits provided in this section are available to any area without regard to whether there is a Food Stamp Program in such area and may be made to eligible persons whether or not they are participating in the Food Stamp Program or are otherwise receiving commodities under this part, provided that distribution is made in the immediate vicinity of their place of permanent residence in areas in which the Food Stamp Program is in effect.

(c) *Authorization for supplemental food.* Health facilities approved under this section or physicians serving money-payment recipients under Public Welfare Programs, may issue to eligible persons in low-income groups, vulnerable to malnutrition, who are determined by a physician or other staff member of such health facility, or his designee, or by such physicians serving money-payment recipients, to be in need of the nutrients in the supplemental food, authorizations for the supplemental food for home consumption in specified amounts and varieties judged necessary for their health. The supplemental foods shall be distributed to such persons by health facilities, by recipient agencies, or by the Department.

(d) *Application by health facilities.* Health facilities desiring to participate in the Supplemental Food Program under this section shall negotiate a plan of operation with distributing agencies. If the distributing agency is other than an agency of the Department, the plan of operation shall be approved by the Department. State distributing agencies may design and submit, for approval by the Department, a plan of operation in behalf of several or all health facilities in a geographic area or State. As a minimum, each plan of operation shall contain the following:

(1) The name and location of the health facility(ies) and the title of the official(s) in charge.

(2) Such information regarding the nature of services provided, the criteria of eligibility for such services, the professional and supervisory personnel, and the source of financial support of the health facility as will assist the distributing agency to determine eligibility to participate in the Supplemental Food Program.

(3) The estimated number of persons from low-income groups, vulnerable to malnutrition, who would be eligible for the program based on the following categories: (i) Infants through 3 months, (ii) infants 4 months through 12 months, (iii) preschool children 1 year through 5 years, and (iv) women during and for 12 months after pregnancy.

(4) The method of identifying persons eligible for authorizations, the methods of controlling the issuance of authorizations, and the manner in which distribution will be made to include (i) the identities of the agencies and units that will store and distribute foods on presentation of authorizations, (ii) the records to be maintained, (iii) reports to be made, and (iv) the method of financing distribution. Reports will, as a minimum, show the number of persons in each category that are benefited, and the variety and quantities of foods distributed to each.

(5) The identity of the public health agency and personnel in the unit who will issue authorizations for food with an assurance that no authorizations for supplemental food will be issued except by a physician, or other staff members of the health facility, or his designee, and that issuances will be made only to persons in low-income groups, vulnerable to malnutrition, who are determined to be in need of the nutrients contained in the supplemental food.

(6) Provision for periodic review to ascertain the continuing eligibility of persons to whom authorizations are issued.

(7) Provision for identifying any person who has been designated to receive supplemental food.

(8) Assurances that the supplemental food program will not be used as a means for furthering the political interest of any individual or party, and that there will be no discrimination in the issuance of authorizations for supplemental food because of race, creed, color, or national origin.

(9) Assurances that persons in low-income groups will not be required to make any payments in money, materials or services for the supplemental foods, and that they will not be solicited in connection with the Supplemental Food Program for voluntary cash contributions for any purpose.

(10) The name of the supervising agency and the manner by which it will supervise and coordinate the Supplemental Food Program (if it is multi-agency in nature). To the extent possible, operations shall cover an entire political subdivision.

(e) *Agreements with health facilities.* (1) Distributing agencies, or CFPDO where an agency of the Department is the distributing agency, shall enter into agreements with health facilities which are approved to participate in the Supplemental Food Program. Such agreements shall be in writing and shall contain such terms and conditions as the distributing agency or CFPDO deems necessary to assure that (i) issuance of prescriptions for supplemental food is in accordance with this section; (ii) health facilities are responsible to the distributing agency or CFPDO for any distribution resulting from improper or negligent issuance by them of prescriptions for supplemental food.

(2) In situations in which health facilities will themselves distribute the supplemental food, the agreements with the health facilities shall also contain the provisions which are required with respect to recipient agencies under § 250.6 (b).

(3) Each agreement with a health facility shall provide that the health facility shall maintain accurate and complete records with respect to its activities under the Supplemental Food Program, and shall retain such records for a period of 3 years from the close of the Federal fiscal year to which they pertain.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated: January 15, 1969.

TED J. DAVIS,
Assistant Secretary.

[F.R. Doc. 69-745; Filed, Jan. 17, 1969; 8:51 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 6]

PART 722—COTTON

Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton

DESIGNATED COUNTY IN TEXAS

This amendment is issued under the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) for the purpose of adding a county in Texas to the list of counties designated under section 347(a) of the Act as being suitable for the production of ELS cotton.

Since farmers are now filing applications for transfers of allotments to take effect in 1969, it is necessary that the farmers and local committees be informed as soon as possible of the additional counties to which transfers may be made. Accordingly, it is hereby found that compliance with the notice, public procedure, and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest.

The Subpart—Acreage Allotments for 1966 and Succeeding Crops of Extra Long Staple Cotton, of Part 722, Subchapter B of Chapter VII, Title 7 (31 F.R. 6247, 13530, 32 F.R. 5416, 33 F.R. 8427, 16066, 16434, 34 F.R. 5) is amended by adding to the table of counties in paragraph (b) of § 722.509 the following:

Jeff Davis, Tex.

(Sec. 347, 63 Stat. 675, as amended; 7 U.S.C. 1347)

Effective date: Date of filing with the Director, Office of the FEDERAL REGISTER.

Signed at Washington, D.C., on January 13, 1969.

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

[F.R. Doc. 69-704; Filed, Jan. 17, 1969; 8:47 a.m.]

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

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[S.D. 857.18]

PART 857—SUGARCANE; PUERTO RICO

Proportionate Shares for Farms; 1969–70 Crop

The following regulation is issued pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended.

§ 857.18 Proportionate shares for the 1969–70 crop of sugarcane not required.

It is determined for the 1969–70 crop of sugarcane that, in the absence of proportionate shares, the production of sugar from such crop will not be greater than the quantity needed to enable the area to meet its quota for 1970, the calendar year during which the larger part of the sugar from such crop normally will be marketed, and provide a normal carryover inventory. Consequently, proportionate shares will not be in effect in Puerto Rico for the 1969–70 crop of sugarcane.

Statement of bases and considerations. Section 302 of the Sugar Act, as amended, provides, in part that the Secretary shall determine for each crop year whether the production of sugar from any crop of sugarcane will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination shall be made only after due notice and opportunity for an informal public hearing.

In accordance with this provision of the Act, an informal public hearing was held in Washington, D.C., on December 19, 1968. Interested persons were invited to submit views and recommendations concerning the possible establishment of proportionate shares for the 1969–70 crop of sugarcane.

The spokesman for the Association of Sugar Producers of Puerto Rico, the members of which grow nearly 28 percent of all sugarcane and process approximately 88 percent of all the cane grown in Puerto Rico recommended that proportionate shares not be established for the 1969–70 crop. He stated that although the recent decline in Puerto Rican sugar production has been arrested and the trend has been reversed, production will not be restored rapidly enough to bring the Island's 1969–70 sugarcane crop to a level which will meet the quotas currently provided under the Sugar Act and provide a normal carryover inventory. Similar recommendations had been submitted by the Puerto Rico Farm Bureau prior to the public hearing. No other interested persons offered testimony.

Accordingly, I hereby find and conclude that the foregoing regulation will effectuate the applicable provisions of this 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 January 14, 1969.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 69-740; Filed, Jan. 17, 1969; 8:51 a.m.]

SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

[891.2, Amdt. 2]

PART 891—DOMESTIC BEET SUGAR AREA

Designation of Crop of Sugar Beets by Year

Pursuant to the provisions of the Sugar Act of 1948, as amended, § 891.2 (32 F.R. 7837, 33 F.R. 2503) is amended by deleting the period at the end of the first sentence and by adding at the end of such sentence the following:

§ 891.2 Designation of crop of sugar beets by year.

* * *, and that sugar beets which were planted in Orange and Riverside Counties during the months of February through December 1968, and during the period January 1 through January 31, 1969, shall be designated as 1968-crop sugar beets. * * *

Statement of bases and considerations. Normally, sugar beets are planted in Orange and Riverside Counties, Calif., in November and December. The regulation provides that sugar beets are designated as to crop year in these counties to correspond with the calendar year in which they are planted.

Because of unusually cool weather during the normal planting period, germination was poor, necessitating some replanting in January, as well as delay in other plantings until that month. In view thereof and to protect the interests of the growers, the planting period for the 1968-crop year in the two counties is extended through January 31, 1969, by this amendment.

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 January 13, 1969.

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

[F.R. Doc. 69-741; Filed, Jan. 17, 1969; 8:51 a.m.]

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

[Navel Orange Reg. 164, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, 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 and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel 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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 907.464 (Navel Orange Regulation

164, 34 F.R. 318) are hereby amended to read as follows:

§ 907.464 Navel Orange Regulation 164.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 1,080,000 cartons;

(ii) District 2: 177,000 cartons;

(iii) District 3: 93,000 cartons.

* * * * *

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

Dated: January 15, 1969.

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

[F.R. Doc. 69–743; Filed, Jan. 17, 1969; 8:51 a.m.]

[Grapefruit Reg. 35, Amdt. 1]

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, Calif.; and in that part of Riverside County, Calif., situated south and east of White Water, Calif., 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 Administrative Committee (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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held an open meeting on January 9, 1969, to consider recommendation for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such open meeting; necessary supplemental economic and statistical information upon which this recommended amendment is based were received on January 13, 1969; information regarding the provisions of the regulation recommended by the committee has been disseminated to shippers of grapefruit, grown as aforesaid, this amendment, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective on the date hereinafter set forth; compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed on or before the effective date hereof, and this amendment relieves restrictions on the handling of grapefruit.

Order. In § 909.335 (Grapefruit Regulation 35, 33 F.R. 15295) the provisions of paragraph (a)(1) preceding (a)(1)(ii) are amended to read as follows:

§ 909.335 Grapefruit Regulation 35.

(a) *Order.* (1) Except as otherwise provided in subparagraph (2) of this paragraph, during the period January 19, 1969, through August 30, 1969, no handler shall handle from the State of California or the State of Arizona to any point outside thereof:

(i) Any grapefruit which do not meet the requirements of the U.S. No. 2 grade which for purpose of this regulation shall include the requirement that the grapefruit be free from peel that is more than 1 inch in thickness at the stem end (measured from the flesh to the highest point of the peel): *Provided,* That the tolerance prescribed for the U.S. No. 2 grade shall be the tolerance applicable to the requirements of this subparagraph except that an additional tolerance of 15 percent shall be allowed for grapefruit having light colored scarring on an aggregate of more than 25 percent of the fruit surface and a tolerance of 5 percent shall be allowed for grapefruit having peel more than 1 inch in thickness at the stem end; or

* * * * *

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

Dated, January 16, 1969, to become effective January 19, 1969.

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

[F.R. Doc. 69–792; Filed, Jan. 17, 1969; 8:51 a.m.]

[Lemon Reg. 357]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.657 Lemon Regulation 357.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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 and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, 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 section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and 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. The committee held an open meeting during the current week, after giving due notice thereof to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 14, 1969.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period January 19, 1969, through January 25, 1969, are hereby fixed as follows:

(i) District 1: 21,390 cartons;

(ii) District 2: 73,470 cartons;

(iii) District 3: 109,740 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: January 16, 1969.

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

[F.R. Doc. 69–760; Filed, Jan. 17, 1969; 8:51 a.m.]

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

[Milk Order 46]

PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

Order Terminating Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area (7 CFR Part 1046), it is hereby found and determined that:

(a) The following provisions of the order no longer tend to effectuate the declared policy of the Act:

(1) The following provision of the introductory text of paragraph (a) of § 1046.51 preceding subparagraph (1) "and plus or minus a supply-demand adjustment of not more than 50 cents computed pursuant to subparagraphs (1) through (6) of this paragraph;" and

(2) Subparagraphs (1), (2), (3), (4), (5), and (6) of § 1046.51(a).

(b) Notice of proposed rule making, public procedure thereon and 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(1) This termination order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the subject provisions (a) no longer reflect the supply-demand conditions in the marketing area in view of the substantial and varying amounts of producer milk exported from the market with regularity to supply needs of other fluid markets, and (b) tend to impede the marketing of producer milk in the higher-valued fluid uses.

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

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby terminated.

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

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on January 15, 1969.

TED J. DAVIS,
Assistant Secretary.

[F.R. Doc. 69–744; Filed, Jan. 17, 1969; 8:51 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 68–EA–147; Amdt. 39–711]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 13 of the Federal Aviation Regulations so as to revise Airworthiness Directive 66–30–4 to include new part numbers.

The original Airworthiness Directive was a result of the finding of cracks in the affected parts. While the new parts are improved and are being used, they are not of such an improvement as to permit relaxation of the inspections. Because of the structural failure which can result from the foregoing deficiencies, the Administrator finds that a situation exists requiring immediate action in the interest of safety and that notice and public procedure herein are impracticable and that good cause exists for making this amendment effective in less than 30 days.

In view of the foregoing, and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

Amend § 39.13 of Part 39 of the Federal Aviation Regulations so as to revise AD 66–30–4 to read as follows:

FAIRCHILD HILLER. Applies to F–27 Type and FH–227 Type Airplanes, certificated in all categories.

Compliance required as indicated.

To detect cracks in the engine mount support tube assembly (post support) and engine mount support tube bracket (support assembly), accomplish the following:

(a) For airplanes equipped with upper tube assembly P/N 27–503105–11, –31, –41, –51; P/N 01–503105–11, or –31; upper bracket P/N 27–110105–11, –12, –31, –32, –41, –42, –51, –52, –61, –62, –71, –72, –81, or –82; or lower tube assembly P/N 27–503101–11, –41, –51, –61, –71, –81, –91, –101, or –111:

(1) Inspect in accordance with (c) the tube assemblies and brackets having 10,000 or more hours time in service on the effective date of this A.D. within the next 50 hours time in service after the effective date of this A.D. unless already accomplished within the last 250 hours time in service, and thereafter at intervals not to exceed 300 hours time in service from the last inspection.

(2) Inspect in accordance with (c) the tube assemblies and brackets having less than 10,000 hours time in service on the effective date of this A.D. before the accumulation of 10,050 hours time in service unless already accomplished after the accumulation of 9,750 hours time in service, and thereafter at intervals not to exceed 300 hours time in service from the last inspection.

(b) Airplanes equipped with Fairchild Hiller brackets P/N 01–110105–3, –4, –11, or –12 must be inspected in accordance with (c) at intervals not to exceed 300 hours time in service after the accumulation of 25,000 hours time in service.

(c) Without removing the tube assembly or bracket, clean all surfaces of each engine mount support tube bracket (four per airplane located at the wing front spar) and each engine mount support tube assembly (eight per airplane) prior to inspecting. Visually inspect for cracks, each bracket and support tube assembly using a glass of at least 10 power or an FAA approved equivalent inspection. If cracks are found comply with (d) before further flight.

(d) Repair cracked parts in accordance with an FAA-approved repair or replace them with a part of the same part number that has been inspected in accordance with (c) or with an FAA-approved equivalent part. Equivalent repairs or parts may be installed when approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(e) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(Fairchild Hiller Service Bulletin No. F27–54–14 Revision 1 dated Oct. 3, 1968, and No. FH–227–54–4 Revision 1 dated Oct. 3, 1968 cover this subject.)

This amendment is effective January 18, 1969.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), DOT Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on January 13, 1969.

R. M. BROWN,
Acting Director, Eastern Region.

[F.R. Doc. 69–752; Filed, Jan. 17, 1969; 8:51 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 30—FOREIGN TRADE STATISTICS

Miscellaneous Amendments

Pursuant to title 13, United States Code, section 302, the following amendments are made to the regulations published in the FEDERAL REGISTER on August 27, 1966 (31 F.R. 11368) (15 CFR Part 30). In accordance with administrative procedure, 5 U.S.C. 553, notice and hearing on these amendments and postponement of the effective date thereof are unnecessary because (1) the amendments are changes in the substantive rules which grant or recognize exemptions or relieve restrictions, and (2) are

interpretive rules and statements of policy.

Effective date. These amendments to the Foreign Trade Statistics Regulations are effective on the date of publication in the FEDERAL REGISTER.

1. Section 30.4(a) is amended to read as follows:

§ 30.4 Preparation and signature of Shipper's Export Declarations.

(a) The Shipper's Export Declaration shall be prepared and signed by the shipper, owner, or consignor, or his properly authorized agent. For shipments to foreign countries, if the Shipper's Export Declaration is prepared by an agent his authority to sign such declaration shall be in the form of a properly executed power-of-attorney, signed by the shipper, owner, or consignor or in the less formal written authorization printed on the export declaration. The power-of-attorney shall be on file in the agent's office and available for inspection on demand. In every event the data required on the Shipper's Export Declaration shall be complete and correct and shall be based on personal knowledge of the facts stated, or on invoices or information furnished by the principal. Exporters who authorize the preparation of their export declarations by an agent shall provide the agent with information for this purpose which will in every respect meet the specifications in § 30.7. Particular attention is called to the fact that invoices and other commercial documents furnished to the agent for other purposes may not necessarily contain all of the particular types of information needed for the preparation of the export declaration, and special arrangements should be made so that the information needed for the export declaration is noted upon or accompanies the commercial documents furnished to the agent, if he is to prepare the Shipper's Export Declaration.

* * * * *

2. The fifth (5th) sentence of § 30.21 (a) is amended so that, as amended, § 30.21(a) now reads as follows:

§ 30.21 Requirements for the filing of manifests.

(a) *Vessels.* Vessels transporting merchandise as specified in § 30.20 (except vessels exempted by paragraph (d) of this section) shall file a complete manifest on Customs Form 1374 or similar form approved by the Customs Director. The manifest shall be filed with the Customs Director at the respective ports where the merchandise is laden, and shall show the destination of the vessel and list all the cargo so laden. For each item of cargo, the manifest shall show the marks and numbers of the packages; and a description of the articles, contents, quantities, and values, shall be shown; however, a notation on the manifest that values are as stated on the Shipper's Export Declaration, copies of which are attached to such manifest, will be accepted. There shall also be shown for each item of cargo the Customhouse number of the authenticated declaration covering the item, except that declaration numbers are not required on manifests covering cargo destined for Canada or a nonforeign area. If an item on a manifest is one for which a Shipper's Export Declaration is not required under the regulations in this part, a notation shall be inserted on the manifest as to the basis for the exemption. In lieu of a listing of cargo on Customs Form 1374, the list of cargo may be shown on bills of lading, cargo lists, or other similar commercial forms, attached to the manifest: *Provided*, That the manifest is completely executed on Customs Form 1374 or similar form approved by the Customs Director, except for particulars as to cargo: *And provided also*, That the bills of lading, cargo lists, or other commercial forms are securely attached to that form in such manner as to constitute one document; that they are incorporated by suitable reference on the face of the form such as "Cargo as per bills of lading attached," or "Cargo as per commercial forms attached," and that there is shown on the face of each document the information required by Customs Form 1374 for the cargo covered by that document. The manifest of vessels clearing for foreign countries shall also show the quantities and values of bunker fuel taken aboard at that port for fueling use of the vessel, apart from such quantities as may have been laden on vessels as cargo. The quantity of coal shall be reported in tons, and the quantity of fuel oil shall be reported in barrels of 42 gallons. Fuel oil shall be described in such manner as to identify diesel oil as distinguished from other types of fuel oil.

* * * * *

3. Section 30.55 is amended by the addition of a new paragraph (j) to read as follows:

§ 30.55 Miscellaneous exemptions.

* * * * *

(j) Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

4. Section 30.91(d)(1)(iv) is hereby deleted and (d)(2) is amended so that as amended § 30.91(d) (1) and (2) now read as follows:

§ 30.91 Confidential information, Shipper's Export Declarations.

* * * * *

(d) *Limitations on issuance and reproduction of authenticated copies.* * * *

(1) A copy of a Shipper's Export Declaration authenticated by a Customs Director by certification, validation by numbering stamp, or any other method may be supplied to exporters or their agents only when such a copy is needed by the exporter to comply with: (i) Official requirements for presentation of a copy to the exporting carrier as authorization for export, (ii) export control requirements, or (iii) U.S. Department of Agriculture requirements for proof of export in connection with subsidy payments. Copies issued to exporters or their agents under subdivision (ii) or (iii) of this subparagraph will be stamped as follows by the Customs Director:

Certified pursuant to the export control regulations or to fulfill the requirements of a Federal Agency and not for any other purpose. May not be reproduced in any form.

All copies of the Shipper's Export Declaration not used for the purposes for which they are authenticated shall be returned to the Customs Director making the authentication.

(2) Use of copies of the Shipper's Export Declaration in connection with claims for exemption from internal revenue taxes or state taxes is not permitted. Bureau of Customs Circular Letter EXP-4-MC, September 25, 1953 (CL-2861), provides for a Proof of Export Form which may be certified by Customs officers for these purposes.

* * * * *

A. ROSS ECKLER,
Director, Bureau of the Census.

NOVEMBER 21, 1968.

I concur:

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

DECEMBER 20, 1968.

[F.R. Doc. 69-670; Filed, Jan. 17, 1969; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 15—REPORTS—GENERAL PROVISIONS

PART 18—REPORTS BY TRADERS

Frozen Concentrated Orange Juice

On November 27, 1968, there was published in the FEDERAL REGISTER (33 F.R. 17690) a notice of proposed amendment of §§ 15.02, 15.03, and 18.03(b) of the reporting regulations under the Commodity Exchange Act (17 CFR 15.02, 15.03, 18.03 (b)).

Interested persons were given 15 days in which to submit written data, views, or arguments on the proposed amendments.

No such data, views, or arguments have been received and the proposed amendments are hereby adopted without change and are set forth below.

The purpose of this amendment is to provide for reports for frozen concentrated orange juice which was brought under regulation by Public Law 90-418, and to inform traders where reports should be filed. The information required by the reports covered by this amendment should be made available as promptly as possible to the Commodity Exchange Authority for the efficient administration of the Commodity Exchange Act, as amended. Accordingly, it is found upon good cause that this amendment

should be made effective less than 30 days after the date of publication of this amendment in the FEDERAL REGISTER.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accord with the Federal Reports Act of 1942 (44 U.S.C., Ch. 12).

This amendment shall become effective on publication in the FEDERAL REGISTER.

Issued: January 15, 1969.

TED J. DAVIS,
Assistant Secretary.

Parts 15 and 18 of Chapter I of Title 17 are amended as follows:

1. By adding to the table of reporting forms in § 15.02, after the line beginning with the word "Hides," another line containing the phrase "Frozen Concentrated Orange Juice" in the first column, the number 1600 in the second column, the number 1601 in the third column, the number 1603 in the fourth column, and the word "none" in the last column.

2. By adding to the table of quantities fixed for reporting in § 15.03, after the line beginning with the word "Hides," another line containing the phrase "Frozen Concentrated Orange Juice" in the first column and the phrase "25 contract units" in the second column.

3. By deleting from § 18.03(b) the word "and" which appears before the word "hides," and inserting after the word "hides" therein a comma and the words "and frozen concentrated orange juice."

[F.R. Doc. 69-742; Filed, Jan. 17, 1969; 8:51 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-343; Order 379]

PART 33—APPLICATION FOR SALE, LEASE, OR OTHER DISPOSITION, MERGER OR CONSOLIDATION OF FACILITIES, OR FOR PURCHASE OR ACQUISITION OF SECURITIES OF PUBLIC UTILITY

PART 34—APPLICATION FOR AUTHORIZATION OF THE ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

Contents of Application

JANUARY 13, 1969.

On August 28, 1968, the Commission gave notice (33 F.R. 13034–13035, Sept. 14, 1968) that it proposed to issue a rule to require each applicant seeking authority (under sections 19, 20, 203 and 204 of the Federal Power Act) to issue or acquire securities, assume liabilities or dispose, merge or consolidate electric facilities, to submit together with its application a notice, suitable for publication in the FEDERAL REGISTER, which briefly summarizes the facts contained in the application in such way as to acquaint the public with its scope and purpose. The notice specified that interested persons would have until October 22, 1968, to submit written comments.

Two comments were received;[1] both supported the proposed changes, acknowledging that it would impose no more than a minimal burden upon applicants and should help to expedite the processing of applications.

In requiring applicants filing pursuant to sections 19, 20, 203, and 204 of the Federal Power Act to submit a notice form with each application, the Commission is merely extending a procedure of proven value which has been required since January 1960 of applicants for certificates of public convenience and necessity and abandonment orders under section 7 of the Natural Gas Act.[2] That practice was instituted at the suggestion of the practicing bar.

We are accordingly adopting the amendments in the form proposed in the notice of rulemaking of August 28, 1968.

The Commission finds: The amendments to §§ 33.2 and 34.2 of the regulations under the Federal Power Act as proposed in the notice of rulemaking of August 28, 1968 and prescribed herein are necessary and appropriate for the administration of the Federal Power Act.

The Commission, acting pursuant to the Federal Power Act, as amended, particularly sections 19, 20, 203, 204, and 309 thereof (41 Stat. 1073, 49 Stat. 849, 850, 858; 16 U.S.C. 812, 813, 824b, 824c, 825h), orders:

A. Section 33.2, Part 33, Subchapter B, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new final paragraph reading as follows:

§ 33.2 Contents of application.

* * * * *

(r) A form of notice suitable for publication in the FEDERAL REGISTER, which will briefly summarize the facts contained in the application in such way as to acquaint the public with its scope and purpose.

B. Section 34.2, Part 34, Subchapter B, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new final paragraph reading as follows:

§ 34.2 Contents of application.

* * * * *

(q) A form of notice suitable for publication in the FEDERAL REGISTER, which will briefly summarize the facts contained in the application in such way as to acquaint the public with its scope and purpose.

C. These amendments shall be effective February 10, 1969.

D. The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 69-681; Filed, Jan. 17, 1969; 8:46 a.m.]

[1] Virginia Electric and Power Co. whose comments were limited to applications under section 203 of the Federal Power Act and Part 34 of the regulations; Niagara Mohawk Power Corp.

[2] Section 157.6, Regulations under the Natural Gas Act. See FPC Order No. 217, issued November 20, 1959, 22 FPC 872, 876, 882.

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER P—MINING

PART 177—SURFACE EXPLORATION, MINING, AND RECLAMATION OF LANDS

On pages 16119–21 of the FEDERAL REGISTER of November 2, 1968, there was published a notice of proposed rule making pursuant to authority vested in the Secretary of the Interior under 5 U.S.C. 301 and under various statutes relating to mining on Indian lands (§ 177.2 of the regulations) to add a new Part 177 to Title 25, Code of Federal Regulations, relating to the surface exploration for and mining of minerals and reclamation of lands.

Interested persons were given an opportunity to submit comments, suggestions, or objections with respect to the proposed regulations within 30 days from the publication of the notice in the FEDERAL REGISTER. The period for submitting comments, suggestions, or objections was subsequently extended through December 16, 1968. During these periods many comments, suggestions and objections were received from Indian tribes and associations, tribal attorneys, Members of the Congress and other interested persons. Careful consideration was given to the comments received, and several revisions were made as a result of them. Among the revisions are the following:

1. Additional requirements for consultation with the Indian landowner with respect to actions proposed to be taken by the superintendent under §§ 177.9 and 177.10.

2. Clarification of the scope of the regulations to provide that they do not cover mining operations where the surface is not owned by the owner of the minerals, and that the regulations do not cover leases that do not require the approval of the Secretary of the Interior or his authorized representative.

3. Revision of the statement of purpose to make it clear that the regulations are in the interest of the Indian owners as well as the public at large.

4. Description in greater detail of the provisions for an exploration plan (§ 177.6), listing the types of information which may be required in such a plan.

5. A revision of § 177.7 to strengthen the intent to encourage prompt action on the part of Federal officials in the review of mining plans.

6. A revision of § 177.8 to clarify the purpose of performance bonds, to allow the deposit of cash or U.S. Government bonds as a performance bond and to permit a reduction in the minimum bond under particular circumstances.

7. Designation of the mining supervisor of the United States Geological Survey as the responsible official for certain actions taken under §§ 177.6, 177.7, 177.9 (a), (b), and (d), and 177.10 (b) and (d). He is, however, required to consult with the superintendent or other officer of the Bureau of Indian Affairs having jurisdiction over the land.

8. Other revisions have been primarily editorial in character.

The revised Part 177 shall become effective upon the date of publication in the FEDERAL REGISTER.

DAVID S. BLACK,
Under Secretary of the Interior.

JANUARY 15, 1969.

Sec.
177.1 Purpose.
177.2 Scope.
177.3 Definitions.
177.4 Technical examination of prospective surface exploration and mining operations.
177.5 Basis for denial of a permit or lease.
177.6 Approval of exploration plan.
177.7 Approval of mining plan.
177.8 Performance bond.
177.9 Reports.
177.10 Inspection: Notice of noncompliance: Revocation.
177.11 Appeals.
177.12 Consultation.

AUTHORITY: The provisions of this Part 177 issued pursuant to the authority of the following statutes and amendments thereof and supplements thereto: the Act of June 28, 1906 (34 Stat. 539); the Act of May 27, 1908 (35 Stat. 312); the Act of Mar. 3, 1909 (35 Stat. 781, 25 U.S.C. 396); the Act of May 1, 1936 (49 Stat. 1250); the Act of June 26, 1936 (49 Stat. 1967); the Act of May 11, 1938 (52 Stat. 347, 25 U.S.C. secs. 396a–f); 5 U.S.C. sec. 301.

§ 177.1 Purpose.

It is the policy of this Department to encourage the development of the mineral resources underlying Indian lands where mining is authorized. However, interest of the Indian owners and the public at large requires that, with respect to the exploration for, and the surface mining of, such minerals, adequate measures be taken to avoid, minimize, or correct damage to the environment—land, water, and air—and to avoid, minimize, or correct hazards to the public health and safety. The regulations in this part prescribe procedures to that end.

§ 177.2 Scope.

(a) Except as provided in paragraph (b) of this section, the regulations in this part provide for the protection and conservation of nonmineral resources during operations for the discovery, development, surface mining, and onsite processing of minerals under permits or leases issued pursuant to statutes pertaining to Indian lands including but not limited to the following statutes or amendments thereto:

The Act of June 28, 1906 (34 Stat. 539);
The Act of May 27, 1908 (35 Stat. 312);
The Act of March 3, 1909 (35 Stat. 781, 25 U.S.C. 396);
The Act of May 1, 1936 (49 Stat. 1250);
The Act of June 26, 1936 (49 Stat. 1967);
The Act of May 11, 1938 (52 Stat. 347, 25 U.S.C. 396 a–f, and 5 U.S.C. 301).

(b) The regulations in this part do not cover the exploration for oil and gas or the issuance of leases, or operations thereunder, nor minerals underlying lands, the surface of which is not owned by the owner of the minerals.

(c) The regulations in this part shall apply only to permits or leases issued subsequent to the date on which these regulations become effective and which are subject to the approval of the Secretary of the Interior or his designated representative.

§ 177.3 Definitions.

As used in the regulations in this part:

(a) "Superintendent" means the superintendent or other officer of the Bureau of Indian Affairs having jurisdiction, under delegated authority, over the lands involved.

(b) "Mining supervisor" means the Regional Mining Supervisor, or his authorized representative, of the Geological Survey authorized as provided in 30 CFR 211.3 and 231.2 to supervise operations on the land covered by a permit or lease.

(c) "Overburden" means all the earth and other materials which lie above a natural deposit of minerals and such earth and other materials after removal from their natural state in the process of mining.

(d) "Area of land to be affected" or "area of land affected" means the area of land from which overburden is to be or has been removed and upon which the overburden or waste is to be or has been deposited, and includes all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to an operation and for haulage.

(e) "Operation" means all of the premises, facilities, roads, and equipment used in the process of determining the location, composition or quality of a mineral deposit, or in developing, extracting, or onsite processing of a mineral deposit in a designated area.

(f) "Method of operation" means the method or manner by which a cut or open pit is made, the overburden is placed or handled, water is controlled or affected and other acts performed by the operator in the process of exploring or uncovering and removing or onsite processing of a mineral deposit.

(g) "Holder" or "operator" means the permittee or lessee designated in a permit or lease.

(h) "Reclamation" means measures undertaken to bring about the necessary reconditioning or restoration of land or water that has been affected by exploration or mineral development, mining or onsite processing operations, and waste disposal, in ways which will prevent or control onsite and offsite damage to the environment.

§ 177.4 Technical examination of prospective surface exploration and mining operations.

(a) (1) In connection with an application for a permit or lease, the superintendent shall make, or cause to be made, a technical examination of the prospective effects of the proposed exploration or surface mining operations upon the environment. The technical examination shall take into consideration the need for the preservation and protection of other resources, including cultural, recreational, scenic, historic, and ecological values; and control of erosion, flooding, and pollution of water; the isolation of toxic materials; the prevention of air pollution; the reclamation by revegetation, replacement of soil, or by other means, of lands affected by the exploration or mining operations; the prevention of slides; the protection of fish and wildlife and their habitat; and the prevention of hazards to public health and safety.

(2) A technical examination of an area should be made with the recognition that actual potential mining sites and mining operations vary widely with respect to topography, climate, surrounding land uses, proximity to densely used areas, and other environmental influences and that mining and reclamation requirements should provide sufficient flexibility to permit adjustment to local conditions.

(b) Based upon the technical examination, the superintendent shall formulate the general requirements which the applicant must meet for the protection of nonmineral resources during the conduct of exploration or mining operations and for the reclamation of lands or waters affected by exploration or mining operations. The general requirements shall be made known in writing to the applicant before the issuance of a permit or lease and, upon acceptance thereof by the applicant, shall be incorporated in the permit or lease.

(c) In each instance in which an application is made the mining supervisor shall participate in the technical examination and in the formulation of the general requirements.

(d) The superintendent may prohibit or otherwise restrict operations on any part of an area whenever it is determined that such part of the area described in an application for a permit or lease is such that previous experience under similar conditions has shown that operations cannot feasibly be conducted by any known methods or measures to avoid—

(1) Rock or landslides which would be a hazard to human lives or endanger or destroy private or public property; or

(2) Substantial deposition of sediment and silt into streams, lakes, reservoirs; or

(3) A lowering of water quality below standards established by the appropriate State water pollution control agency, or

by the Secretary of the Interior, or his authorized representative; or

(4) A lowering of the quality of waters whose quality exceeds that required by the established standards—unless and until it has been affirmatively demonstrated to the Secretary of the Interior, or his authorized representative, that such lowering of quality is necessary to economic and social development and will not preclude any assigned uses made of such waters; or

(5) The destruction of key wildlife habitat or important scenic, historical, or other natural or cultural features.

(e) If, on the basis of a technical examination, the superintendent determines that there is a likelihood that there will be a lowering of water quality as described in paragraph (d) (3) and (4) of this section caused by the operation, no lease or permit shall be issued until after consultation with the Federal Water Pollution Control Administration and a finding by the Administration that the proposed operation would not be in violation of the Federal Water Pollution Control Act, as amended (33 U.S.C. section 466 et seq.), or of Executive Order No. 11288 (31 F.R. 9261). Where a permit or lease is involved the Superintendent's determination shall be made in consultation with the mining supervisor.

§ 177.5 Basis for denial of a permit or lease.

An application for a permit or lease to conduct exploratory or mining operations may be denied any applicant who has forfeited a required bond because of failure to comply with a mining plan. However, a permit or lease may not be denied an applicant because of the forfeiture of a bond if the lands disturbed under his previous permit or lease have subsequently been reclaimed without cost to the lessor or the United States.

§ 177.6 Approval of exploration plan.

(a) Before commencing any surface disturbing operations to explore, test or prospect for minerals, the operator shall file with the mining supervisor a plan for the proposed exploration operations. The mining supervisor shall consult with the superintendent with respect to the surface protection and reclamation aspects before approving said plan.

(b) Depending upon the size and nature of the operation and the requirements established pursuant to § 177.4 the mining supervisor may require that the exploration plan submitted by the operator include any or all of the following:

(1) A description of the area within which exploration is to be conducted;

(2) Two copies of a suitable map or aerial photograph showing topographic, cultural and drainage features;

(3) A statement of proposed exploration methods; i.e., drilling, trenching, etc., and the location of primary support roads and facilities;

(4) A description of measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife or other natural resources, and hazards to public health and safety both during and upon abandonment of exploration activities.

(c) The mining supervisor shall promptly review the exploration plan submitted to him by the operator and shall indicate to the operator any changes, additions, or amendments necessary to meet the requirements formulated pursuant to § 177.4, the provisions of these regulations, and the terms of the permit.

(d) The operator shall comply with the provisions of an approved exploration plan. The mining supervisor may, with respect to such a plan, exercise the authority provided by paragraphs (f) and (g) of § 177.7 respecting a mining plan.

§ 177.7 Approval of mining plan.

(a) Before surface mining operations may commence under any permit or lease, the operator must file a mining plan with the mining supervisor and obtain his approval of the plan. The mining supervisor shall consult with the superintendent with respect to the surface protection and reclamation aspects before approving said plan.

(b) Depending on the size and nature of the operation and the requirements established pursuant to § 177.4, the mining supervisor may require that the mining plan submitted by the operator include any or all of the following:

(1) A description of the location and area to be affected by the operations;

(2) Two copies of a suitable map, or aerial photograph showing the topography, the area covered by the permit or lease, the name and location of major topographic and cultural features, and the drainage plan away from the area affected;

(3) A statement of proposed methods of operating, including a description of proposed roads or vehicular trails; the size and location of structures and facilities to be built;

(4) An estimate of the quantity of water to be used and pollutants that are expected to enter any receiving waters;

(5) A design for the necessary impoundment, treatment or control of all runoff water and drainage from workings so as to reduce soil erosion and sedimentation and to prevent the pollution of receiving waters;

(6) A description of measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife, and hazards to public health and safety; and

(7) A statement of the proposed manner and time of performance of work to reclaim areas disturbed by the holder's operation.

(c) In those instances in which the permit or lease requires the revegetation of an area of land to be affected, the mining plan shall show:

(1) Proposed methods of preparation and fertilizing the soil prior to replanting;

(2) Types and mixtures of shrubs, trees, or tree seedlings, grasses or legumes to be planted; and

(3) Types and methods of planting, including the amount of grasses or legumes per acre, or the number and spacing of trees, or tree seedlings, or combinations of grasses and trees.

(d) In those instances in which the permit or lease requires regrading and backfilling, the mining plan shall show the proposed methods and the timing of grading and backfilling of areas of land to be affected by the operation.

(e) The mining supervisor shall review the mining plan submitted to him by the operator and shall promptly indicate to the operator any changes, additions, or amendments necessary to meet the requirements formulated pursuant to § 177.4, the provisions of these regulations and the terms of the permit or lease. The operator shall comply with the provisions of an approved mining plan.

(f) A mining plan may be changed by mutual consent of the mining supervisor and the operator at any time to adjust to changed conditions or to correct any oversight. To obtain approval of a change or supplemental plan, the operator shall submit a written statement of the proposed changes or supplement and the justification for the changes proposed. The mining supervisor shall promptly notify the operator that he consents to the proposed changes or supplement, or in the event he does not consent, he shall specify the modifications thereto under which the proposed changes or supplement would be acceptable. After mutual acceptance of a change of a plan, the operator shall not depart therefrom without further approval.

(g) If circumstances warrant or if development of a mining plan for the entire operation is dependent upon unknown factors which cannot or will not be determined except during the progress of the operations, a partial plan may be approved and supplemented from time to time. The operator shall not, however, perform any operation except under an approved plan.

§ 177.8 Performance bond.

(a) Upon approval of an exploration plan or mining plan, the operator shall be required to file a suitable performance bond of not less than $2,000 with satisfactory surety, payable to the Secretary of the Interior, and the bond shall be conditioned upon the faithful compliance with applicable regulations, the terms and conditions of the permit, lease, or contract, and the exploration or mining plan as approved, amended or supplemented. The bond shall be in an amount sufficient to satisfy the reclamation requirements established pursuant to an approved exploration or mining plan, or an approved partial or supplemental plan. In determining the amount of the bond consideration shall be given to the character and nature of the reclamation requirements and the estimated costs of reclamation in the

event that the operator forfeits his performance bond. In lieu of a surety bond an operator may elect to deposit cash or negotiable bonds of the U.S. Government. The cash deposit or the market value of such securities shall be equal at least to the required sum of the bond.

(b) In a particular instance where the circumstances are such as to warrant an exception, the amount of the bond for a particular operation may be reduced to less than the required minimum of $2,000.

(c) The superintendent shall set the amount of a bond and take the necessary action for an increase or for a complete or partial release of a bond. He shall take action with respect to bonds for leases or permits only after consultation with the mining supervisor.

§ 177.9 Reports.

(a) Within 30 days after the end of each calendar year, or if operations cease before the end of a calendar year, within 30 days after the cessation of operations, the operator shall submit an operations report to the mining supervisor containing the following information:

(1) An identification of the permit or lease and the location of the operation.

(2) A description of the operations performed during the period of time for which the report is filed.

(3) An identification of the area of land affected by the operations and a description of the manner in which the land has been affected.

(4) A statement as to the number of acres disturbed by the by the operations and the number of acres which were reclaimed during the period of time.

(5) A description of the method utilized for reclamation and the results thereof.

(6) A statement and description of reclamation work remaining to be done.

(b) Upon completion of such grading and backfilling as may be required by an approved exploration or mining plan, the operator shall make a report thereon to the mining supervisor and request inspection for approval. Whenever it is determined by such inspection that backflilling and grading have been carried out in accordance with the established requirements and approved exploration or mining plan, the superintendent shall issue a release of an appropriate amount of the performance bond for the area graded and backfilled. Appropriate amounts of the bond shall be retained to assure that satisfactory planting, if required, is carried out.

(c) (1) Whenever planting is required by an approved exploration or mining plan, the operator shall file a report with the superintendent whenever such planting is completed. The report shall—

(i) Identify the permit or lease;

(ii) Show the type of planting or seeding, including mixtures and amounts;

(iii) Show the date of planting or seeding;

(iv) Identify or describe the areas of the lands which have been planted;

(v) Contain such other information as may be relevant.

(2) The superintendent, as soon as possible after the completion of the first full growing reason, shall make an inspection and evaluation of the vegetative cover and planting to determine if a satisfactory growth has been established.

(3) If it is determined that a satisfactory vegetative cover has been established and is likely to continue to grow, any remaining portion of the surety bond may be released if all requirements have been met by the operator.

(d) (1) Not less than 30 days prior to cessation or abandonment of operations, the operator shall report to the mining supervisor his intention to cease or abandon operations, together with a statement of the exact number of acres of land affected by his operations, the extent of reclamation accomplished and other relevant information.

(2) Upon receipt of such report an inspection shall be made to determine whether operations have been carried out in accordance with the approved exploration or mining plan.

§ 177.10 Inspection: Notice of noncompliance: Revocation.

(a) The mining supervisor and superintendent shall have the right to enter upon the lands under a permit or lease, at any reasonable time, for the purpose of inspection or investigation to determine whether the terms and conditions of the permit or lease and the requirements of the exploration or mining plan have been complied with.

(b) If the mining supervisor determines that an operator has failed to comply with the terms and conditions of a permit or lease, or with the requirements of an exploration or mining plan, or with the provisions of applicable regulations, the superintendent shall serve a notice of noncompliance upon the operator by delivery in person to him or his agent or by certified or registered mail addressed to the operator at his last known address.

(c) A notice of noncompliance shall specify in what respects the operator has failed to comply with the terms and conditions of a permit or lease or the requirements of an exploration or mining plan, or the provisions of applicable regulations, and shall specify the action which must be taken to correct the noncompliance and the time limits within which such action must be taken.

(d) Failure of the operator to take action in accordance with the notice of noncompliance shall be grounds for suspension by the mining supervisor of operations or for the initiation of action for the cancellation of the permit or lease and for forfeiture of the surety bond required under § 177.8.

§ 177.11 Appeals.

An applicant, permittee, lessee, or lessor aggrieved by a decision or order of a mining supervisor or superintendent may appeal such decision or order. An appeal from a decision or order of a superintendent shall be made pursuant to 25 CFR Part 2. An appeal from a decision or order of a mining supervisor shall be made pursuant to 30 CFR Parts 211 and 231.

§ 177.12 Consultation.

A superintendent shall consult with the Indian landowner with respect to actions he proposes to take under §§ 177.4, 177.6, 177.7, 177.9, and 177.10.

[F.R. Doc. 69-746; Filed, Jan. 17, 1969; 8:51 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6992]

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

100-Percent Dividends Received Deduction

On November 2, 1967, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to reflect the provisions of section 214 of the Revenue Act of 1964 (78 Stat. 52), relating to the 100-percent dividends received deduction, was published in the FEDERAL REGISTER (32 F.R. 15167). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted, subject to the following changes. These regulations supersede Treasury Decision 6721 (29 F.R. 4997, C.B. 1964-1 (Part 1), 625), approved April 8, 1964.

PARAGRAPH 1. Section 1.243-4, as set forth in paragraph 3 of the notice of proposed rule making, is changed by revising subparagraphs (2)(iii) and (5) of paragraph (a), by revising subparagraphs (1), (2) (iii) and (iv), and (3) of paragraph (c), and by revising subparagraphs (2) and (3)(i) of paragraph (e).

PAR. 2. Section 1.243-5, as set forth in paragraph 3 of the notice of proposed rule making, is changed by revising subparagraph (2) of paragraph (d) and by revising subparagraphs (2) and (4) of paragraph (f).

(Secs. 243(b), 7805, Internal Revenue Code of 1954 (78 Stat. 52; 26 U.S.C. 243(b); 68A Stat. 917; 26 U.S.C. 7805))

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

Approved: January 14, 1969.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 214 of the Revenue Act of 1964 (78 Stat. 52), such regulations are amended as follows:

PARAGRAPH 1. Section 1.243-1 is amended to read as follows:

§ 1.243–1 Deduction for dividends received by corporations.

(a) (1) A corporation is allowed a deduction under section 243 for dividends received from a domestic corporation which is subject to taxation under chapter 1 of the Internal Revenue Code of 1954.

(2) Except as provided in section 243 (c) and in section 246, the deduction is:

(i) For the taxable year, an amount equal to 85 percent of the dividends received from such domestic corporations during the taxable year (other than dividends to which subdivision (ii) or (iii) of this subparagraph applies).

(ii) For a taxable year beginning after September 2, 1958, an amount equal to 100 percent of the dividends received from such domestic corporations if at the time of receipt of such dividends the recipient corporation is a Federal licensee under the Small Business Investment Act of 1958 (15 U.S.C. ch. 14B). However, to claim the deduction provided by section 243(a)(2) the company must file with its return a statement that it was a Federal licensee under the Small Business Investment Act of 1958 at the time of the receipt of the dividends.

(iii) For a taxable year ending after December 31, 1963, an amount equal to 100 percent of the dividends received which are "qualifying dividends," as defined in section 243(b) and § 1.243–4.

(3) To determine the amount of the distribution to a recipient corporation and the amount of the dividend, see §§ 1.301–1 and 1.316–1.

(b) For limitation on the dividends received deduction, see section 246 and the regulations thereunder.

PAR. 2. Section 1.243–2 is amended by deleting the references to section 243(b) which appear in paragraphs (a) and (b) thereof, and by adding a new paragraph (d) at the end thereof. These revised and added provisions read as follows:

§ 1.243–2 Special rules for certain distributions.

(a) *Dividends paid by mutual savings banks, etc.* In determining the deduction provided in section 243(a), any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, cooperative banks, and domestic building and loan associations) shall not be considered as a dividend.

(b) *Dividends received from regulated investment companies.* In determining the deduction provided in section 243(a), dividends received from a regulated investment company shall be subject to the limitations provided in section 854.

* * * * *

(d) *Dividends received on preferred stock of a public utility.* The deduction allowed by section 243(a) shall be determined without regard to any dividends described in section 244 (relating to dividends on the preferred stock of a public utility). That is, such deduction shall be determined without regard to any dividends received on the preferred stock of a public utility which is subject to taxation under chapter 1 of the Code and with respect to which a deduction is allowed by section 247 (relating to dividends paid on certain preferred stock of public utilities). For a deduction with respect to such dividends received on the preferred stock of a public utility, see section 244. If a deduction for dividends paid is not allowable to the distributing corporation under section 247 with respect to the dividends on its preferred stock, such dividends received from a domestic public utility corporation subject to taxation under chapter 1 of the Code are includible in determining the deduction allowed by section 243(a).

PAR. 3. There are inserted immediately after § 1.243–3 the following new sections:

§ 1.243–4 Qualifying dividends.

(a) *Definition of qualifying dividends*—(1) *General.* For purposes of section 243(a)(3), the term "qualifying dividends" means dividends received by a corporation if—

(i) At the close of the day the dividends are received, such corporation is a member of the same affiliated group of corporations (as defined in paragraph (b) of this section) as the corporation distributing the dividends,

(ii) An election by such affiliated group under section 243(b)(2) and paragraph (c) of this section is effective for the taxable years of its members which include such day, and

(iii) The dividends are distributed out of earnings and profits specified in subparagraph (2) of this paragraph.

(2) *Earnings and profits.* The earnings and profits specified in this subparagraph are earnings and profits of a taxable year of the distributing corporation (or a predecessor corporation) which satisfies each of the following conditions:

(i) Such year must end after December 31, 1963;

(ii) On each day of such year the distributing corporation (or the predecessor corporation) and the corporation receiving the dividends must have been members of the affiliated group of which the distributing corporation and the corporation receiving the dividends are members on the day the dividends are received; and

(iii) An election under section 1562 (relating to the election of multiple surtax exemptions) was never effective (or is no longer effective pursuant to section 1562(c)) for such year.

(3) *Special rule for insurance companies.* Notwithstanding the provisions of subparagraph (2) of this paragraph, if an insurance company subject to taxation under section 802 or 821 distributes a dividend out of earnings and profits of a taxable year with respect to which the company would have been a component member of a controlled group of corporations within the meaning of section 1563 were it not for the application of section 1563(b)(2)(D), such dividend shall not be treated as a qualifying dividend unless an election under section 243(b)(2) is effective for such taxable year.

(4) *Predecessor corporations.* For purposes of this paragraph, a corporation shall be considered to be a predecessor corporation with respect to a distributing corporation if the distributing corporation succeeds to the earnings and profits of such corporation, for example, as the result of a transaction to which section 381(a) applies. A distributing corporation shall, for purposes of this section, maintain, in respect of each predecessor corporation, a separate account for earnings and profits to which it succeeds, and such earnings and profits shall be considered to be earnings and profits of the predecessor's taxable year in which the earnings and profits were accumulated.

(5) *Mere change in form.* (i) For purposes of subparagraph (2)(ii) of this paragraph, the affiliated group in existence during the taxable year out of the earnings and profits of which the dividend is distributed shall not be considered as a different group from that in existence on the day on which the dividend is received merely because—

(*a*) The common parent corporation has undergone a mere change in identity, form, or place of organization (within the meaning of section 368(a)(1)(F)), or

(*b*) A newly organized corporation (the "acquiring corporation") has acquired substantially all of the outstanding stock of the common parent corporation (the "acquired corporation") solely in exchange for stock of such acquiring corporation, and the stockholders (immediately before the acquisition) of the acquired corporation, as a result of owning stock of the acquired corporation, own (immediately after the acquisition) all of the outstanding stock of the acquiring corporation.

If a transaction described in the preceding sentence has occurred, the acquiring corporation shall be treated as having been a member of the affiliated group for the entire period during which the acquired corporation was a member of such group.

(ii) For purposes of subdivision (i)(*b*) of this subparagraph, if immediately before the acquisition—

(*a*) The stockholders of the acquired corporation also owned all of the outstanding stock of another corporation (the "second corporation"), and

(*b*) Stock of the acquired corporation and of the second corporation could be acquired or transferred only as a unit (hereinafter referred to as the "limitation on transferability"),

then the second corporation shall be treated as an acquired corporation and such second corporation shall be treated as having been a member of the affiliated group for the entire period (while such group was in existence) during which the limitation on transferability was in existence, and if the second corporation is itself the common parent corporation of an affiliated group (the "second group") any other member of the second group shall be treated as having been a member of the affiliated group for the entire period during which it was a member of the second group while the

limitation on transferability existed. For purposes of (a) of this subdivision and subdivision (i)(b) of this subparagraph, if the limitation on transferability of stock of the acquired corporation and the second corporation is achieved by using a voting trust, then the stock owned by the trust shall be considered as owned by the holders of the beneficial interests in the trust.

(6) *Source of distributions.* In determining from what year's earnings and profits a dividend is treated as having been distributed for purposes of this section, the principles of paragraph (a) of § 1.316-2 shall apply. A dividend shall be considered to be distributed, first, out of the earnings and profits of the taxable year which includes the date the dividend is distributed, second, out of the earnings and profits accumulated for the immediately preceding taxable year, third, out of the earnings and profits accumulated for the second preceding taxable year, etc. A deficit in an earnings and profits account for any taxable year shall reduce the most recently accumulated earnings and profits for a prior year in such account. If there are no accumulated earnings and profits in an earnings and profits account because of a deficit incurred in a prior year, such deficit must be restored before earnings and profits can be accumulated in a subsequent year. If a dividend is distributed out of separate earnings and profits accounts (established under the provisions of subparagraph (4) of this paragraph) for two or more taxable years ending on the same day, then the portion of such dividend considered as distributed out of each account shall be the same proportion of the total dividend as the amount of earnings and profits in that account bears to the sum of the earnings and profits in all such accounts.

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

Example (1). On March 1, 1965, corporation P, a publicly owned corporation, acquires all of the stock of corporation S and continues to hold the stock throughout the remainder of 1965 and all of 1966. P and S are domestic corporations which file separate returns on the basis of a calendar year. The affiliated group consisting of P and S makes an election under section 243(b)(2) which is effective for the 1966 taxable years of P and S. A multiple surtax exemption election under section 1562 is not effective for their 1965 taxable years. On February 1, 1966, S distributes $50,000 with respect to its stock which is received by P on the same date. S had earnings and profits of $40,000 for 1966 (computed without regard to distributions during 1966). S also had earnings and profits accumulated for 1965 of $70,000. Since $40,000 was distributed out of earnings and profits for 1966 and since each of the conditions prescribed in subparagraphs (1) and (2) of this paragraph is satisfied, P is entitled to a 100-percent dividends received deduction with respect to $40,000 of the $50,000 distribution. However, since $10,000 was distributed out of earnings and profits accumulated for 1965, and since on each day of 1965 S and P were not members of the affiliated group of which S and P were members on February 1, 1966, $10,000 of the $50,000 distribution does not satisfy the condition specified in subparagraph (2)(ii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction.

Example (2). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and sells such stock on November 1, 1966. Since $10,000 is distributed out of earnings and profits for 1965, and since each of the conditions prescribed in subparagraphs (1) and (2) of this paragraph is satisfied, P is entitled to a 100-percent dividends received deduction with respect to $10,000 of the $50,000 distribution. However, since $40,000 of the $50,000 distribution was made out of earnings and profits of S for its 1966 taxable year, and on each day of such year S and P were not members of the affiliated group of which S and P were members on February 1, 1966, $40,000 of the distribution does not satisfy the condition specified in subparagraph (2)(ii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction.

Example (3). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and that a multiple surtax exemption election under section 1562 is effective for P's and S's 1965 taxable years. Further assume that the section 1562 election is terminated effective with respect to their 1966 taxable years, and that an election under section 243(b)(2) is effective for such taxable years. Since $10,000 of the February 1, 1966, distribution was made out of earnings and profits of S for its 1965 taxable year and since a multiple surtax exemption election is effective for such year, $10,000 of the distribution does not satisfy the condition specified in subparagraph (2)(iii) of this paragraph and thus does not qualify for the 100-percent dividends received deduction. However, the portion of the distribution which was distributed out of earnings and profits of S's 1966 year ($40,000) qualifies for the 100-percent dividends received deduction.

Example (4). Assume the same facts as in example (1), except that corporation P acquires all the stock of corporation S on January 1, 1965, and that S is a life insurance company subject to taxation under section 802. Accordingly, S would have been a member of a controlled group of corporations except for the application of section 1563(b)(2)(D). Since $10,000 of the distribution was made out of earnings and profits of S for its 1965 taxable year, and since with respect to such year an election under section 243(b)(2) was not effective, $10,000 of the distribution is not a qualifying dividend by reason of subparagraph (3) of this paragraph. On the other hand, the portion of the distribution which was distributed out of earnings and profits for S's 1966 year ($40,000) does qualify for the 100-percent dividends received deduction because the distribution was out of earnings and profits of a year for which an election under section 243(b)(2) is effective, and because the other conditions specified in subparagraphs (1) and (2) of this paragraph are satisfied. However, if P were also a life insurance company subject to taxation under section 802, then subparagraph (3) of this paragraph would not result in the disqualification of the portion of the distribution made out of S's 1965 earnings and profits because S would be a component member of an insurance group of corporations (as defined in section 1563(a)(4)), consisting of P and S, with respect to its 1965 year.

Example (5). Corporation X owns all the stock of corporation Y from January 1, 1965, through December 31, 1969. X and Y are domestic corporations which file separate returns on the basis of a calendar year. On June 30, 1965, Y acquired all the stock of domestic corporation Z, a calendar year taxpayer, and on December 31, 1967, Y acquired the assets of Z in a transaction to which section 381(a) applied. A multiple surtax exemption election under section 1562 was not effective for any taxable year of X, Y, or Z, and an election under section 243(b)(2) is effective for the 1968 and 1969 taxable years of X and Y. On January 1, 1968, Y's accumulated earnings and profits are, under the provisions of subparagraph (4) of this paragraph, maintained in separate earnings and profits accounts containing the following amounts:

Earnings and profits accumulated for	Corporation Y	Corporation Z
1964	$60,000	$40,000
1965	30,000	15,000
1966	(5,000)	2,000
1967	12,000	6,000

Corporation Y had earnings and profits of $10,000 in each of the years 1968 and 1969, and made distributions during such years in the following amounts:

1968	$29,000
1969	31,000

(i) The source of the 1968 distribution, determined in accordance with the rules of subparagraph (6) of this paragraph, is as follows:

(a) Dividend from Y's current year's earnings and profits (1968)	$10,000
(b) Dividend from earnings and profits of Y accumulated for 1967	12,000
(c) Dividend from earnings and profits of Z accumulated for:	
1967	6,000
1966	1,000
	29,000

Since the 1968 dividend is considered paid out of earnings and profits of Y's 1968 and 1967 years, and Z's 1967 and 1966 years, and since each of these years satisfies each of the conditions specified in subparagraph (2) of this paragraph, X is entitled to a 100-percent dividends received deduction with respect to the entire 1968 distribution of $29,000 from Y.

(ii) The source of the 1969 distribution of $31,000, determined in accordance with the rules of subparagraph (6) of this paragraph, is as follows:

(a) Dividend from Y's current year's earnings and profits (1969)	$10,000
(b) Dividend from earnings and profits of Z accumulated for 1966 (1966 earnings and profits remaining after 1968 distribution, i.e., $2,000 − $1,000)	1,000
(c) Dividend from earnings and profits of Y and Z accumulated for 1965:	
Corporation Y: $25,000 (i.e., $30,000 − $5,000 deficit) divided by $40,000 (i.e., the sum of the 1965 earnings and profits of Y and Z) multiplied by $20,000 (the portion of the distribution from the 1965 earnings and profits of Y and Z)	12,500
Corporation Z: $15,000 divided by $40,000 multiplied by $20,000	7,500
	31,000

The sum of the dividends from Y's 1969 year ($10,000), Z's 1966 year ($1,000), and Y's 1965 year ($12,500), or $23,500, qualifies for the 100-percent dividends received deduction. However, the dividends paid out of Z's 1965 year ($7,500) do not qualify because

on each day of 1965 Z and X were not members of the affiliated group of which Y (the distributing corporation) and X (the corporation receiving the dividends) were members on the day in 1969 when the dividends were received by X.

(b) *Definition of affiliated group.* For purposes of this section and § 1.243–5, the term "affiliated group" shall have the meaning assigned to it by section 1504(a), except that insurance companies subject to taxation under section 802 or 821 shall be treated as includible corporations (notwithstanding section 1504(b)(2)), and the provisions of section 1504(c) shall not apply.

(c) *Election*—(1) *Manner and time of making election*—(i) *General.* The election provided by section 243(b)(2) shall be made for an affiliated group by the common parent corporation and shall be made for a particular taxable year of the common parent corporation. Such election may not be made for any taxable year of the common parent corporation for which a multiple surtax exemption election under section 1562 is effective. The election shall be made by means of a statement, signed by any person who is duly authorized to act on behalf of the common parent corporation, stating that the affiliated group elects under section 243(b)(2) for such taxable year. The statement shall be filed with the district director for the internal revenue district in which is located the principal place of business or principal office or agency of the common parent. The statement shall set forth the name, address, taxpayer account number, and taxable year of each corporation (including wholly-owned subsidiaries) that is a member of the affiliated group at the time the election is filed. The statement may be filed at any time, provided that, with respect to each corporation the tax liability of which for its matching taxable year of election (or for any subsequent taxable year) would be increased because of the election, at the time of filing there is at least 1 year remaining in the statutory period (including any extensions thereof) for the assessment of a deficiency against such corporation for such year. (If there is less than 1 year remaining with respect to any taxable year, the district director for the internal revenue district in which is located the principal place of business or principal office or agency of the corporation will ordinarily, upon request, enter into an agreement to extend such statutory period for assessment and collection of deficiencies.)

(ii) *Information statement by common parent.* If a corporation becomes a member of the affiliated group after the date on which the election is filed and during its matching taxable year of election, then the common parent shall file, within 60 days after such corporation becomes a member of the affiliated group, an additional statement containing the name, address, taxpayer account number, and taxable year of such corporation. Such additional statement shall be filed with the internal revenue officer with whom the election was filed.

(iii) *Definition of matching taxable year of election.* For purposes of this paragraph and paragraphs (d) and (e) of this section, the term "matching taxable year of election" shall mean the taxable year of each member (including the common parent corporation) of the electing affiliated group which includes the last day of the taxable year of the common parent corporation for which an election by the affiliated group is made under section 243(b)(2).

(2) *Consents by subsidiary corporations*—(i) *General.* Each corporation (other than the common parent corporation) which is a member of the electing affiliated group (including any member which joins in the filing of a consolidated return) at any time during its matching taxable year of election must consent to such election in the manner and time provided in subdivision (ii) or (iii) of this subparagraph, whichever is applicable.

(ii) *Wholly owned subsidiary.* If all of the stock of a corporation is owned by a member or members of the affiliated group on each day of such corporation's matching taxable year of election, then such corporation (referred to in this paragraph as a "wholly owned subsidiary") shall be deemed to consent to such election.

(iii) *Other members.* The consent of each member of the affiliated group (other than a wholly owned subsidiary) shall be made by means of a statement, signed by any person who is duly authorized to act on behalf of the consenting member, stating that such member consents to the election under section 243(b)(2). The statement shall set forth the name, address, taxpayer account number, and taxable year of the consenting member and of the common parent corporation, and in the case of a statement filed after December 31, 1968, the identity of the internal revenue district in which is located the principal place of business or principal office or agency of the common parent corporation. The consent of more than one such member may be incorporated in a single statement. The statement (or statements) shall be attached to the election filed by the common parent corporation. The consent of a corporation that, after the date the election was filed and during its matching taxable year of election, either (*a*) becomes a member, or (*b*) ceases to be a wholly owned subsidiary but continues to be a member, shall be filed with the internal revenue officer with whom the election was filed and shall be filed on or before the date prescribed by law (including extensions of time) for the filing of the consenting member's income tax return for such taxable year, or on or before June 10, 1964, whichever is later.

(iv) *Statement attached to return.* Each corporation that consents to an election by means of a statement described in subdivision (iii) of this subparagraph should attach a copy of the statement to its income tax return for its matching taxable year of election, or, if such return has already been filed, to its first income tax return filed on or after the date on which the statement is filed. However, if such return is filed on or before June 10, 1964, a copy of such statement should be filed on or before June 10, 1964, with the district director with whom such return is filed. Each wholly owned subsidiary should attach a statement to its income tax return for its matching taxable year of election, or, if such return has already been filed, to its first income tax return filed on or after the date on which the statement is filed stating that it is subject to an election under section 243(b)(2) and the taxable year to which the election applies, and setting forth the name, address, taxpayer account number, and taxable year of the common parent corporation, and in the case of a statement filed after December 31, 1968, the identity of the internal revenue district in which is located the principal place of business or principal office or agency of the common parent corporation. However, if the due date for such return (including extensions of time) is before June 10, 1964, such statement should be filed on or before June 10, 1964, with the district director with whom such return is filed.

(3) *Information statement by member.* If a corporation becomes a member of the affiliated group during a taxable year that begins after the last day of the common parent corporation's matching taxable year of election, then (unless such election has been terminated) such corporation should attach a statement to its income tax return for such taxable year stating that it is subject to an election under section 243(b)(2) for such taxable year and setting forth the name, address, taxpayer account number, and taxable year of the common parent corporation, and the identity of the internal revenue district in which is located the principal place of business or principal office or agency of the common parent corporation. In the case of an affiliated group that made an election under the rules provided in Treasury Decision 6721 approved April 8, 1964 (29 F.R. 4997, C.B. 1964–1 (Part 1), 625), such statement shall be filed, on or before March 15, 1969, with the district director for the internal revenue district in which is located such member's principal place of business or principal office or agency.

(4) *Years for which election effective*—(i) *General rule.* An election under section 243(b)(2) by an affiliated group shall be effective—

(*a*) In the case of each corporation which is a member of such group at any time during its matching taxable year of election, for such taxable year, and

(*b*) In the case of each corporation which is a member of such group at any time during a taxable year ending after the last day of the common parent's taxable year of election but which does not include such last day, for such taxable year, unless the election is terminated under section 243(b)(4) and paragraph (e) of this section. Thus, the election has a continuing effect and need not be renewed annually.

(ii) *Special rule for certain taxable years ending in 1964.* In the case of a

taxable year of a member (other than the common parent corporation) of the affiliated group (*a*) which begins in 1963 and ends in 1964, and (*b*) for which an election is not effective under subdivision (i)(*a*) of this subparagraph, if an election under section 243(b)(2) is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, then such election shall be effective for such taxable year of such member if such member files a separate consent with respect to such taxable year. However, in order for a dividend distributed by such member during such taxable year to meet the requirements of section 243(b)(1), an election under section 243(b)(2) must be effective for the taxable year of each member of the affiliated group which includes the date such dividend is received. See section 243(b)(1)(A) and paragraph (a)(1) of this section. Accordingly, if the dividend is to qualify for the 100-percent dividends received deduction under section 243(a)(3), a consent must be filed under this subdivision by each member of the affiliated group with respect to its taxable year which includes the day the dividend is received (unless an election is effective for such taxable year under subdivision (i)(*a*) of this subparagraph). For purposes of this subdivision, a consent shall be made by means of a statement meeting the requirements of subparagraph (2)(iii) of this paragraph, and shall be attached to the election made by the common parent corporation for its taxable year which includes the last day of the taxable year of the member with respect to which the consent is made. A copy of the statement should be filed, within 60 days after such election is filed by the common parent corporation, with the district director with whom the consenting member filed its income tax return for such taxable year.

(iii) *Examples.* The provisions of subdivision (ii) of this subparagraph, relating to the special rule for certain taxable years ending in 1964, may be illustrated by the following examples:

Example (1). P Corporation owns all the stock of S–1 Corporation on each day of 1963, 1964, and 1965. P uses the calendar year as its taxable year and S–1 uses a fiscal year ending June 30 as its taxable year. P makes an election under section 243(b)(2) for 1964. Since S–1 is a wholly owned subsidiary for its taxable year ending June 30, 1965, it is deemed to consent to the election. However, in order for the election to be effective with respect to S–1's taxable year ending June 30, 1964, a statement specifying that S–1 consents to the election with respect to such taxable year and containing the information required in a statement of consent under subparagraph (2)(iii) of this paragraph must be attached to the election.

Example (2). Assume the same facts as in example (1), except that P also owns all the stock of S–2 Corporation on each day of 1963, 1964, and 1965. S–2 uses a fiscal year ending May 31 as its taxable year. If S–1 distributes a dividend to P on January 15, 1964, the dividend may qualify under section 243(a)(3) only if S–1 and S–2 both consent to the election made by P for 1964 with respect to their taxable years ending in 1964.

Example (3). Assume the same facts as in example (1), except that P uses a fiscal year ending on January 31 as its taxable year and makes an election under subparagraph (1) of this paragraph for its taxable year ending January 31, 1964. Since S–1's taxable year beginning in 1963 and ending in 1964 includes January 31, 1964, the last day of P's taxable year for which the election was made, the election is effective under subdivision (i)(*a*) of this subparagraph, for S–1's taxable year ending June 30, 1964. Accordingly, the special rule of subdivision (ii) of this subparagraph has no application.

(d) *Effect of election.* For restrictions and limitations applicable to corporations which are members of an electing affiliated group on each day of their taxable years, see § 1.243–5.

(e) *Termination of election*—(1) *In general.* An election under section 243(b)(2) by an affiliated group may be terminated with respect to any taxable year of the common parent corporation after the matching taxable year of election of the common parent corporation. The election is terminated as a result of one of the occurrences described in subparagraph (2) or (3) of this paragraph. For years affected by termination, see subparagraph (4) of this paragraph.

(2) *Consent of members*—(i) *General.* An election may be terminated for an affiliated group by its common parent corporation with respect to a taxable year of the common parent corporation provided each corporation (other than the common parent) that was a member of the affiliated group at any time during its taxable year that includes the last day of such year of the common parent (the "matching taxable year of termination") consents to such termination. The statement of termination may be filed by the common parent corporation at any time, provided that, with respect to each corporation the tax liability of which for its matching taxable year of termination (or for any subsequent taxable year) would be increased because of the termination, at the time of filing there is at least 1 year remaining in the statutory period (including any extensions thereof) for the assessment of a deficiency against such corporation for such year. (If there is less than 1 year remaining with respect to any taxable year, the district director for the internal revenue district in which is located the principal place of business or principal office or agency of the corporation will ordinarily, upon request, enter into an agreement to extend such statutory period for assessment and collection of deficiencies.)

(ii) *Statements filed after December 31, 1968.* With respect to statements of termination filed after December 31, 1968—

(*a*) The statement shall be filed with the district director for the internal revenue district in which is located the principal place of business or principal office or agency of the common parent corporation;

(*b*) The statement shall be signed by any person who is duly authorized to act on behalf of the common parent corporation and shall state that the affiliated group terminates the election under section 243(b)(2) for such taxable year;

(*c*) The statement shall set forth the name, address, taxpayer account number, and taxable year of each corporation (including wholly owned subsidiaries) which is a member of the affiliated group at the time the termination is filed; and

(*d*) The consents to the termination shall be given in accordance with the rules prescribed in paragraph (c)(2) of this section, relating to manner and time for giving consents to an election under section 243(b)(2).

(3) *Refusal by new member to consent*—(i) *Manner of giving refusal.* If any corporation which is a new member of an affiliated group with respect to a taxable year of the common parent corporation (other than the matching taxable year of election of the common parent corporation) files a statement that it does not consent to an election under section 243(b)(2) with respect to such taxable year, then such election shall terminate with respect to such taxable year. Such statement shall be signed by any person who is duly authorized to act on behalf of the new member, and shall be filed with the timely filed income tax return of such new member for its taxable year within which falls the last day of such taxable year of the common parent corporation. In the event of a termination under this subparagraph, each corporation (other than such new member) that is a member of the affiliated group at any time during its taxable year which includes such last day should, within 30 days after such new member files the statement of refusal to consent, notify the district director of such termination. Such notification should be filed with the district director for the internal revenue district in which is located the principal place of business or principal office or agency of the corporation.

(ii) *Corporation considered as new member.* For purposes of subdivision (i) of this subparagraph, a corporation shall be considered to be a new member of an affiliated group of corporations with respect to a taxable year of the common parent corporation if such corporation—

(*a*) Is a member of the affiliated group at any time during such taxable year of the common parent corporation, and

(*b*) Was not a member of the affiliated group at any time during the common parent corporation's immediately preceding taxable year.

(4) *Effect of termination.* A termination under subparagraph (2) or (3) of this paragraph is effective with respect to (i) the common parent corporation's taxable year referred to in the particular subparagraph under which the termination occurs, and (ii) the taxable years of the other members of the affiliated group which include the last day of such taxable year of the common parent. An election, once terminated, is no longer effective. Accordingly, the termination is also effective with respect to the succeeding taxable years of the members of the group. However, the affiliated

group may make a new election in accordance with the provisions of section 243(b)(2) and paragraph (c) of this section.

§ 1.243–5 Effect of election.

(a) *General*—(1) *Corporations subject to restrictions and limitations.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then each corporation (including the common parent corporation) which is a member of such group on each day of its matching taxable year shall be subject to the restrictions and limitations prescribed by paragraphs (b), (c), and (d) of this section for such taxable year. For purposes of this section, the term "matching taxable year" shall mean the taxable year of each member (including the common parent corporation) of an affiliated group which includes the last day of a particular taxable year of the common parent corporation for which an election by the affiliated group under section 243(b)(2) is effective. If a corporation is a member of an affiliated group on each day of a short taxable year which does not include the last day of a taxable year of the common parent corporation, and if an election under section 243(b)(2) is effective for such short year, see paragraph (g) of this section. In the case of taxable years beginning in 1963 and ending in 1964 for which an election under section 243(b)(2) is effective under paragraph (c)(4)(ii) of § 1.243–4, see paragraph (f)(9) of this section.

(2) *Members filing consolidated returns.* The restrictions and limitations prescribed by this section shall apply notwithstanding the fact that some of the corporations which are members of the electing affiliated group (within the meaning of section 243(b)(5)) join in the filing of a consolidated return. Thus, for example, if an electing affiliated group includes one or more corporations taxable under section 11 of the Code and two or more insurance companies taxable under section 802 of the Code, and if the insurance companies join in the filing of a consolidated return, the amount of such companies' exemptions from estimated tax (for purposes of sections 6016 and 6655) shall be the amounts determined under paragraph (d)(5) of this section and not the amounts determined pursuant to the regulations under section 1502.

(b) *Multiple surtax exemption election*—(1) *General rule.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then no corporation which is a member of such affiliated group on each day of its matching taxable year may consent (or shall be deemed to consent) to an election under section 1562(a)(1), relating to election of multiple surtax exemptions, which would be effective for such matching taxable year. Thus, each corporation which is a component member of the controlled group of corporations with respect to its matching taxable year (determined by applying section 1563(b) without regard to paragraph (2)(D) thereof) shall determine its surtax exemption for such taxable year in accordance with section 1561 and the regulations thereunder.

(2) *Special rule for certain insurance companies.* Under section 243(b)(6)(A), if the provisions of subparagraph (1) of this paragraph apply with respect to the taxable year of an insurance company subject to taxation under section 802 or 821, then the surtax exemption of such insurance company for such taxable year shall be determined by applying part II (section 1561 and following), subchapter B, chapter 6 of the Code, with respect to such insurance company and the other corporations which are component members of the controlled group of corporations (as determined under section 1563 without regard to subsections (a)(4) and (b)(2)(D) thereof) of which such insurance company is a member, without regard to section 1563(a)(4) (relating to certain insurance companies treated as a separate controlled group) and section 1563(b)(2)(D) (relating to certain insurance companies treated as excluded members).

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

Example. Throughout 1965 corporation M owns all the stock of corporations L–1, L–2, S–1, and S–2. M is a domestic mutual insurance company subject to tax under section 821 of the Code, L–1 and L–2 are domestic life insurance companies subject to tax under section 802 of the Code, and S–1 and S–2 are domestic corporations subject to tax under section 11 of the Code. Each corporation uses the calendar year as its taxable year. M makes a valid election under section 243(b)(2) for the affiliated group consisting of M, L–1, L–2, S–1, and S–2. If part II, subchapter B, chapter 6 of the Code were applied with respect to the 1965 taxable years of the corporations without regard to section 243(b)(6)(A), the following would result: S–1 and S–2 would be treated as component members of a controlled group of corporations on such date; L–1 and L–2 would be treated as component members of a separate controlled group on such date; and M would be treated as an excluded member. However, since section 243(b)(6)(A) requires that part II of subchapter B be applied without regard to section 1563(a)(4) and (b)(2)(D), for purposes of determining the surtax exemptions of M, L–1, L–2, S–1, and S–2 for their 1965 taxable years, such corporations are treated for purposes of such part II as component members of a single controlled group of corporations on December 31, 1965. Moreover, by reason of having made the election under section 243(b)(2), M, L–1, L–2, S–1, and S–2 cannot consent to multiple surtax exemption elections under section 1562 which would be effective for their 1965 taxable years. Thus, such corporations are limited to a single $25,000 surtax exemption for such taxable years (to be apportioned among such corporations in accordance with section 1561 and the regulations thereunder).

(c) *Foreign tax credit*—(1) *General.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then—

(i) The credit under section 901 for taxes paid or accrued to any foreign country or possession of the United States shall be allowed to a corporation which is a member of such affiliated group for each day of its matching taxable year only if each other corporation which pays or accrues such foreign taxes to any foreign country or possession, and which is a member of such group on each day of its matching taxable year, does not deduct such taxes in computing its tax liability for its matching taxable year, and

(ii) A corporation which is a member of such affiliated group on each day of its matching taxable year may use the overall limitation provided in section 904(a)(2) for such matching taxable year only if each other corporation which pays or accrues foreign taxes to any foreign country or possession, and which is a member of such group on each day of its matching taxable year, uses such limitation for its matching taxable year.

(2) *Consent of the Commissioner.* In the absence of unusual circumstances, a request by a corporation for the consent of the Commissioner to the revocation of an election of the overall limitation, or to a new election of the overall limitation, for the purpose of satisfying the requirements of subparagraph (1)(ii) of this paragraph will be given favorable consideration, notwithstanding the fact that there has been no change in the basic nature of the corporation's business or changes in conditions in a foreign country which substantially affect the corporation's business. See paragraph (d)(3) of § 1.904–1.

(d) *Other restrictions and limitations*—(1) *General rule.* If an election by an affiliated group under section 243(b)(2) is effective with respect to a taxable year of the common parent corporation, then, except to the extent that an apportionment plan adopted under paragraph (f) of this section for such taxable year provides otherwise with respect to a restriction or limitation described in this paragraph, the rules provided in subparagraphs (2), (3), (4), and (5) of this paragraph shall apply to each corporation which is a member of such affiliated group on each day of its matching taxable year for the purpose of computing the amount of such restriction or limitation for its matching taxable year. For purposes of this paragraph, each corporation which is a member of an electing affiliated group (including any member which joins in filing a consolidated return) shall be treated as a separate corporation for purposes of determining the amount of such restrictions and limitations.

(2) *Accumulated earnings credit*—(i) *General.* Except as provided in subdivision (ii) of this subparagraph, in determining the minimum accumulated earnings credit under section 535(c)(2) (or the accumulated earnings credit of a mere holding or investment company under section 535(c)(3)) for each corporation which is a member of the affiliated group on each day of its matching taxable year, in lieu of the $100,000 amount mentioned in such sections there shall be substituted an amount equal to (*a*) $100,000, divided by (*b*) the number of such members.

(ii) *Allocation of excess.* If, with respect to one or more members, the amount determined under subdivision (i) of this subparagraph exceeds the sum of (*a*) such member's accumulated earnings and profits as of the close of the preceding taxable year, plus (*b*) such member's earnings and profits for the taxable year which are retained (within the meaning of section 535(c)(1)), then any such excess shall be subtracted from the amount determined under subdivision (i) of this subparagraph and shall be divided equally among those remaining members of the affiliated group that do not have such an excess (until no such excess remains to be divided among those remaining members that have not had such an excess). The excess so divided among such remaining members shall be added to the amount determined under subdivision (i) with respect to such members.

(iii) *Apportionment plan not allowed.* An affiliated group may not adopt an apportionment plan, as provided in paragraph (f) of this section, with respect to the amounts computed under the provisions of this subparagraph.

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

Example. An affiliated group is composed of four member corporations, W, X, Y, and Z. The sum of the accumulated earnings and profits (as of the close of the preceding taxable year) plus the earnings and profits for the taxable year which are retained is $10,000, $50,000, $25,000, and $200,000 in the case of W, X, Y, and Z, respectively. The amounts determined under this subparagraph for W, X, Y, and Z are $10,000, $32,500, $25,000, and $32,500, respectively, computed as follows:

	Member			
	W	X	Y	Z
Earnings and profits	$10,000	$50,000	$25,000	$200,000
Amount computed under subdivision (i)	25,000	25,000	25,000	25,000
Excess	15,000	0	0	0
Allocation of excess		5,000	5,000	5,000
New excess			5,000	
Reallocation of new excess		2,500		2,500
Amount to be used for purposes of section 535(c) (2) and (3)	10,000	32,500	25,000	32,500

(3) *Mine exploration expenditures—*(i) *Limitation under section 615(a).* If the aggregate of the expenditures to which section 615(a) applies, which are paid or incurred by corporations which are members of the affiliated group on each day of their matching taxable years (during such taxable years) exceeds $100,000, then the deduction (or amount deferrable) under section 615 for any such member for its matching taxable year shall be limited to an amount equal to the amount which bears the same ratio to $100,000 as the amount deductible or deferrable by such member under section 615 (computed without regard to this subdivision) bears to the aggregate of the amounts deductible or deferrable under section 615 (as so computed) by all such members.

(ii) *Limitation under section 615(c).* If the aggregate of the expenditures to which section 615(a) applies which are paid or incurred by the corporations which are members of such affiliated group on each day of their matching taxable years (during such taxable years) would, when added to the aggregate of the amounts deducted or deferred in prior taxable years which are taken into account by such corporations in applying the limitation of section 615(c), exceed $400,000, then section 615 shall not apply to any such expenditure so paid or incurred by any such member to the extent such expenditure would exceed the amount which bears the same ratio to (*a*) the amount, if any, by which $400,000 exceeds the amounts so deducted or deferred in prior years, as (*b*) such member's deduction (or amount deferrable) under section 615 (computed without regard to this subdivision) for such expenditures paid or incurred by such member during its matching taxable year, bears to (c) the aggregate of the amounts deductible or deferrable under section 615 (as so computed) by all such members during their matching taxable years.

(iii) *Treatment of corporations filing consolidated returns.* For purposes of making the computations under subdivisions (i) and (ii) of this subparagraph, a corporation which joins in the filing of a consolidated return shall be treated as if it filed a separate return.

(iv) *Estimate of exploration expenditures.* If, on the date a corporation (which is a member of an affiliated group on each day of its matching taxable year) files its income tax return for such taxable year, it cannot be determined whether or not the $100,000 limitation prescribed by subdivision (i) of this subparagraph, or the $400,000 limitation prescribed by subdivision (ii) of this subparagraph, will apply with respect to such taxable year, then such member shall, for purposes of such return, apply the provisions of such subdivisions (i) and (ii) with respect to such taxable year on the basis of an estimate of the aggregate of the exploration expenditures by all such members of the affiliated group for their matching taxable years. Such estimate shall be made on the basis of the facts and circumstances known at the time of such estimate. If an estimate is used by any such member of the affiliated group pursuant to this subdivision, and if the actual expenditures by all such members differ from the estimate, then each such member shall file as soon as possible an original or amended return reflecting an amended apportionment (either pursuant to an apportionment plan adopted under paragraph (f) of this section or pursuant to the application of the rule provided by subdivision (i) or (ii) of this subparagraph) based upon such actual expenditures.

(v) *Amount apportioned under apportionment plan.* If an electing affiliated group adopts an apportionment plan as provided in paragraph (f) of this section with respect to the limitation under section 615(a) or 615(c), then the amount apportioned under such plan to any corporation which is a member of such group may not exceed the amount which such member could have deducted (or deferred) under section 615 had such affiliated group not filed an election under section 243(b)(2).

(4) *Small business deductions of life insurance companies.* In the case of a life insurance company taxable under section 802 which is a member of such affiliated group on each day of its matching taxable year, the small business deduction under sections 804(a)(4) and 809(d)(10) shall not exceed an amount equal to $25,000 divided by the number of life insurance companies taxable under section 802 which are members of such group on each day of their matching taxable years.

(5) *Estimated tax—*(i) *Exemption from estimated tax.* Except as otherwise provided in subdivision (ii) of this subparagraph, the exemption from estimated tax (for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax) of each corporation which is a member of such affiliated group on each day of its matching taxable year shall be (in lieu of the $100,000 amount specified in section 6016 (a) and (b)(2)(A) and in section 6655 (d)(1) and (e)(2)(A)) an amount equal to $100,000 divided by the number of such members.

(ii) *Nonapplication to certain taxable years beginning in 1963 and ending in 1964.* For purposes of this section, if a corporation has a taxable year beginning in 1963 and ending in 1964 the last day of the eighth month of which falls on or before April 10, 1964, then (notwithstanding the fact that an election under section 243(b)(2) is effective for such taxable year) subdivision (i) of this subparagraph shall not apply to such corporation for such taxable year. Thus, such corporation shall be entitled to a $100,000 exemption from estimated tax for such taxable year. Also, with respect to a taxable year described in the first sentence of this subdivision, any such corporation shall not be considered to be a member of the affiliated group for purposes of determining the number of members referred to in subdivision (i) of this subparagraph.

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

Example (1). Corporation P owns all the stock of corporation S–1 on each day of 1965. On March 1, 1965, P acquires all the stock of corporation S–2. Corporations P, S–1, and S–2 file separate returns on a calendar year basis. On March 31, 1965, the affiliated group consisting of P, S–1, and S–2 anticipates making an election under section 243(b)(2) for P's 1965 taxable year. If the affiliated group does make a valid election under sec-

tion 243(b)(2) for P's 1965 year, under subdivision (i) of this subparagraph the exemption from estimated tax of P for 1965, and the exemption from estimated tax of S–1 for 1965, will be (assuming an apportionment plan is not filed pursuant to paragraph (f) of this section) an amount equal to $50,000 ($100,000÷2). (Since S–2 is not a member of the affiliated group on each day of 1965, S–2's exemption from estimated tax will be determined for the year 1965 without regard to subdivision (i) of this subparagraph, whether or not the affiliated group makes the election under section 243(b)(2).) P and S–1 file declarations of estimated tax on April 15, 1965, on such basis and make payments with respect to such declarations on such basis. Thus, if the affiliated group does make a valid election under section 243(b)(2) for P's 1965 year, P and S–1 will not incur (as a result of the application of subdivision (i) of this subparagraph to their 1965 years) additions to tax under section 6655 for failure to pay estimated tax.

Example (2). Assume the same facts as in example (1), except that, on March 31, 1965, S–1 anticipates that it will incur a loss for its 1965 year. Accordingly, in anticipation of making an election under section 243(b)(2) for P's 1965 year and adopting an apportionment plan under paragraph (f) of this section, P computes its estimated tax liability for 1965 on the basis of a $100,000 exemption, and S–1 computes its estimated tax liability for 1965 on the basis of a zero exemption. Assume S–1 incurs a loss for 1965 as anticipated. Thus, if P does make the election for 1965, and an apportionment plan is adopted apportioning $100,000 to P and zero to S–1 (for their 1965 years), P and S–1 will not incur (as a result of the application of subdivision (i) of this subparagraph to their 1965 years) additions to tax under section 6655 for failure to pay estimated tax.

Example (3). Assume the same facts as in example (1), except that P and S–1 file declarations of estimated tax on April 15, 1965, on the basis of separate $100,000 exemptions from estimated tax for their 1965 years, and make payments with respect to such declarations on such basis. Assume that the affiliated group makes an election under section 243(b)(2) for P's 1965 year. Under subdivision (i) of this subparagraph, P and S–1 are limited in the aggregate to a single $100,000 exemption from estimated tax for their 1965 years. The provisions of section 6655 will be applied to the 1965 year of P and the 1965 year of S–1 on the basis of a $50,000 exemption from estimated tax for each corporation, unless a different apportionment of the $100,000 amount is adopted under paragraph (f) of this section. Since the election was made under section 243(b)(2), regardless of whether or not the affiliated group anticipated making the election, P or S–1 (or both) may incur additions to tax under section 6655 for failure to pay estimated tax.

(e) *Effect of election for certain taxable years beginning in 1963 and ending in 1964.* If an election under section 243(b)(2) by an affiliated group is effective for a taxable year of a corporation under paragraph (c)(4)(ii) of § 1.243–4 (relating to election for certain taxable years beginning in 1963 and ending in 1964), and if such corporation is a member of such group on each day of such taxable year, then the restrictions and limitations prescribed by paragraphs (b), (c), and (d) of this section shall apply to all such members having such taxable years (for such taxable years). For purposes of this paragraph, such paragraphs shall be applied with respect to such taxable years as if such taxable years included the last day of a taxable year of the common parent corporation for which an election was effective under section 243(b)(2), *i.e.*, as if such taxable years were matching taxable years. For apportionment plans with respect to such taxable years, see paragraph (f)(9) of this section.

(f) *Apportionment plans*—(1) *In general.* In the case of corporations which are members of an affiliated group of corporations on each day of their matching taxable years—

(i) The $100,000 amount referred to in paragraph (d)(3)(i) of this section (relating to limitation under section 615(a)),

(ii) The amount determined under paragraph (d)(3)(ii)(*a*) of this section (relating to limitation under section 615(c)),

(iii) The $25,000 amount referred to in paragraph (d)(4) of this section (relating to small business deduction of life insurance companies), and

(iv) The $100,000 amount referred to in paragraph (d)(5)(i) of this section (relating to exemption from estimated tax),

may be apportioned among such members (for such taxable years) if the common parent corporation files an apportionment plan with respect to such taxable years in the manner provided in subparagraph (4) of this paragraph, and if all other members consent to the plan, in the manner provided in subparagraph (5) or (6) of this paragraph (whichever is applicable). The plan may provide for the apportionment to one or more of such members, in fixed dollar amounts, of one or more of the amounts referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph, but in no event shall the sum of the amounts so apportioned in respect to any such subdivision exceed the amount referred to in such subdivision. See also paragraph (d)(3)(v) of this section, relating to the maximum amount that may be apportioned to a corporation under this subparagraph with respect to exploration expenditures to which section 615 applies.

(2) *Time for adopting plan.* An affiliated group may adopt an apportionment plan with respect to the matching taxable years of its members only if, at the time such plan is sought to be adopted, there is at least 1 year remaining in the statutory period (including any extensions thereof) for the assessment of a deficiency against any corporation the tax liability of which for any taxable year would be increased by the adoption of such plan. (If there is less than 1 year remaining with respect to any taxable year, the district director for the internal revenue district in which is located the principal place of business or principal office or agency of the corporation will ordinarily, upon request, enter into an agreement to extend such statutory period for assessment and collection of deficiencies.)

(3) *Years for which effective.* A valid apportionment plan with respect to matching taxable years of members of an affiliated group shall be effective for such matching taxable years, and for all succeeding matching taxable years of such members, unless the plan is amended in accordance with subparagraph (8) of this paragraph or is terminated. Thus, the apportionment plan (including any amendments thereof) has a continuing effect and need not be renewed annually. An apportionment plan with respect to a particular taxable year of the common parent shall terminate with respect to the taxable years of the members of the affiliated group which include the last day of a succeeding taxable year of the common parent if—

(i) Any corporation which was a member of the affiliated group on each day of its matching taxable year which included the last day of the particular taxable year of the common parent is not a member of such group on each day of its taxable year which includes the last day of such succeeding taxable year of the common parent, or

(ii) Any corporation which was not a member of such group on each day of its taxable year which included the last day of the particular taxable year of the common parent is a member of such group on each day of its taxable year which includes the last day of such succeeding taxable year of the common parent.

An apportionment plan, once terminated, is no longer effective. Accordingly, unless a new apportionment plan is filed and consented to (or the section 243(b)(2) election is terminated) the amounts referred to in subparagraph (1) of this paragraph will be apportioned among the corporations which are members of the affiliated group on each day of their matching taxable years in accordance with the rules provided in paragraphs (d)(3)(i), (d)(3)(ii), (d)(4), and (d)(5)(i) of this section.

(4) *Filing of plan.* The apportionment plan shall be in the form of a statement filed by the common parent corporation with the district director for the internal revenue district in which is located the principal place of business or principal office or agency of such common parent. The statement shall be signed by any person who is duly authorized to act on behalf of the common parent corporation and shall set forth the name, address, internal revenue district, taxpayer account number, and taxable year of each member to whom the common parent could apportion an amount under subparagraph (1) of this paragraph (or, in the case of an apportionment plan referred to in subparagraph (9) of this paragraph, each member to whom the common parent could apportion an amount under such subparagraph) and the amount (or amounts) apportioned to each such member under the plan.

(5) *Consent of wholly owned subsidiaries.* If all the stock of a corporation which is a member of the affiliated group on each day of its matching taxable year is owned on each such day by another corporation (or corporations) which is

a member of such group on each day of its matching taxable year, such corporation (hereinafter in this paragraph referred to as a "wholly owned subsidiary") shall be deemed to consent to the apportionment plan. Each wholly owned subsidiary should attach a copy of the plan filed by the common parent corporation to an income tax return, amended return, or claim for refund for its matching taxable year.

(6) *Consent of other members.* The consent of each member (other than the common parent corporation and wholly owned subsidiaries) to an apportionment plan shall be in the form of a statement, signed by any person who is duly authorized to act on behalf of the member consenting to the plan, stating that such member consents to the plan. The consent of more than one such member may be incorporated in a single statement. The statement (or statements) shall be attached to the apportionment plan filed by the common parent corporation. The consent of any such member which, after the date the appportionment plan was filed and during its matching taxable year referred to in subparagraph (1) of this paragraph, ceases to be a wholly owned subsidiary but continues to be a member, shall be filed with the district director with whom the apportionment plan is filed (as soon as possible after it ceases to be a wholly owned subsidiary). Each consenting member should attach a copy of the apportionment plan filed by the common parent to an income tax return, amended return, or claim for refund for its matching taxable year which includes the last day of the taxable year of the common parent corporation for which the apportionment plan was filed.

(7) *Members of group filing consolidated return*—(i) *General rule.* Except as provided in subdivision (ii) of this subparagraph, if the members of an affiliated group of corporations include one or more corporations taxable under section 11 of the Code and one or more insurance companies taxable under section 802 or 821 of the Code and if the affiliated group includes corporations which join in the filing of a consolidated return, then, for purposes of determining the amount to be apportioned to a corporation under an apportionment plan adopted under this paragraph, the corporations filing the consolidated return shall be treated as a single member.

(ii) *Consenting to an apportionment plan.* For purposes of consenting to an apportionment plan under subparagraphs (5) and (6) of this paragraph, if the members of an affiliated group of corporations include corporations which join in the filing of a consolidated return, each corporation which joins in filing the consolidated return shall be treated as a separate member.

(8) *Amendment of plan.* An apportionment plan, which is effective for the matching taxable years of members of an affiliated group, may be amended if an amended plan is filed (and consented to) within the time and in accordance with the rules prescribed in this paragraph for the adoption of an original plan with respect to such taxable years.

(9) *Certain taxable years beginning in 1963 and ending in 1964.* In the case of corporations which are members of an affiliated group of corporations on each day of their taxable years referred to in paragraph (e) of this section—

(i) The $100,000 amount referred to in paragraph (d)(3)(i) of this section (relating to limitation under section 615(a)),

(ii) The amount determined under paragraph (d)(3)(ii)(*a*) of this section (relating to limitation under section 615(c)),

(iii) The $25,000 amount referred to in paragraph (d)(4) of this section (relating to small business deduction of life insurance companies), and

(iv) The $100,000 amount referred to in paragraph (d)(5)(i) of this section (relating to exemption from estimated tax),

may be apportioned among such members (for such taxable years) if an apportionment plan is filed (and consented to) with respect to such taxable years in accordance with the rules provided in subparagraphs (2), (4), (5), (6), (7), and (8) of this paragraph. For purposes of this subparagraph, such subparagraphs shall be applied as if such taxable years included the last day of a taxable year of the common parent corporation, i.e., as if such taxable years were matching taxable years. An apportionment plan adopted under this subparagraph shall be effective only with respect to taxable years referred to in paragraph (e) of this section. The plan may provide for the apportionment to one or more of such members, in fixed dollar amounts, of one or more of the amounts referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph, but in no event shall the sum of the amounts so apportioned in respect of any such subdivision exceed the amount referred to in such subdivision. See also paragraph (d)(3)(v) of this section, relating to the maximum amount that may be apportioned to a corporation under an apportionment plan described in this subparagraph with respect to exploration expenditures to which section 615 applies.

(g) *Short taxable years*—(1) *General.* If—

(i) The return of a corporation is for a short period (ending after December 31, 1963) on each day of which such corporation is a member of an affiliated group,

(ii) The last day of the common parent's taxable year does not end with or within such short period, and

(iii) An election under section 243(b)(2) by such group is effective under paragraph (c)(4)(i) of § 1.243-4 for the taxable year of the common parent within which falls such short period,

then the restrictions and limitations prescribed by section 243(b)(3) shall be applied in the manner provided in subparagraph (2) of this paragraph.

(2) *Manner of applying restrictions.* In the case of a corporation described in subparagraph (1) of this paragraph having a short period described in such subparagraph—

(i) Such corporation may not consent to an election under section 1562, relating to election of multiple surtax exemptions, which would be effective for such short period;

(ii) The credit under section 901 shall be allowed to such corporation for such short period if, and only if, each corporation, which pays or accrues foreign taxes and which is a member of the affiliated group on each day of its taxable year which includes the last day of the common parent's taxable year within which falls such short period, does not deduct such taxes in computing its tax liability for its taxable year which includes such last day;

(iii) The overall limitation provided in section 904(a)(2) shall be allowed to such corporation for such short period if, and only if, each corporation, which pays or accrues foreign taxes and which is a member of the affiliated group on each day of its taxable year which includes the last day of the common parent's taxable year within which falls such short period, uses such limitation for its taxable year which includes such last day;

(iv) The minimum accumulated earnings credit provided by section 535(c)(2) (or in the case of a mere holding or investment company, the accumulated earnings credit provided by section 535(c)(3)) allowable for such short period shall be the amount computed by dividing (*a*) the amount (if any) by which $100,000 exceeds the aggregate of the accumulated earnings and profits of the corporations, which are members of the affiliated group on the last day of such short period, as of the close of their taxable years preceding the taxable year which includes the last day of such short period, by (*b*) the number of such members on the last day of such short period;

(v) The deduction allowable under section 615(a) for such short period shall be limited to an amount equal to $100,000 divided by the number of corporations which are members of the affiliated group on the last day of such short period;

(vi) If the expenditures to which section 615(a) applies which are paid or incurred by such corporation during such short period would, when added to the aggregate of the amounts deducted or deferred (in taxable years ending before the last day of such short period) which are taken into account in applying the limitation of section 615(c) by corporations which are members of the affiliated group on the last day of such short period exceed $400,000, then section 615 shall not apply to any such expenditure so paid or incurred by such corporation to the extent such expenditure would exceed an amount equal to (*a*) the amount (if any) by which $400,000 exceeds the aggregate of the amounts so deducted or deferred in such taxable years (computed as if each member filed a separate return), divided by (*b*) the number of corporations in the group

which have taxable years ending on such last day;

(vii) If such corporation is a life insurance company taxable under section 802, the small business deduction under sections 804(a)(4) and 809(d)(10) shall not exceed an amount equal to (*a*) $25,000, divided by (*b*) the number of life insurance companies taxable under section 802 which are members of the affiliated group on the last day of such short period; and

(viii) The exemption from estimated tax (for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax) for such short period shall be an amount equal to $100,000 divided by the number of corporations which are members of the affiliated group on the last day of such short period.

PAR. 4. Section 1.244 is amended by revising section 244 and adding a historical note, as follows:

§ 1.244 Statutory provisions; dividends received on certain preferred stock.

SEC. 244. *Dividends received on certain preferred stock*—(a) *General rule.* In the case of a corporation, there shall be allowed as a deduction an amount computed as follows:

(1) First determine the amount received as dividends on the preferred stock of a public utility which is subject to taxation under this chapter and with respect to which the deduction provided in section 247 for dividends paid is allowable.

(2) Then multiply the amount determined under paragraph (1) by the fraction—

(A) The numerator of which is 14 percent, and

(B) The denominator of which is that percentage which equals the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11.

(3) Finally ascertain the amount which is 85 percent of the excess of—

(A) The amount determined under paragraph (1), over

(B) The amount determined under paragraph (2).

(b) *Exception.* If the dividends described in subsection (a)(1) are qualifying dividends (as defined in section 243(b)(1), but determined without regard to section 243(c)(4))—

(1) Subsection (a) shall be applied separately to such qualifying dividends, and

(2) For purposes of subsection (a)(3), the percentage applicable to such qualifying dividends shall be 100 percent in lieu of 85 percent.

[Sec. 244 as amended by sec. 214(b)(1), Rev. Act 1964 (78 Stat. 55)]

PAR. 5. Section 1.244–2 is amended to read as follows:

§ 1.244–2 Computation of deduction.

(a) *General rule.* Section 244(a) provides a formula for the computation of the deduction for dividends received on the preferred stock of a public utility. For purposes of this computation, the normal tax rate referred to in section 244(a)(2)(B) shall be determined without regard to any additional tax imposed by section 1562(b). See section 1562(b)(4). The deduction computed under section 244(a) is subject to the limitation provided in section 246.

(b) *Qualifying dividends.* Section 244(b) provides that in the case of dividends received on the preferred stock of a public utility in taxable years ending after December 31, 1963, which are "qualifying dividends" (as defined in section 243(b)(1), but determined without regard to section 243(c)(4)), the computation of the deduction for dividends received shall be made by applying the formula provided by section 244(a) separately to such qualifying dividends. For such purposes, 100 percent shall be used in lieu of the 85 percent specified in section 244(a)(3).

(c) *Examples.* The computation of the deduction provided in section 244 may be illustrated by the following examples:

Example (1). Corporation X, which files its income tax returns on the calendar year basis, received in 1965 $100,000 as dividends on the preferred stock of corporation Y, a public utility corporation which is subject to taxation under chapter 1 of the Code. The deduction provided in section 247 is allowable to Y, the distributing corporation, with respect to these dividends and they are not "qualifying dividends" (as defined in section 243(b)(1) but determined without regard to section 243(c)(4)). The corporation normal tax rate and the surtax rate for the calendar year 1965 are 22 percent and 26 percent, respectively. The deduction allowable to X under section 244(a) for the year 1965 with respect to these dividends is $60,208.33, computed as follows:

Dividends received on preferred stock of corporation Y	$100,000.00
Less: The fraction specified in section 244(a)(2): 14/48 × $100,000	29,166.67
Amount subject to 85-percent deduction	70,833.33
Deduction—85 percent of $70,833.33	60,208.33

The result would be the same if X or Y (or both) were subject to the 6-percent additional tax imposed by section 1562(b) for 1965.

Example (2). Assume the same facts as in example (1) and also assume that in 1965 corporation X received $200,000 as dividends on the preferred stock of Corporation Z, a public utility corporation which is subject to taxation under chapter 1 of the Code. Assume further that such dividends are "qualifying dividends" (as defined in section 243(b)(1) but determined without regard to section 243(c)(4)). The deduction provided in section 247 is allowable to Z, the distributing corporation, with respect to these dividends. The deduction allowable to X under section 244 for the year 1965 is $201,875, computed as follows:

Deduction allowable under section 244(a) with respect to the dividend received from Y (see example (1))	$60,208.33
Deduction allowable under section 244(b) with respect to the dividend received from Z: Qualifying dividends received on preferred stock of corporation Z	200,000.00
Less: The fraction specified in section 244(a)(2): 14/48 × $200,000	58,333.33
Deduction	141,666.67
Deduction allowable under section 244 for 1965	201,875.00

PAR. 6. Section 1.246 is amended by revising section 246(b) and the historical note to read as follows:

§ 1.246 Statutory provisions; rules applying to deductions for dividends received.

SEC. 246. *Rules applying to deductions for dividends received.* * * *

(b) *Limitation on aggregate amount of deductions*—(1) *General rule.* Except as provided in paragraph (2), the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall not exceed 85 percent of the taxable income computed without regard to the deductions allowed by sections 172, 243(a)(1), 244(a), 245, and 247.

(2) *Effect of net operating loss.* Paragraph (1) shall not apply for any taxable year for which there is a net operating loss (as determined under section 172).

* * * * *

[Sec. 246 as amended by sec. 18 and sec. 57(c)(2), Technical Amendments Act 1958 (72 Stat. 1614, 1646); sec. 214(b)(2), Rev. Act 1964 (78 Stat. 55)]

PAR. 7. Section 1.246–2 is amended by striking out the references to sections 243(a) and 244 and by substituting references to sections 243(a)(1) and 244(a). The amended provision reads as follows:

§ 1.246–2 Limitation on aggregate amount of deductions.

(a) *General rule.* The sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244(a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations), except as provided in section 246(b)(2) and in paragraph (b) of this section, is limited to 85 percent of the taxable income of the corporation. The taxable income of the corporation for this purpose is computed without regard to the net operating loss deduction allowed by section 172, the deduction for dividends paid on certain preferred stock of public utilities allowed by section 247, and the deductions provided in sections 243(a)(1), 244(a), and 245. For definition of the term "taxable income," see section 63.

(b) *Effect of net operating loss.* If the shareholder corporation has a net operating loss (as determined under sec. 172) for a taxable year, the limitation provided in section 246(b)(1) and in paragraph (a) of this section is not applicable for such taxable year. In that event, the deductions provided in sections 243(a)(1), 244(a), and 245 shall be allowable for all tax purposes to the shareholder corporation for such taxable year without regard to such limitation. If the shareholder corporation does not have a net operating loss for the taxable year, however, the limitation will be applicable for all tax purposes for such taxable year. In determining whether the shareholder corporation has a net operating loss for a taxable year under section 172, the deductions allowed by sections 243(a)(1), 244(a), and 245 are to be computed without regard to the limitation provided in section 246(b)(1) and in paragraph (a) of this section.

PAR. 8. Section 1.535–3 is amended by revising the second sentence of paragraph (b)(2) and by adding a new

sentence at the end of paragraph (c). These revised and added provisions read as follows:

§ 1.535–3 Accumulated earnings credit.

* * * * *

(b) *Corporation which is not a mere holding or investment company.* * * *

(2) *Minimum credit.* Section 535(c)(2) provides for the allowance of a minimum accumulated earnings credit in the case of a corporation which is not a mere holding or investment company. Except as otherwise provided in section 243(b)(3) and § 1.243–5 (relating to effect of 100-percent dividends received deduction under sec. 243(b)), in the case of such a corporation, this minimum credit shall in no case be less than the amount by which $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. See paragraph (d) of this section for the effect of dividends paid after the close of the taxable year in determining accumulated earnings and profits at the close of the preceding taxable year. In determining the amount of the minimum credit allowable under section 535(c)(2), the needs of the business are not taken into consideration. If the taxpayer has accumulated earnings and profits at the close of the preceding taxable year equal to or in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), the credit, if any, is determined without regard to section 535(c)(2). It is not intended that the provision for the minimum credit shall in any way create an inference that an accumulation in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) is unreasonable. The reasonable needs of the business may require the accumulation of more or less than $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) depending upon the circumstances in the case, but such needs shall not be taken into consideration to any extent in cases where the minimum accumulated earnings credit is applicable. For a discussion of the reasonable needs of the business, see section 537 and §§ 1.537–1, 1.537–2, and 1.537–3.

* * * * *

(c) *Holding and investment companies.* Section 535(c)(3) provides that, in the case of a mere holding or investment company, the accumulated earnings credit shall be the amount, if any, by which $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. Thus, if such a corporation has accumulated earnings equal to or in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), at the close of its preceding taxable year, no accumulated earnings credit is allowable in computing the accumulated taxable income. See paragraph (c) of § 1.533–1 for a definition of a holding or investment company. For the accumulated earnings credit of a mere holding or investment company which is a member of an affiliated group which has elected the 100-percent dividends received deduction under section 243(b), see section 243(b)(3) and § 1.243–5.

* * * * *

PAR. 9. Section 1.615–1 is amended by adding a new sentence at the end of paragraph (a). This amended provision reads as follows:

§ 1.615–1 Exploration expenditures.

(a) *General rule.* Section 615 prescribes rules for the treatment of expenditures for ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (other than oil or gas) paid or incurred by the taxpayer before the beginning of the development stage of the mine or other natural deposit. The development stage of the mine or other natural deposit will be deemed to begin at the time when, in consideration of all the facts and circumstances (including the actions of the taxpayer), deposits of ore or other mineral are shown to exist in sufficient quantity and quality to reasonably justify commercial exploitation by the taxpayer. Such expenditures hereinafter in the regulations under section 615 will be referred to as exploration expenditures. Under section 615(a), a taxpayer may, at his option, deduct exploration expenditures paid or incurred in an amount not to exceed $100,000 for any taxable year. Under section 615(b) and § 1.615–2 he may elect to defer any part of such amount and deduct such part on a ratable basis as the units of produced minerals benefited by such expenditures are sold. In any taxable year in which the taxpayer does not treat exploration expenditures under either of these methods, they will be charged to depletable capital account. The option to deduct under section 615(a), and the election to defer under section 615(b), however, are subject to the limitation provided in section 615(c) and § 1.615–4. In the case of certain corporations which are members of an affiliated group which has elected the 100-percent dividends received deduction under section 243(b), see section 243(b)(3) and § 1.243–5 for limitations on the option to deduct under section 615(a) and the election to defer under section 615(b).

* * * * *

PAR. 10. Section 1.804 is amended by revising section 804(a)(5) and the historical note to read as follows:

§ 1.804 Statutory provisions; life insurance companies; taxable investment income.

SEC. 804. *Taxable investment income*—(a) *In general.* * * *

(5) *Application of section 246(b).* In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of this subsection, the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the taxable investment income computed without regard to the deductions allowed by such sections.

[Sec. 804 as added by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 41); amended by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 115); sec. 3, Act of October 23, 1962 (Public Law 87–858, 76 Stat. 1134); sec. 214(b)(3), Rev. Act 1964 (78 Stat. 55)]

PAR. 11. Section 1.804–1 is amended to read as follows:

§ 1.804–1 Taxable years affected.

Sections 1.804–2 through 1.804–4 (other than paragraph (d)(1)(ii) of § 1.804–2) are applicable only to taxable years beginning after December 31, 1957, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112). Paragraph (d)(1)(ii) of § 1.804–2 is applicable only to taxable years beginning after December 31, 1961, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), section 3 of the Act of October 23, 1962 (Public Law 87–858, 76 Stat. 1134), and section 214(b)(3) of the Revenue Act of 1964 (78 Stat. 55).

PAR. 12. Section 1.804–2 is amended by revising subparagraph (2)(ii) of paragraph (d). This revised provision reads as follows:

§ 1.804–2 Taxable investment income.

* * * * *

(d) *Taxable investment income of a life insurance company.* * * *

(2) *Modifications.* * * *

(ii) *Application of section 246(b).* The sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244 (a) (relating to dividends received on certain preferred stock), and 245 (relating to dividends received from certain foreign corporations) shall be limited to 85 percent of the taxable investment income (as defined in subparagraph (1) of this paragraph). The taxable investment income of the company for this purpose shall be computed without regard to the deductions provided in sections 243(a)(1), 244(a), and 245.

* * * * *

PAR. 13. Section 1.809 is amended by revising section 809(d)(8)(B) and the historical note to read as follows:

§ 1.809 Statutory provisions; life insurance companies; in general.

SEC. 809. *In general.* * * *

(d) *Deductions.* * * *

(8) *Tax-exempt interest, dividends, etc.* * * *

(B) *Application of section 246(b).* In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A)(iii), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the gain from operations computed without regard to—

(i) The deductions provided by paragraphs (3), (5), and (6) of this subsection,
(ii) The operations loss deduction provided by section 812, and
(iii) The deductions allowed by sections 243(a)(1), 244(a), and 245,

but such limit shall not apply for any taxable year for which there is a loss from operations.

[Sec. 809 as added by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 121); amended by sec. 2, Act of June 27, 1961 (Public Law 87-59, 75 Stat. 120); sec. 3, Act of October 10, 1962 (Public Law 87-790, 76 Stat. 808); sec. 3, Act of October 23, 1962 (Public Law 87-858, 76 Stat. 1134); sec. 214(b)(4), Rev. Act 1964 (78 Stat. 55)]

PAR. 14. Section 1.809-1 is amended to read as follows:

§ 1.809-1 Taxable years affected.

Sections 1.809 through 1.809-8, except as otherwise provided therein, are applicable only to taxable years beginning after December 31, 1957, and all reference to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), the Act of June 27, 1961 (75 Stat. 120), the Act of October 10, 1962 (76 Stat. 808); the Act of October 23, 1962 (76 Stat. 1134), and section 214(b)(4) of the Revenue Act of 1964 (78 Stat. 55).

PAR. 15. Paragraph (a)(8)(ii) of § 1.809-5 is revised to read as follows:

§ 1.809-5 Deductions.

(a) *Deductions allowed.* * * *
(8) *Tax-exempt interests, dividends, etc.* * * *

(ii) The modification contained in section 809(d)(8)(B) provides the method for applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of section 809(d)(8)(A)(iii) and subdivision (i)(c) of this subparagraph. Under this method, the sum of the deductions allowed by sections 243(a)(1) (relating to dividends received by corporations), 244(a) (relating to dividends received on certain perferred stock), and 245 (relating to dividends received from certain foreign corporations) shall be limited to 85 percent of the gain from operations computed without regard to:

(a) The deductions provided by section 809(d)(3), (5), and (6);

(b) The operations loss deductions provided by section 812; and

(c) The deductions allowed by sections 243(a)(1), 244(a), and 245.

If a life insurance company has a loss from operations (as determined under sec. 812) for the taxable year, the limitation provided in section 809(d)(8)(B) and this subdivision shall not be applicable for such taxable year. In that event, the deductions provided by sections 243(a)(1), 244(a), and 245 shall be allowable for all tax purposes to the life insurance company for such taxable year without regard to such limitation. If the life insurance company does not have a loss from operations for the taxable year, however, the limitation shall be applicable for all tax purposes for such taxable year. In determining whether a life insurance company has a loss from operations for the taxable year under section 812, the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be computed without regard to the limitation provided in section 809(d)(8)(B) and this subdivision.

* * * * *

[F.R. Doc. 69-712; Filed, Jan. 17, 1969; 8:48 a.m.]

[T.D. 6993]

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

Tax on Self-Employment Income

On December 4, 1968, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under chapter 2 of the Internal Revenue Code of 1954, relating to the tax on self-employment income, to conform the regulations to changes made by sections 111(c)(4), 312(b), 319, 320(b)(1) and 321(a) of the Social Security Amendments of 1965 (79 Stat. 342, 381, 390, 393, 394) and sections 108(b)(1), 109(a)(1) and (b)(1), and 501 of the Social Security Amendments of 1967 (81 Stat. 835, 933), was published in the FEDERAL REGISTER (33 F.R. 18034). The amendments of the regulations as proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. The historical note at the end of § 1.1401, as set forth in paragraph 1 of the notice of proposed rule making, is revised.

PAR. 2. Paragraph (b) of § 1.1402(h)-1, as set forth in paragraph 9 of the notice of proposed rule making, is revised.

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

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

Approved: January 14, 1969.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under chapter 2 of the Internal Revenue Code of 1954, relating to the tax on self-employment income, to sections 111(c)(4), 312(b), 319, 320(b)(1) and 321(a) of the Social Security Amendments of 1965 (79 Stat. 342, 381, 390, 393, 394) and sections 108(b)(1), 109(a)(1) and (b)(1), and 501 of the Social Security Amendments of 1967 (81 Stat. 835, 933) such regulations are amended as follows:

PARAGRAPH 1. Section 1.1401 is amended by revising section 1401 and the historical note. These amended provisions read as follows:

§ 1.1401 Statutory provisions; rate of tax on self-employment income.

SEC. 1401. *Rate of tax*—(a) *Old-age, survivors, and disability insurance.* In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) In the case of any taxable year beginning after December 31, 1967, and before January 1, 1969, the tax shall be equal to 5.8 percent of the amount of the self-employment income for such taxable year;

(2) In the case of any taxable year beginning after December 31, 1968, and before January 1, 1971, the tax shall be equal to 6.3 percent of the amount of the self-employment income for such taxable year;

(3) In the case of any taxable year beginning after December 31, 1970, and before January 1, 1973, the tax shall be equal to 6.9 percent of the amount of the self-employment income for such taxable year; and

(4) In the case of any taxable year beginning after December 31, 1972, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year.

(b) *Hospital insurance.* In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) In the case of any taxable year beginning after December 31, 1967, and before January 1, 1973, the tax shall be equal to 0.60 percent of the amount of the self-employment income for such taxable year;

(2) In the case of any taxable year beginning after December 31, 1972, and before January 1, 1976, the tax shall be equal to 0.65 percent of the amount of the self-employment income for such taxable year;

(3) In the case of any taxable year beginning after December 31, 1975, and before January 1, 1980, the tax shall be equal to 0.70 percent of the amount of the self-employment income for such taxable year;

(4) In the case of any taxable year beginning after December 31, 1979, and before January 1, 1987, the tax shall be equal to 0.80 percent of the amount of the self-employment income for such taxable year; and

(5) In the case of any taxable year beginning after December 31, 1986, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year.

[Sec. 1401 as amended by sec. 208(a), Social Security Amendments 1954 (68 Stat. 1093); sec. 202(a), Social Security Amendments 1956 (70 Stat. 845); sec. 401(a), Social Security Amendments 1958 (72 Stat. 1041); sec. 201(a), Social Security Amendments 1961 (75 Stat. 140); secs. 111(c)(4) and 321(a), Social Security Amendments 1965 (79 Stat. 342, 394); sec. 109 (a)(1) and (b)(1), Social Security Amendments 1967 (81 Stat. 835)]

PAR. 2. Section 1.1401-1 is amended to read as follows:

§ 1.1401-1 Tax on self-employment income.

(a) There is imposed, in addition to other taxes, a tax upon the self-employment income of every individual at the rates prescribed in section 1401 (a) (old-age, survivors, and disability insurance) and (b) (hospital insurance). (See subparagraphs (1) and (2) of paragraph (b) of this section.) This tax shall be levied, assessed, and collected as part of the income tax imposed by subtitle A of the Code and, except as otherwise expressly provided, will be included with the tax imposed by section 1 or 3 in computing any deficiency or overpayment and in computing the interest and additions to any deficiency, overpayment, or tax.

Since the tax on self-employment income is part of the income tax, it is subject to the jurisdiction of the Tax Court of the United States to the same extent and in the same manner as the other taxes under subtitle A of the Code. Furthermore, with respect to taxable years beginning after December 31, 1966, this tax must be taken into account in computing any estimate of the taxes required to be declared under section 6015.

(b) The rates of tax on self-employment income are as follows:

(1) For old-age, survivors, and disability insurance:

Taxable Year	*Percent*
Beginning before January 1, 1957	3
Beginning after December 31, 1956 and before January 1, 1959	3.375
Beginning after December 31, 1958 and before January 1, 1960	3.75
Beginning after December 31, 1959 and before January 1, 1962	4.5
Beginning after December 31, 1961 and before January 1, 1963	4.7
Beginning after December 31, 1962 and before January 1, 1966	5.4
Beginning after December 31, 1965 and before January 1, 1967	5.8
Beginning after December 31, 1966 and before January 1, 1968	5.9
Beginning after December 31, 1967 and before January 1, 1969	5.8
Beginning after December 31, 1968 and before January 1, 1971	6.3
Beginning after December 31, 1970 and before January 1, 1973	6.9
Beginning after December 31, 1972	7.0

(2) For hospital insurance:

Taxable Year	*Percent*
Beginning after December 31, 1965 and before January 1, 1967	0.35
Beginning after December 31, 1966 and before January 1, 1968	.50
Beginning after December 31, 1967 and before January 1, 1973	.60
Beginning after December 31, 1972 and before January 1, 1976	.65
Beginning after December 31, 1975 and before January 1, 1980	.70
Beginning after December 31, 1979 and before January 1, 1987	.80
Beginning after December 31, 1986	.90

(c) In general, self-employment income consists of the net earnings derived by an individual (other than a nonresident alien) from a trade or business carried on by him as sole proprietor or by a partnership of which he is a member, including the net earnings of certain employees as set forth in § 1.1402(c)–3, and of crew leaders, as defined in section 3121(o) (see such section and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)). See, however, the exclusions, exceptions, and limitations set forth in §§ 1.1402(a)–1 through 1.1402(h)–1.

PAR. 3. Section 1.1402(a) is amended by revising subdivisions (i) through (iv) of that portion of section 1402(a) which follows paragraph (9) thereof and the historical note. These amended provisions read as follows:

§ 1.1402(a) Statutory provisions; definitions; net earnings from self-employment.

SEC. 1402. *Definitions*—(a) *Net earnings from self-employment.* * * *

(i) In the case of an individual, if the gross income derived by him from such trade or business is not more than $2,400, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) In the case of an individual, if the gross income derived by him from such trade or business is more than $2,400 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,600, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,600; and

(iii) In the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than $2,400, his distributive share of income described in section 702(a)(9) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) In the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than $2,400 and his distributive share (whether or not distributed) of income described in section 702(a)(9) derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,600, his distributive share of income described in section 702(a)(9) derived from such trade or business may, at his option, be deemed to be $1,600.

* * * * *

[Sec. 1402(a) as amended by sec. 201 (a) and (c)(4), Social Security Amendments 1954 (68 Stat. 1087, 1089); sec. 201 (e)(2), (g), and (i), Social Security Amendments 1956 (70 Stat. 840–842); sec. 5(b), Act of Aug. 30, 1957 (Public Law 85–239, 71 Stat. 523); sec. 103(k), Social Security Amendments 1960 (74 Stat. 938); sec. 227, Rev. Act 1964 (78 Stat. 97); sec. 312(b), Social Security Amendments 1965 (79 Stat. 381)]

PAR. 4. Section 1.1402(a)–15 is amended by revising subparagraphs (1) and (2) of paragraph (a) and by revising paragraph (d). These revised provisions read as follows:

§ 1.1402(a)–15 Options available to farmers in computing net earnings from self-employment for taxable years ending on or after December 31, 1956.

(a) *Computation of net earnings.* * * *

(1) *In case of an individual*—(i) *Gross income of less than specified amount.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is $2,400 or less ($1,800 or less for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966), the taxpayer may, at his option, treat as net earnings from self-employment from such trade or business an amount equal to 66⅔ percent of such gross income. If the taxpayer so elects, the amount equal to 66⅔ percent of such gross income shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any.

(ii) *Gross income in excess of specified amount.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is more than $2,400 ($1,800 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966), and the net earnings from self-employment from such trade or business (computed without regard to this section) are less than $1,600 ($1,200 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966), the taxpayer may, at his option, treat $1,600 ($1,200 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966) as net earnings from self-employment. If the taxpayer so elects, $1,600 ($1,200 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966) shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any. However, if the taxpayer's actual net earnings from such trade or business, as computed in accordance with the applicable provisions of §§ 1.1402(a)–1 to 1.1402(a)–13, inclusive, are $1,600 or more ($1,200 or more for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966) such actual net earnings shall be used in computing his self-employment income.

(2) *In case of a member of a partnership*—(i) *Distributive share of gross income of less than specified amount.* If a taxpayer's distributive share of the gross income of a partnership (as such gross income is computed under the provisions of paragraph (b) of this section) derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is $2,400 or less ($1,800 or less for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966), the taxpayer may, at his option, treat as his distributive share of income described in section 702(a)(9) derived from such trade or business an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been reduced by the sum of all payments to which section 707(c) applies). If the taxpayer so elects, the amount equal to 66⅔ percent of his distributive share of such gross income shall be used by him in the computation of his net earnings from self-employment in lieu of the actual amount of his distributive share of income described in section 702(a)(9) from such trade or business, if any.

(ii) *Distributive share of gross income in excess of specified amount.* If a taxpayer's distributive share of the gross income of the partnership (as such gross income is computed under the provisions of paragraph (b) of this section) derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than $2,400 ($1,800 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966) and the actual amount of his distributive share (whether or not

distributed) of income described in section 702(a)(9) derived from such trade or business (computed without regard to this section) is less than $1,600 ($1,200 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966), the taxpayer may, at his option, treat $1,600 ($1,200 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966) as his distributive share of income described in section 702(a)(9) derived from such trade or business. If the taxpayer so elects, $1,600 ($1,200 for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966) shall be used by him in the computation of his net earnings from self-employment in lieu of the actual amount of his distributive share of income described in section 702(a)(9) from such trade or business, if any. However, if the actual amount of the taxpayer's distributive share of income described in section 702(a)(9) from such trade or business, as computed in accordance with the applicable provisions of §§ 1.1402(a)–1 to 1.1402(a)–13, inclusive, is $1,600 or more ($1,200 or more for a taxable year ending on or after Dec. 31, 1956, and beginning before Jan. 1, 1966), such actual amount of the taxpayer's distributive share shall be used in computing his net earnings from self-employment.

(iii) *Cross reference.* For a special rule in the case of certain deceased partners, see paragraph (c) of § 1.1402(f)–1.

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

Example (1). F is engaged in the business of farming and computes his income under the cash receipts and disbursements method. He files his income tax returns on the basis of the calendar year. During the year 1966, F's gross income from the business of farming (computed in accordance with paragraph (b)(1) of this section) is $2,325. His actual net earnings from self-employment derived from such business are $1,250. As his net earnings from self-employment, F may report $1,250 or, by the optional computation method, he may report $1,550 (66⅔ percent of $2,325).

Example (2). G is engaged in the business of farming and computes his income under the accrual method. His income tax returns are filed on the calendar year basis. For the year 1966, G's gross income from the operation of his farm (computed in accordance with paragraph (b)(2) of this section) is $2,800. He has actual net earnings from self-employment derived from such farm in the amount of $1,250. As his net earnings from self-employment derived from his farm, G may report his actual net earnings of $1,250, or by the optional method he may report $1,600. If G's actual net earnings from self-employment from his farming activities for 1966 were in an amount of $1,600 or more, he would be required to report such amount in computing his self-employment income.

Example (3). M, who files his income tax returns on a calendar year basis, is one of the three partners of the XYZ Company, a partnership, engaged in the business of farming. The taxable year of the partnership is the calendar year, and its income is computed under the cash receipts and disbursements method. For M's services in connection with the planting, cultivating, and harvesting of the crops during the year 1966 the partnership agrees to pay him $500, the full amount of which is determined without regard to the income of the partnership and constitutes a guaranteed payment within the meaning of section 707(c). This guaranteed payment to M is the only such payment made during such year. The gross income derived from the business for the year 1966 computed in accordance with paragraph (b)(1) of this section and after being reduced by the guaranteed payment of $500 made to M, is $3,000. One-third of the $3,000 ($1,000), is M's distributive share of such gross income. Under paragraph (c) of this section, the guaranteed payment ($500) received by M and his distributive share of the partnership gross income ($1,000) are deemed to have been derived from one trade or business, and such amounts must be aggregated for purposes of the optional method of computing net earnings from self-employment. Since M's combined gross income from his two agricultural businesses ($1,000 and $500) is not more than $2,400 and since such income is deemed to be derived from one trade or business, M's net earnings from self-employment derived from such farming business may, at his option, be deemed to be $1,000 (66⅔ percent of $1,500).

Example (4). A is one of the two partners of the AB partnership which is engaged in the business of farming. The taxable year of the partnership is the calendar year and its income is computed under the accrual method. A files his income tax returns on the calendar year basis. The partnership agreement provides for an equal sharing in the profits and losses of the partnership by the two partners. A is an experienced farmer and for his services as manager of the partnership's farm activities during the year 1966 he receives $6,000 which amount constitutes a guaranteed payment within the meaning of section 707(c). The gross income of the partnership derived from such business for the year 1966, computed in accordance with paragraph (b)(2) of this section and after being reduced by the guaranteed payment made to A, is $9,600. A's distributive share of such gross income is $4,800 and his distributive share of income described in section 702(a)(9) derived from the partnership's business is $1,900. Under paragraph (c) of this section, the guaranteed payment received by A and his distributive share of the partnership gross income are deemed to have been derived from one trade or business, and such amounts must be aggregated for purposes of the optional method of computing his net earnings from self-employment. Since the aggregate of A's guaranteed payment ($6,000) and his distributive share of partnership gross income ($4,800) is more than $2,400 and since the aggregate of A's guaranteed payment ($6,000) and his distributive share ($1,900) of partnership income described in section 702(a)(9) is not less than $1,600, the optional method of computing net earnings from self-employment is not available to A.

Example (5). F is a member of the EFG partnership which is engaged in the business of farming. F files his income tax returns on the calendar year basis. The taxable year of the partnership is the calendar year, and its income is computed under a cash receipts and disbursements method. Under the partnership agreement the partners are to share equally the profits or losses of the business. The gross income derived from the partnership business for the year 1966, computed in accordance with paragraph (b)(1) of this section is $7,500. F's share of such gross income is $2,500. Due to drought and an epidemic among the livestock, the partnership sustains a net loss of $7,800 for the year 1966 of which loss F's share is $2,600. Since F's distributive share of gross income derived from such business is in excess of $2,400 and since F does not receive income described in section 702(a)(9) of $1,600 or more from such business, he may, at his option, be deemed to have received $1,600 as his distributive share of income described in section 702(a)(9) from such business.

PAR. 5. Section 1.1402(b) is amended by revising subparagraph (C) of section 1402(b)(1), by adding new subparagraphs (D) and (E) to section 1402(b)(1), and by revising the historical note. These amended and added provisions read as follows:

§ 1.1402(b) Statutory provisions; definitions; self-employment income.

SEC. 1402. *Definitions.* * * *

(b) *Self-employment income.* * * *

(1) That part of the net earnings from self-employment which is in excess of—* * *

(C) For any taxable year ending after 1958 and before 1966, (i) $4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(D) For any taxable year ending after 1965 and before 1968, (i) $6,600, minus (ii) the amount of wages paid to such individual during the taxable year; and

(E) For any taxable year ending after 1967, (i) $7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; or

* * * * *

[Sec. 1402(b) as amended by sec. 201(b), Social Security Amendments 1954 (68 Stat. 1088); sec. 402(a), Social Security Amendments 1958 (72 Stat. 1042); sec. 103(1), Social Security Amendments 1960 (74 Stat. 938); sec. 320(b)(1), Social Security Amendments 1965 (79 Stat. 393); sec. 108(b)(1), Social Security Amendments 1967 (81 Stat. 835)]

PAR. 6. Paragraphs (b)(1) and (c) of § 1.1402(b)–1 are amended to read as follows:

§ 1.1402(b)–1 Self-employment income.

* * * * *

(b) *Maximum self-employment income.* (1) The maximum self-employment income of an individual for any taxable year (whether a period of 12 months or less) is the excess of—

(i) For taxable years ending before 1955, $3,600,

(ii) For taxable years ending after 1954 and before 1959, $4,200,

(iii) For taxable years ending after 1958 and before 1966, $4,800,

(iv) For taxable years ending after 1965 and before 1968, $6,600,

(v) For taxable years ending after 1967, $7,800,

over the amount of any wages (as defined in section 3121(a)) received by such individual in such taxable year. For example, if during the taxable year ending in 1968 no such wages are paid and the individual has $8,000 of net earnings from self-employment, he has $7,800 of self-employment income for such taxable year. If, in addition to having $8,000 of net earnings from self-employment, such individual is paid $1,000 of such wages, he has only $6,800 of self-employment income for the taxable year.

* * * * *

(c) *Minimum net earnings from self-employment.* Self-employment income does not include the net earnings from self-employment of an individual when

the amount of such earnings for the taxable year is less than $400. Thus, an individual having only $300 of net earnings from self-employment for the taxable year would not have any self-employment income. However, an individual having net earnings from self-employment of $400 or more for the taxable year may have less than $400 of self-employment income. This could occur in a case in which the amount of the individual's net earnings from self-employment is $400 or more for a taxable year and the amount of such net earnings from self-employment plus the amount of the wages received by the individual during that taxable year exceed $7,800 ($3,600 for taxable years ending before 1955, $4,200 for taxable years ending after 1954 and before 1959, $4,800 for taxable years ending after 1958 and before 1966, or $6,600 for taxable years ending after 1965 and before 1968). For example, if an individual has net earnings from self-employment of $1,000 for 1968, and also receives wages of $7,500 during that taxable year, his self-employment income for that taxable year is $300.

* * * * *

PAR. 7. There is inserted immediately after § 1.1402(c)-6 the following new section:

§ 1.1402(c)-7 Members of religious groups opposed to insurance.

The performance of service by an individual—

(a) Who is a member of a recognized religious sect or division thereof, and

(b) Who is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act),

during any taxable year for which he is granted a tax exemption, pursuant to section 1402(h), does not constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1. See also §§ 1.1402(h) and 1.1402(h)-1.

PAR. 8. Paragraph (b)(2) of § 1.1402(f)-1 is amended to read as follows:

§ 1.1402(f)-1 Computation of partner's net earnings from self-employment for taxable years ending as result of his death.

* * * * *

(b) *Options available to farmers.* * * *

(2) *Examples.* The principles set forth in this paragraph may be illustrated by the following examples:

Example (1). X, an individual who files his income tax returns on a calendar year basis, is a member of the XYZ farm partnership, the taxable year of which ends on March 31. X dies on May 31, 1967, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law until March 31, 1968. X's distributive share of the partnership's ordinary income, determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)-2, for the taxable year of the partnership ended March 31, 1967, is $1,600. His distributive share, including the share of his estate, of such partnership's ordinary loss as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)-2 (with the exception of paragraph (e)), for the taxable year of the partnership ended March 31, 1968, is $1,200. The portion of such $1,200 attributable to an interest in the partnership prior to the month following the month in which he died is $1,200 × 3/12 (2 being the number of months in the partnership taxable year in which X died which precede the month following the month of his death and 12 being the number of months in such partnership taxable year in which X and his estate had an interest in the partnership) or $200. X is also a member of the ABX farm partnership, the taxable year of which ends on May 31. His distributive share of the partnership loss described in section 702(a)(9) for the partnership taxable year ending May 31, 1967, is $300. Section 1402(f) and this section do not apply with respect to such $300 since X's last taxable year ends, as a result of his death, with the taxable year of the ABX partnership. Under this paragraph the $200 loss must be included in determining X's distributive share of XYZ partnership income described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting $1,400 of income must be aggregated, pursuant to paragraph (c) of § 1.1402(a)-15, with the $300 loss, X's distributive share of ABX partnership loss described in section 702(a)(9), for purposes of applying such option. The representative of X's estate may exercise the option described in paragraph (a)(2)(ii) of § 1.1402(a)-15, provided the portion of X's distributive share of XYZ partnership gross income for the taxable year ended March 31, 1968, attributable to an interest in the partnership prior to the month following the month in which he died (the allocation being made in the manner prescribed for allocating his $1,200 distributive share of XYZ partnership loss for such year), when aggregated with his distributive share of XYZ partnership gross income for the partnership taxable year ended March 31, 1967, and with his distributive share of ABX partnership gross income for the partnership taxable year ended May 31, 1967, results in X having more than $2,400 of gross income from the trade or business of farming. If such aggregate amount of gross income is not more than $2,400, the option described in paragraph (a)(2)(i) of § 1.1402(a)-15, is available.

Example (2). A, a sole proprietor engaged in the business of farming, files his income tax returns on a calendar year basis. A is also a member of a partnership engaged in an agricultural activity. The partnership files its returns on the basis of a fiscal year ending March 31. A dies June 29, 1967. A's gross income from farming as a sole proprietor for the 6-month period comprising his taxable year which ends because of death is $1,600 and his actual net earnings from self-employment based thereon are $400. As of March 31, 1967, A's distributive share of the gross income of the farm partnership is $2,200 and his distributive share of income described in section 702(a)(9) based thereon is $1,000. The amount of A's distributive share of the partnership's ordinary income for its taxable year ended March 31, 1968, which may be included in his net earnings from self-employment under section 1402(f) and paragraph (a) of this section is $300. The amount of the deceased partner's distributive share of partnership gross income attributable to an interest in the partnership prior to the month following the month of his death as is determined, pursuant to subparagraph (1) of this paragraph, under paragraph (a) of this section is $2,000. An aggregation of the above figures produces a gross income from farming of $5,800 and actual net earnings from self-employment of $1,700. Under these circumstances none of the options provided by section 1402(a) may be used. If the actual net earnings from self-employment had been less than $1,600, the option described in paragraph (a)(2)(ii) of § 1.1402(a)-15 would have been available.

PAR. 9. The following sections are inserted immediately after § 1.1402(g)-1:

§ 1.1402(h) Statutory provisions; definitions; members of certain religious faiths.

SEC. 1402. *Definitions.* * * *

(h) *Members of certain religious faiths*—(1) *Exemption.* Any individual may file an application (in such form and manner, and with such official, as may be prescribed by regulations under this chapter) for an exemption from the tax imposed by this chapter if he is a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Such exemption may be granted only if the application contains or is accompanied by—

(A) Such evidence of such individual's membership in, and adherence to the tenets or teachings of, the sect or division thereof as the Secretary or his delegate may require for purposes of determining such individual's compliance with the preceding sentence, and

(B) His waiver of all benefits and other payments under titles II and XVIII of the Social Security Act on the basis of his wages and self-employment income as well as all such benefits and other payments to him on the basis of the wages and self-employment income of any other person,

and only if the Secretary of Health, Education, and Welfare finds that—

(C) Such sect or division thereof has the established tenets or teachings referred to in the preceding sentence,

(D) It is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his judgment is reasonable in view of their general level of living, and

(E) Such sect or division thereof has been in existence at all times since December 31, 1950.

An exemption may not be granted to any individual if any benefit or other payment referred to in subparagraph (B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) at or before the time of the filing of such waiver.

(2) *Time for filing application.* For purposes of this subsection, an application must be filed—

(A) In the case of an individual who has self-employment income (determined without regard to this subsection and subsection (c)(6)) for any taxable year ending before December 31, 1967, on or before December 31, 1968, and

(B) In any other case, on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year ending on or after December 31, 1967, for which he has self-employment

income (as so determined), except that an application filed after such date but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified in writing by the Secretary or his delegate that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely.

(3) *Period for which exemption effective.* An exemption granted to any individual pursuant to this subsection shall apply with respect to all taxable years beginning after December 31, 1950, except that such exemption shall not apply for any taxable year—

(A) Beginning (i) before the taxable year in which such individual first met the requirements of the first sentence of paragraph (1), or (ii) before the time as of which the Secretary of Health, Education, and Welfare finds that the sect or division thereof of which such individual is a member met the requirements of subparagraphs (C) and (D), or

(B) Ending (i) after the time such individual ceases to meet the requirements of the first sentence of paragraph (1), or (ii) after the time as of which the Secretary of Health, Education, and Welfare finds that the sect or division thereof of which he is a member ceases to meet the requirements of subparagraph (C) or (D).

(4) *Application by fiduciaries or survivors.* In any case where an individual who has self-employment income dies before the expiration of the time prescribed by paragraph (2) for filing an application for exemption pursuant to this subsection, such an application may be filed with respect to such individual within such time by a fiduciary acting for such individual's estate or by such individual's survivor (within the meaning of section 205(c)(1)(C) of the Social Security Act).

[Sec. 1402(h) as added by sec. 319(c), Social Security Amendments 1965 (79 Stat. 391); as amended by sec. 501(a), Social Security Amendments 1967 (81 Stat. 933)]

§ 1.1402(h)–1 Members of certain religious groups opposed to insurance.

(a) *In general.* An individual—(1) Who is a member of a recognized religious sect or division thereof and

(2) Who is an adherent of established tenets or teachings of such sect or division and by reason thereof is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act),

may file an application for exemption from the tax under section 1401. The form of insurance to which section 1402(h) and this section refer does not include liability insurance of a kind that provides only for the protection of other persons, or property of other persons, who may be injured or damaged by or on property belonging to, or by an action of, an individual who otherwise meets the requirements of this section. An application for exemption under section 1402(h) and this section shall be made in the manner provided in paragraph (b) of this section and within the time specified in paragraph (c) of this section. For provisions relating to the filing of an application for exemption by a fiduciary or survivor, see paragraph (d) of this section.

(b) *Application for exemption.* The application for exemption shall be filed on Form 4029 in duplicate with the internal revenue official or office designated on the form. The filing of a return by a member of a religious group opposed to insurance showing no self-employment income or self-employment tax shall not be construed as an application for exemption referred to in paragraph (a) of this section.

(c) *Time limitation for filing application for exemption—*(1) *Taxable years ending before December 31, 1967.* A member of a religious group opposed to insurance within the meaning of paragraph (a) of this section—

(i) Who has self-employment income (determined without regard to subsections (c)(6) and (h) of section 1402 and this section) for one or more taxable years ending before December 31, 1967, and

(ii) Who desires to be exempt from the payment of the self-employment tax under section 1401,

must file the application for exemption on or before December 31, 1968.

(2) *Taxable year ending on or after December 31, 1967—*(i) *General rule.* Except as provided in subdivision (ii) of this subparagraph, a member of a religious group opposed to insurance within the meaning of paragraph (a) of this section—

(*a*) Who has no self-employment income (determined without regard to subsections (c)(6) and (h) of section 1402 and this section) for any taxable year ending before December 31, 1967, and

(*b*) Who desires to be exempt from the payment of the self-employment tax under section 1401 for any taxable year ending on or after December 31, 1967,

must file the application for exemption on or before the due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for the first taxable year ending on or after December 31, 1967, for which he has self-employment income (determined without regard to subsections (c)(6) and (h) of section 1402 and this section.

(ii) *Exception to general rule.* If an individual to whom subdivision (i) of this subparagraph applies—

(*a*) Is notified in writing by a district director of internal revenue or the Director of International Operations that he has not filed the application for exemption on or before the date specified in such subdivision (i), and

(*b*) Files the application for exemption on or before the last day of the third calendar month following the calendar month in which he is so notified,

such application shall be considered a timely filed application for exemption.

(d) *Application by fiduciary or survivor.* If an individual who was a member of a religious group opposed to insurance dies before the expiration of the time prescribed in section 1402(h)(2) and paragraph (c) of this section during which an application could have been filed by him, an application for exemption with respect to such deceased individual may be filed by a fiduciary acting for such individual's estate or by such individual's survivor within the meaning of section 205(c)(1)(C) of the Social Security Act. An application for exemption with respect to a deceased individual executed by a fiduciary or survivor may be approved only if it could have been approved if the individual were not deceased and had filed the application on the date the application was filed by the fiduciary or executor.

(e) *Approval of application for exemption—*(1) *In general.* The filing of an application for exemption on Form 4029 by a member of a religious group opposed to insurance does not constitute an exemption from the payment of the tax on self-employment income. An individual who files such an application is exempt from the payment of the tax only if the application is approved by the official with whom the application is required to be filed (see paragraph (b) of this section).

(2) *Conditions relating to approval or disapproval of application.* An application for exemption on Form 4029 will not be approved unless the Secretary of Health, Education, and Welfare finds with respect to the religious sect or division thereof of which the individual filing the application is a member—

(i) That the sect or division thereof has the established tenets or teachings by reason of which the individual applicant is conscientiously opposed to the benefits of insurance of the type referred to in section 1402(h) (see paragraph (a) of this section),

(ii) That it is the practice, and has been for a period of time which the Secretary of Health, Education, and Welfare deems to be substantial, for members of such sect or division thereof to make provisions for their dependent members which, in the judgment of such Secretary, is reasonable in view of the general level of living of the members of the sect or division thereof; and

(iii) That the sect or division thereof has been in existence continuously since December 31, 1950.

In addition, an application for exemption on Form 4029 will not be approved if any benefit or other payment under title II of title XVIII of the Social Security Act became payable (or, but for section 203, relating to reduction of insurance benefits, or 222(b), relating to reduction of insurance benefits on account of refusal to accept rehabilitation services, of the Social Security Act would have been payable) at or before the time of the filing of the application for exemption. Any determination required to be made pursuant to the preceding sentence will be made by the Secretary of Health, Education, and Welfare.

(f) *Period for which exemption is effective—*(1) *General rule.* An application

for exemption shall be in effect (if approved as provided in paragraph (e) of this section) for all taxable years beginning after December 31, 1950, except as otherwise provided in subparagraph (2) of this paragraph.

(2) *Exceptions.* An application for exemption referred to in subparagraph (1) of this paragraph shall not be effective for any taxable year which—

(i) Begins (*a*) before the taxable year in which the individual filing the application first met the requirements of subparagraphs (1) and (2) of paragraph (a) of this section, or (*b*) before the time as of which the Secretary of Health, Education, and Welfare finds that the sect or division thereof of which the individual is a member met the requirements of subparagraphs (C) and (D) of section 1402(h)(1) (see subdivisions (i) and (ii) of paragraph (e)(2) of this section), or

(ii) Ends (*a*) after the time at which the individual filing the application ceases to meet the requirements of subparagraphs (1) and (2) of paragraph (a) of this section, or (*b*) after the time as of which the Secretary of Health, Education, and Welfare finds that the sect or division thereof of which the individual is a member ceases to meet the requirements of subparagraphs (C) and (D) of section 1402(h)(1) (see subdivisions (i) and (ii) of paragraph (e)(2) of this section).

(g) *Refund or credit.* An application for exemption on Form 4029 filed on or before December 31, 1968 (if approved as provided in paragraph (e) of this section), shall constitute a claim for refund or credit of any tax on self-employment income under section 1401 (or under section 480 of the Internal Revenue Code of 1939) paid or incurred in respect of any taxable year beginning after December 31, 1950, and ending before December 31, 1967, for which an exemption is granted. Refund or credit of any tax referred to in the preceding sentence may be made, pursuant to the provisions of section 501(c) of the Social Security Amendments of 1967 (81 Stat. 933), notwithstanding that the refund or credit would otherwise be prevented by operation of any law or rule of law. No interest shall be allowed or paid in respect of any refund or credit made or allowed in connection with a claim for refund or credit made on Form 4029.

[F.R. Doc. 69-713; Filed, Jan. 17, 1969; 8:48 a.m.]

[T.D. 6995]

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

Earnings and Profits of Foreign Corporation

In order to clarify the rules for determining "historical cost" as used in paragraph (b)(2)(ii) of § 1.964–1 of the Income Tax Regulations (26 CFR Part 1), such paragraph is revised to read as follows:

§ 1.964–1 Determination of the earnings and profits of a foreign corporation.

* * * * *

(b) *Accounting adjustments.* * * *

(2) *Historical cost.* * * *

(ii) In the event that subdivision (i) of this subparagraph is inapplicable but the asset was acquired by the foreign corporation during a taxable year beginning before January 1, 1950, as though the asset were purchased on the first day of the first taxable year of the foreign corporation beginning after December 31, 1949, at a price equal to the undepreciated cost (cost or other basis minus book depreciation) of that asset as of that date as shown on the books of account of such corporation regularly maintained for the purpose of accounting to its shareholders.

* * * * *

Because this Treasury decision merely clarifies the rules for determining the "historical cost" of an asset acquired by a foreign corporation during a taxable year beginning before January 1, 1950, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

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

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

Approved: January 14, 1969.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 69-715; Filed, Jan. 17, 1969; 8:48 a.m.]

[T.D. 6996]

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

Disallowance of Deductions for Bad Debts Owed by Political Parties and for Certain Indirect Contributions to Political Parties

On March 12, 1968, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 271 of the Internal Revenue Code of 1954, relating to the disallowance of deductions for bad debts owed by political parties, and under section 276 of the Internal Revenue Code of 1954, as added by section 301 of the Tax Adjustment Act of 1966 (80 Stat. 66), relating to the disallowance of deductions for certain indirect contributions to political parties, was published in the FEDERAL REGISTER (33 F.R. 4414). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, and in order to reflect certain changes made by the amendment to section 276 by section 108 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 268), the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.276, as set forth in paragraph 2 of the notice of proposed rule making, is revised by redesignating subsection (c) of section 276 as subsection (d), by inserting a new subsection (c) after subsection (b), and by revising the historical note at the end thereof.

PAR. 2. Paragraphs (a) and (b) of § 1.276–1, as set forth in paragraph 2 of the notice of proposed rule making, are revised.

PAR. 3. Section 1.162–14, as set forth in paragraph 4 of the notice of proposed rule making, is revised.

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

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

Approved: January 14, 1969.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

The following regulations are hereby prescribed under section 271 of the Internal Revenue Code of 1954, relating to the disallowance of deductions for bad debts owed by political parties, and under section 276 of the Internal Revenue Code of 1954, as added by section 301 of the Tax Adjustment Act of 1966 (80 Stat. 66), relating to the disallowance of deductions for certain indirect contributions to political parties:

PARAGRAPH 1. The following new section is inserted immediately after § 1.271:

§ 1.271–1 Debts owed by political parties.

(a) *General rule.* In the case of a taxpayer other than a bank (as defined in section 581 and the regulations thereunder), no deduction shall be allowed under section 166 (relating to bad debts) or section 165(g) (relating to worthlessness of securities) by reason of the worthlessness of any debt, regardless of how it arose, owed by a political party. For example, it is immaterial that the debt may have arisen as a result of services rendered or goods sold or that the taxpayer included the amount of the debt in income. In the case of a bank, no deduction shall be allowed unless, under the facts and circumstances, it appears that the bad debt was incurred to or purchased by, or the worthless security was acquired by, the taxpayer in accordance with its usual commercial practices. Thus, if a bank makes a loan to a political party not in accordance with its usual commercial practices but solely because the president of the bank has been active in the party no bad debt deduction will be allowed with respect to the loan.

(b) *Definitions*—(1) *Political party.* For purposes of this section and § 1.276–1, the term "political party" means a political party (as commonly understood), a National, State, or local committee thereof, or any committee, association, or organization, whether incorporated or

not, which accepts contributions (as defined in subparagraph (2) of this paragraph) or makes expenditures (as defined in subparagraph (3) of this paragraph) for the purpose of influencing or attempting to influence the election of presidential or vice-presidential electors, or the selection, nomination, or election of any individual to any Federal, State, or local elective public office, whether or not such individual or electors are selected, nominated, or elected. Accordingly, a political party includes a committee or other group which accepts contributions or makes expenditures for the purpose of promoting the nomination of an individual for an elective public office in a primary election, or in any convention, meeting, or caucus of a political party. It is immaterial whether the contributions or expenditures are accepted or made directly or indirectly. Thus, for example, a committee or other group, is considered to be a political party, if, although it does not expend any funds, it turns funds over to another organization, which does expend funds for the purpose of attempting to influence the nomination of an individual for an elective public office. An organization which engages in activities which are truly nonpartisan in nature will not be considered a political party merely because it conducts activities with respect to an election campaign if, under all the facts and circumstances, it is clear that its efforts are not directed to the election of the candidates of any particular party or parties or to the selection, nomination or election of any particular candidate. For example, a committee or group will not be treated as a political party if it is organized merely to inform the electorate as to the identity and experience of all candidates involved, to present on a nonpreferential basis the issues or views of the parties or candidates as described by the parties or candidates, or to provide a forum in which the candidates are freely invited on a nonpreferential basis to discuss or debate the issues.

(2) *Contributions.* For purposes of this section and § 1.276–1, the term "contributions" includes a gift, subscription, loan, advance, or deposit, of money or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) *Expenditures.* For purposes of this section and § 1.276–1, the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift, of money or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

PAR. 2. The following new sections are inserted immediately after § 1.275–1:

§ 1.276 Statutory provisions; disallowance of deductions for certain indirect contributions to political parties.

SEC. 276. *Certain indirect contributions to political parties*—(a) *Disallowance of deductions.* No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred for—

(1) Advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate,

(2) Admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate, or

(3) Admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

(b) *Definitions.* For purposes of this section—

(1) *Political party.* The term "political party" means—

(A) A political party;

(B) A National, State, or local committee of a political party; or

(C) A committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions (as defined in section 271(b)(2)) or make expenditures (as defined in section 271(b)(3)) for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal, State, or local elective public office, or the election of presidential and vice-presidential electors, whether or not such individual or electors are selected, nominated, or elected.

(2) *Proceeds inuring to or for the use of political candidates.* Proceeds shall be treated as inuring to or for the use of a political candidate only if—

(A) Such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and

(B) Such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office).

(c) *Advertising in a convention program of a national political convention.* Subsection (a) shall not apply to any amount paid or incurred for advertising in a convention program of a political party distributed in connection with a convention held for the purpose of nominating candidates for the offices of President and Vice President of the United States, if the proceeds from such program are used solely to defray the costs of conducting such convention (or a subsequent convention of such party held for such purpose) and the amount paid or incurred for such advertising is reasonable in light of the business the taxpayer may expect to receive—

(1) Directly as a result of such advertising, or

(2) As a result of the convention being held in an area in which the taxpayer has a principal place of business.

(d) *Cross reference.* For disallowance of certain entertainment, etc., expenses, see section 274.

[Sec. 276 as added by sec. 301, Tax Adjustment Act 1966 (80 Stat. 66); and as amended by sec. 108, Revenue and Expenditure Control Act 1968 (82 Stat. 268)]

§ 1.276–1 Disallowance of deductions for certain indirect contributions to political parties.

(a) *In general.* Notwithstanding any other provision of law, no deduction shall be allowed for income tax purposes in respect of any amount paid or incurred after March 15, 1966, in a taxable year of the taxpayer beginning after December 31, 1965, for any expenditure to which paragraph (b)(1), (c), (d), or (e) of this section is applicable. Section 276 is a disallowance provision exclusively and does not make deductible any expenses which are not otherwise allowed under the Code. For certain other rules in respect of deductions for expenditures for political purposes, see §§ 1.162–15(b), 1.162–20, and 1.271–1.

(b) *Advertising in convention program*—(1) *General rule.* (i) Except as provided in subparagraph (2) of this paragraph, no deduction shall be allowed for an expenditure for advertising in a convention program of a political party. For purposes of this subparagraph it is immaterial who publishes the convention program or to whose use the proceeds of the program inure (or are intended to inure). A convention program is any written publication (as defined in paragraph (c) of this section) which is distributed or displayed in connection with or at a political convention, conclave, or meeting. Under certain conditions payments to a committee organized for the purpose of bringing a political convention to an area are deductible under paragraph (b) of § 1.162–15. This rule is not affected by the provisions of this section. For example, such payments may be deductible notwithstanding the fact that the committee purchases from a political party the right to publish a pamphlet in connection with a convention and that the deduction of costs of advertising in the pamphlet is prohibited under this section.

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

Example. M Corporation publishes the convention program of the Y political party for a convention not described in subparagraph (2) of this paragraph. The corporation makes no payment of any kind to or on behalf of the party or any of its candidates and no part of the proceeds of the publication and sale of the program inures directly or indirectly to the benefit of any political party or candidate. P Corporation purchases an advertisement in the program. P Corporation may not deduct the cost of such advertisement.

(2) [Reserved]

(c) *Advertising in publication other than convention program.* No deduction shall be allowed for an expenditure for advertising in any publication other than a convention program if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate. For purposes of this paragraph, a publication includes a book, magazine, pamphlet, brochure, flier, almanac, newspaper, newsletter, handbill, billboard, menu, sign, scorecard, program, announcement, radio or television program or announcement, or any similar means of communication. For the definition of inurement of proceeds to a political party or a political candidate, see paragraph (f)(3) of this section.

(d) *Admission to dinner or program.* No deduction shall be allowed for an expenditure for admission to any dinner or program, if any part of the proceeds of such event directly or indirectly inures (or is intended to inure) to or for

the use of a political party or a political candidate. For purposes of this paragraph, a dinner or program includes a gala, dance, ball, theatrical or film presentation, cocktail or other party, picnic, barbecue, sporting event, brunch, tea, supper, auction, bazaar, reading, speech, forum, lecture, fashion show, concert, opening, meeting, gathering, or any similar event. For the definition of inurement of proceeds to a political party or a political candidate and of admission to a dinner or program, see paragraph (f) of this section.

(e) *Admission to inaugural event.* (1) No deduction shall be allowed for an expenditure for admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event (such as a dinner or program, as defined in paragraph (d) of this section), in connection with the inauguration or installation in office of any official, or any equivalent event for an unsuccessful candidate, if the event is identified with a political party or a political candidate. For purposes of this paragraph, the sponsorship of the event and the use to which the proceeds of the event are or may be put are irrelevant, except insofar as they may tend to identify the event with a political party or a political candidate. For the definition of admission to an inaugural event, see paragraph (f) (4) of this section.

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

Example. An inaugural reception for A, a prominent member of Y party who has been recently elected judge of the municipal court of F city, is held with the proceeds going to the city treasury. The price of admission to such affair is not deductible.

(f) *Definitions*—(1) *Political party.* For purposes of this section the term "political party" has the same meaning as that provided for in paragraph (b) (1) of § 1.271–1.

(2) *Political candidate.* For purposes of this section, the term "political candidate" is to be construed in accordance with the purpose of section 276 to deny tax deductions for certain expenditures which may be used directly or indirectly to finance political campaigns. The term includes a person who, at the time of the event or publication with respect to which the deduction is being sought, has been selected or nominated by a political party for any elective office. It also includes an individual who is generally believed, under the facts and circumstances at the time of the event or publication, by the persons making expenditures in connection therewith to be an individual who is or who in the reasonably foreseeable future will be seeking selection, nomination, or election to any public office. For purposes of the preceding sentence, the facts and circumstances to be considered include, but are not limited to, the purpose of the event or publication and the disposition to be made of the proceeds. In the absence of evidence to the contrary it shall be presumed that persons making expenditures in connection with an event or publication generally believe that an incumbent of an elective public office will run for reelection to his office or for election to some other public office.

(3) *Inurement of proceeds to political party or political candidate*—(i) *In general.* Subject to the special rules presented in subdivision (iii) of this subparagraph (relating to a political candidate), proceeds directly or indirectly inure to or for the use of a political party or a political candidate (*a*) if the party or candidate may order the disposition of any part of such proceeds, regardless of what use is actually made thereof, or (*b*) if any part of such proceeds is utilized by any person for the benefit of the party or candidate. These conditions are equally applicable in determining whether the proceeds are intended to inure. Accordingly, it is immaterial whether the event or publication operates at a loss if, had there been a profit, any part of the proceeds would have inured to or for the use of a political party or a political candidate. Moreover, it shall be presumed that where a dinner, program, or publication is sponsored by or identified with a political party or political candidate, the proceeds of such dinner, program, or publication directly or indirectly inure (or are intended to inure) to or for the use of the party or candidate. On the other hand, proceeds are not considered to directly or indirectly inure to the benefit of a political party or political candidate if the benefit derived is so remote as to be negligible or merely a coincidence of the relationship of a political candidate to a trade or business profiting from an expenditure of funds. For example, the proceeds of expenditures made by a taxpayer in the ordinary course of his trade or business for advertising in a publication, such as a newspaper or magazine, are not considered as inuring to the benefit of a political party or political candidate merely because the publication endorses a particular political candidate or candidates of a particular political party, the publisher independently contributes to the support of a political party or candidate out of his own personal funds, or the principal stockholder of the publishing firm is a candidate for public office.

(ii) *Proceeds to political party.* If a political party may order the disposition of any part of the proceeds of a publication or event described in paragraph (c) or (d) of this section, such proceeds inure to the use of the party regardless of what the proceeds are to be used for or that their use is restricted to a particular purpose unrelated to the election of specific candidates for public office. Accordingly, where a political party holds a dinner for the purpose of raising funds to be used in a voter registration drive, voter education program, or nonprofit political research program, partisan or nonpartisan, the proceeds are considered to directly or indirectly inure to or for the use of the political party. Proceeds may inure to or for the use of a political party even though they are to be used for purposes which may not be directly related to any particular election (such as to pay office rent for its permanent quarters, salaries to permanent employees, or utilities charges, or to pay the cost of an event such as a dinner or program as defined in paragraph (d) of this section).

(iii) *Proceeds to political candidate.* Proceeds directly or indirectly inure (or are intended to inure) to or for the use of a political candidate if, in addition to meeting the conditions described in subdivision (i) of this subparagraph, (*a*) some part of the proceeds is or may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and (*b*) they are not received by him in the ordinary course of a trade or business (other than the trade or business of holding public office). Proceeds may so inure whether or not the expenditure sought to be deducted was paid or incurred before the commencement of political activities with respect to the selection, nomination, or election referred to in (*a*) of this subdivision, or after such selection, nomination, or election has been made or has taken place. For example, proceeds of an event which may be used by an individual who, under the facts and circumstances at the time of the event, the persons making expenditures in connection therewith generally believe will in the reasonably foreseeable future run for a public office, and which may be used in furtherance of such individual's candidacy, generally will be deemed to inure (or to be intended to inure) to or for the use of a political candidate for the purpose of furthering such individual's candidacy. Or, as another example, proceeds of an event occurring after an election, which may be used by a candidate in that election to repay loans incurred in directly or indirectly furthering his candidacy, or in reimbursement of expenses incurred in directly or indirectly furthering his candidacy, will be deemed to directly or indirectly inure (or to be intended to inure) to or for the use of a political candidate for the purpose of furthering his candidacy. For purposes of this subdivision, if the proceeds received by a candidate exceed substantially the fair market value of the goods furnished or services rendered by him, the proceeds are not received by the candidate in the ordinary course of his trade or business.

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

Example (*1*). Corporation O pays the Y political party $100,000 per annum for the right to publish the Y News, and retains the entire proceeds from the sale of the publication. Amounts paid or incurred for advertising in the Y News are not deductible because a part of the proceeds thereof indirectly inures to or for the use of a political party.

Example (*2*). The X political party holds a highly publicized ball honoring one of its active party members and admission tickets are offered to all. The guest of honor is a prominent national figure and a former incumbent of a high public office. The price of admission is designed to cover merely the cost of entertainment, food, and the ballroom, and all proceeds are paid to the hotel where the function is held, with the political

party bearing the cost of any deficit. No deduction may be taken for the price of admission to the ball since the proceeds thereof inure to or for the use of a political party.

Example (3). Taxpayer A, engaged in a trade or business, purchases a number of tickets for admission to a fundraising affair held on behalf of political candidate B. The funds raised by this affair can be used by B for the purpose of furthering his candidacy. These expenditures are not deductible by A notwithstanding that B donates the proceeds of the affair to a charitable organization.

Example (4). A, an individual taxpayer who publishes a newspaper, is a candidate for elective public office. X Corporation advertises its products in A's newspaper, paying substantially more than the normal rate for such advertising. X Corporation may not deduct any portion of the cost of that advertising.

(4) *Admission to dinners, programs, inaugural events.* For purposes of this section, the cost of admission to a dinner, program, or inaugural event includes all charges, whether direct or indirect, for attendance and participation at such function. Thus, for example, amounts spent to be eligible for door prizes, for the privilege of sitting at the head table, or for transportation furnished as part of such an event, or any separate charges for food or drink, are amounts paid for admission.

PAR. 3. Paragraph (b)(2) of § 1.162–1 is amended to read as follows:

§ 1.162–1 Business expenses.

* * * * *

(b) *Cross references.* * * *

(2) For items not deductible, see sections 261–276, inclusive, and the regulations thereunder.

* * * * *

PAR. 4. Section 1.162–14 is amended by adding at the end thereof a new sentence. That section as so amended reads as follows:

§ 1.162–14 Expenditures for advertising or promotion of good will.

A corporation which has, for the purpose of computing its excess profits tax credit under subchapter E, chapter 2, or subchapter D, chapter 1 of the Internal Revenue Code of 1939, elected under section 733 or section 451 (applicable to the excess profits tax imposed by subchapter E of chapter 2, and subchapter D of chapter 1, respectively) to charge to capital account for taxable years in its base period expenditures for advertising or the promotion of good will which may be regarded as capital investments, may not deduct similar expenditures for the taxable year. See section 263(b). Such a taxpayer has the burden of proving that expenditures for advertising or the promotion of good will which it seeks to deduct in the taxable year may not be regarded as capital investments under the provisions of the regulations prescribed under section 733 or section 451 of the Internal Revenue Code of 1939. See 26 CFR, 1938 ed., 35.733–2 (Regulations 112) and 26 CFR (1939) 40.451–2 (Regulations 130). For the disallowance of deductions for the cost of advertising in programs of certain conventions of political parties, or in publications part of the proceeds of which directly or indirectly insures (or is intended to inure) to or for the use of a political party or political candidate, see § 1.276–1.

PAR. 5. Paragraph (c)(1) of § 1.162–20 is amended by adding two new sentences at the end thereof. That paragraph as so amended reads as follows:

§ 1.162–20 Expenditures attributable to lobbying, political campaigns, attempts to influence legislation, etc., and certain advertising.

* * * * *

(c) *Taxable years beginning after December 31, 1962*—(1) *In general.* For taxable years beginning after December 31, 1962, certain types of expenses incurred with respect to legislative matters are deductible under section 162(a) if they otherwise meet the requirements of the regulations under section 162. These deductible expenses are described in subparagraph (2) of this paragraph. All other expenditures for lobbying purposes, for the promotion or defeat of legislation (see paragraph (b)(2) of this section), for political campaign purposes (including the support of or opposition to any candidate for public office), or for carrying on propaganda (including advertising) relating to any of the foregoing purposes are not deductible from gross income for such taxable years. For the disallowance of deductions for bad debts and worthless securities of a political party, see § 1.271–1. For the disallowance of deductions for certain indirect political contributions, such as the cost of certain advertising and the cost of admission to certain dinners, programs, and inaugural events, see § 1.276–1.

* * * * *

PAR. 6. Paragraph (a) of § 1.165–1 is amended by adding a new sentence at the end thereof. That paragraph as so amended reads as follows:

§ 1.165–1 Losses.

(a) *Allowance of deduction.* Section 165(a) provides that, in computing taxable income under section 63, any loss actually sustained during the taxable year and not made good by insurance or some other form of compensation shall be allowed as a deduction subject to any provision of the internal revenue laws which prohibits or limits the amount of the deduction. This deduction for losses sustained shall be taken in accordance with section 165 and the regulations thereunder. For the disallowance of deductions for worthless securities issued by a political party, see § 1.271–1.

* * * * *

PAR. 7. Paragraph (c) of § 1.166–1 is amended by adding a new sentence at the end thereof. That paragraph as so amended reads as follows:

§ 1.166–1 Bad debts.

* * * * *

(c) *Bona fide debt required.* Only a bona fide debt qualifies for purposes of section 166. A bona fide debt is a debt which arises from a debtor-creditor relationship based upon a valid and enforceable obligation to pay a fixed or determinable sum of money. A gift or contribution to capital shall not be considered a debt for purposes of section 166. The fact that a bad debt is not due at the time of deduction shall not of itself prevent its allowance under section 166. For the disallowance of deductions for bad debts owed by a political party see § 1.271–1.

* * * * *

PAR. 8. Paragraph (a)(3) of § 1.274–2 is amended to read as follows:

§ 1.274–2 Disallowance of deductions for certain expenses for entertainment, amusement, or recreation.

(a) *General rules.* * * *

(3) *Cross references.* For definition of the term "entertainment", see paragraph (b)(1) of this section. For the disallowance of deductions for the cost of admission to a dinner or program any part of the proceeds of which inures to the use of a political party or political candidate, and cost of admission to an inaugural event or similar event identified with any political party or political candidate, see § 1.276–1. For rules and definitions with respect to—

(i) "Directly related entertainment", see paragraph (c) of this section,

(ii) "Associated entertainment", see paragraph (d) of this section,

(iii) "Expenditures with respect to entertainment facilities", see paragraph (e) of this section, and

(iv) "Specific exceptions" to the disallowance rules of this section, see paragraph (f) of this section.

* * * * *

[F.R. Doc. 69–716; Filed, Jan. 17, 1969; 8:48 a.m.]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6994]

PART 147—TEMPORARY REGULATIONS UNDER THE INTEREST EQUALIZATION TAX ACT

Exemption for Prior American Ownership and Compliance—Withholding Procedures

On September 14, 1968, notice of proposed rule making with respect to the amendment of the Temporary Regulations under the Interest Equalization Tax Act (26 CFR Part 147) (in order to prescribe regulations concerning withholding procedures to be followed under section 4918(e)(7) of the Internal Revenue Code of 1954, as added by section 4(a) of the Interest Equalization Tax Extension Act of 1967 (81 Stat. 148) relating to exemption for prior American ownership and compliance) was published in the FEDERAL REGISTER (33 F.R. 13031). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following amendments to the Temporary Regulations under the Interest Equalization Tax Act (26 CFR Part 147) are hereby adopted:

PARAGRAPH 1. Section 147.5–1 is amended by adding at the end thereof the following new paragraph:

§ 147.5–1 Exemption for prior American ownership.

* * * * *

(d) *Applicability of section.* This section applies to acquisitions of stock and debt obligations made on or before July 14, 1967.

PAR 2. There is added immediately following § 147.5–1 the following new section:

§ 147.5–2 Withholding procedures.

(a) *In general.* Section 4918(a) of the Internal Revenue Code, as amended by section 4 of the Interest Equalization Tax Extension Act of 1967 (81 Stat. 148), provides that the interest equalization tax does not apply to an acquisition by a U.S. person from another U.S. person, made after July 14, 1967 (except that for trades effected on or before July 14, 1967, and settled on or before July 20, 1967, a participating firm may at its option follow the provisions of section 4918 as in effect prior to the amendments made by the Interest Equalization Tax Extension Act of 1967 and of § 147.5–1), of stock of a foreign issuer or a debt obligation of a foreign obligor if the seller was a U.S. person throughout the period of his ownership or continuously since July 18, 1963, was not ineligible under chapter 41 of the Code to dispose of such stock or debt obligation as a U.S. person, and had satisfied his interest equalization tax obligations with respect to his acquisition of such stock or debt obligation. Section 4918(c) sets forth the eligibility requirements which a member or member organization of a national securities exchange or association registered with the Securities Exchange Commission must satisfy in order to qualify as a participating firm for purposes of this exemption for prior American ownership and compliance. Section 4918(e)(7) prescribes the conditions under which a participating firm effecting the sale of stock of a foreign issuer or a debt obligation of a foreign obligor may, on the basis of withholding part of the proceeds of such sale, issue to another participating firm a written comparison or broker-dealer confirmation indicating that the exemption applies to the acquisition of such stock or debt obligation by a U.S. person. Specifically, the written comparison or broker-dealer confirmation may be issued by the participating firm effecting the sale of such stock or debt obligation, if—

(1) Such participating firm has in its possession a statement (executed by the seller under penalty of perjury) upon which it relies in good faith, establishing that such seller is a U.S. person and is the owner of all stock of foreign issuers and debt obligations of foreign obligors carried in its records for the account of such seller; and

(2) Such participating firm withholds from the proceeds of such sale (with the written consent of such seller) an amount equal to the tax which would be imposed under section 4911 on the acquisition of such stock or debt obligation by the purchaser if such acquisition were not exempt from such tax under the provisions of section 4918.

The withholding of such money from the proceeds of the sale is treated as the collection of part or all of the tax imposed by section 4911 on the acquisition by the seller of the stock or debt obligation being sold and is to be paid over to the Internal Revenue Service or released to the seller at the time and in the manner prescribed in this section. The amount to be withheld is to be determined under paragraph (c) of this section. However, the withholding and paying over of such money to the Internal Revenue Service in no way affects the liability for the payment of any additional tax incurred by the seller (or the making and filing of interest equalization tax returns required of the seller) by reason of his acquisition of such stock or debt obligation. See paragraph (i)(1)(i) of this section for definition of the term "seller". For purposes of complying with the conditions set forth in subparagraphs (1) and (2) of this paragraph, if a sale is effected by a participating firm for another participating firm, compliance with such conditions by the latter firm shall be treated as compliance by the participating firm effecting such sale.

(b) *Consent of seller.* A participating firm withholding under this section must obtain the written consent of the seller to the withholding from the proceeds of a sale of the entire amount required to be withheld under paragraph (c) of this section.

(c) *Amount to be withheld.* The amount to be withheld by a participating firm for purposes of this section is the amount of tax which would be imposed under section 4911 on the acquisition by the purchaser of the stock or debt obligation being sold in the event such acquisition were not exempt from the interest equalization tax by reason of section 4918. Such amount is to be determined by applying the rate of tax in effect on the date of such acquisition to the price paid by the purchaser for such stock or debt obligation without regard to taxes, commissions, or any other charges paid by either the purchaser or seller. However, if the price paid by the purchaser is less than the actual value (as of the trade date) of such stock or debt obligation, the actual value as of the trade date (rather than such price) shall be the basis used to determine the amount of tax.

(d) *Manner of withholding*—(1) *Absolute priority of Internal Revenue Service.* Withholding by a participating firm under this section shall be effected in such a manner that no other person is known to have any claim or right to the money so withheld superior to that of the Internal Revenue Service.

(2) *Segregation of money withheld.* Money withheld by a participating firm under this section after December 31, 1968, which previously has not been released under paragraph (e)(2) of this section, and which in the aggregate exceeds $200, shall be deposited in a separate account (which shall be designated "(Name of person required to establish account), Special Interest Equalization Tax Withholding Account" and may include money withheld from more than one seller) with a bank (as defined in section 581) as follows—

(i) If the effective date of a sale with respect to which money withheld (when added to any amounts previously withheld and not paid over to the Internal Revenue Service nor released under paragraph (e)(2) of this section) exceeds $200, occurs prior to the 16th day of any calendar month, the aggregate amount withheld and on hand on such date shall be deposited (unless previously paid over to the Internal Revenue Service) on or before the 15th day of the following calendar month;

(ii) If the effective date of a sale with respect to which money withheld (when added to any amounts previously withheld and not paid over to the Internal Revenue Service nor released under paragraph (e)(2) of this section) exceeds $200, occurs on or after the 16th day of any calendar month other than the last month of a calendar quarter, the aggregate amount withheld and on hand at the close of such calendar month shall be deposited on or before the last day of the following calendar month. However, if the calendar month in which such effective date occurs is the last month of a calendar quarter, no deposit of such money is required.

(e) *Disposition of money withheld*—(1) *In general.* Money withheld under this section shall, to the extent not previously released to sellers in accordance with subparagraph (2) of this paragraph, be paid over by a participating firm to the Internal Revenue Service at the time and in the manner provided in paragraph (f) of this section.

(2) *Release to seller of money withheld.* A participating firm may release to a seller money withheld under this section in connection with a sale of stock or a debt obligation if the requirements of section 4918(e) (other than the withholding requirements) are satisfied prior to the filing of the return referred to in paragraph (f) of this section.

(f) *Return by participating firm with respect to money withheld*—(1) *In general.* A participating firm withholding money under this section shall make a return on Form 4410 (Interest Equalization Tax—Quarterly Return of Tax Withheld by Participating Firm) with respect to all money withheld during each calendar quarter and pay over any money withheld during the calendar quarter which previously has not been released to sellers pursuant to paragraph (e)(2) of this section. Such return shall be made notwithstanding that all money withheld during a calendar quarter is released to such sellers. The initial return on Form 4410 shall be made for all calendar quarters included in the period commencing on July 15, 1967, and ending on December 31, 1968.

(2) *Time and place for filing return.* The return required to be made under this paragraph shall be filed with the director of the appropriate service center

and, except for the initial return, shall be filed not later than the last day of the first month following the calendar quarter to which the return relates. The initial return shall be filed not later than February 28, 1969.

(g) *Records to be maintained.* A participating firm withholding money under this section shall include, in the separate records otherwise required to be maintained under section 4918, the following—

(1) The written consent of each seller to such withholding;

(2) Specific information concerning all sales (involving withholding) made by each seller, including daily entries denoting each sale, the sales price of the stock or debt obligations sold and the amount withheld with respect to each sale;

(3) Specific information regarding the release of any part of the amount withheld; and

(4) Any document furnished by a seller to obtain a release of all or part of the amount withheld.

Such records shall be maintained in a manner which will permit the items described above to be readily identified.

(h) *Claim for refund.* If the money withheld by a participating firm under this section is paid over to the director of the appropriate service center and the seller is able to establish that paying over such money resulted in an overpayment of the interest equalization tax imposed upon his acquisition of the stock or debt obligation with respect to the sale of which such money was withheld, the seller may file with the director of such service center on Form 843 a claim for an appropriate refund in accordance with the applicable provisions of § 301.6402-2 of this chapter (Regulations on Procedure and Administration).

(i) *Definitions and special rules*—(1) *Definitions.* As used in this section—

(i) The term "seller" means a U.S. person making a sale of stock of a foreign issuer or a debt obligation of a foreign obligor in connection with which money is withheld by a participating firm.

(ii) The term "effective date of a sale" means—

(a) In the case of a sale subject to the rules of a national securities exchange or association registered with the Securities and Exchange Commission, the settlement date provided in the rules of such exchange or association for delivery of and payment for the stock or debt obligation being sold; or

(b) In the case of a sale which is not subject to the rules of such exchange or association, the date on which the consideration is paid for such stock or debt obligation.

(iii) The term "appropriate service center" means the Internal Revenue regional service center serving the area in which the principal office of a participating firm is located.

(2) *Final return to be filed upon termination of participating firm status.* If the status of a firm as a participating firm is terminated pursuant to section 4918(c)(2)(C), such firm shall, on or before the sixth business day following the effective date of such termination, make and file with the director of the appropriate service center a return (including a negative return) on Form 4410 (marked "Final Return") and pay over to the director of such service center any money withheld under this section.

(3) *Inapplicability to sale of certain Japanese debt obligations.* The provisions of section 4918(e)(7) and of this section shall not apply to a sale, effected by or for a participating firm, of a debt obligation of a Japanese corporation convertible into the stock of the corporation which, at the time of initial issuance, was acquired without payment of interest equalization tax by reason of the exclusion provided in an Executive order (or Executive orders) issued under the authority of section 4917 (relating to the exclusion for original or new issues where required for international monetary stability).

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

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

Approved: January 14, 1969.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 69-714; Filed, Jan. 17, 1969; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 48—OPTIONAL RETIREMENT

Discontinuance

Codification of Part 48 is discontinued.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 69-671; Filed, Jan. 17, 1969; 8:45 a.m.]

PART 91—POLICIES GOVERNING PARTICIPATION OF DOD LIAISON REPRESENTATIVES IN ACTIVITIES OF TECHNICAL SOCIETIES, ASSOCIATIONS, AND GROUPS

The Deputy Secretary of Defense approved the following:

Sec.
91.1 Purpose.
91.2 Policies.

AUTHORITY: The provisions of this Part 91 issued under 5 U.S.C. 301.

§ 91.1 Purpose.

The purpose of this part is to establish policies governing the participation of liaison representatives of the Department of Defense in the activities of private or nongovernmental organizations or associations, including technical and professional societies.

§ 91.2 Policies.

(a) Departments and agencies of the Department of Defense are authorized to participate in activities of scientific, technical, professional and other organizations, societies, and associations in the discussions of matters of mutual interest, otherwise consistently with law, including antitrust laws, and laws relating to security and subject to Part 40 of this chapter.

(b) Participation by departments and agencies of the Department of Defense in the activities of private or nongovernmental associations or societies shall be limited to the extent of the Department of Defense interest involved and shall be upon such basis as will avoid (1) the favoring of one association or organization over another; (2) the unauthorized acceptance of legal membership by the United States in private organization; (3) the use of the name of the U.S. Government by a private organization, voluntary association, or corporation, implying the sponsorship of such organization by the Government, without authority of Congress; (4) participation in the management and control of such organization without congressional authorization; and (5) participation in the determinations or conclusions of private organizations or associations, in such manner as to suggest compliance therewith by the Government without subsequent responsible administrative authority or congressional authorization.

(c) Subject to the above limitations, liaison representatives of departments and agencies of the Department of Defense while participating in the activities of scientific, technical, professional and other organizations, societies, and associations, including technical committees and standards committees thereof, may give free and complete expression of their views on the subject matter under discussion and may vote verbally or in writing on issues presented for a vote, providing it is made clear to the private organizations, societies, and associations that such vote indicates no more than the opinion on that issue of the liaison representatives of the Department or agency voting. No vote so cast shall be considered to bind the Department of Defense or any department or agency thereof in any way to any particular present or future course of action.

(d) These policies shall not apply to membership or participation by officers or employees of the Department of Defense, as individuals, in private organizations or associations, including technical and professional societies, and military or veterans organizations, otherwise consistently with law, including the Hatch Act, and Anti-Lobby Act, and other laws which prohibit Government officers and employees from engaging in activities inconsistent with their Government employment.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[F.R. Doc. 69-672; Filed, Jan. 17, 1969; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER I—ANCHORAGES

[CGFR 68-158]

PART 110—ANCHORAGE REGULATIONS

Subpart A—Special Anchorage Areas

Subpart B—Anchorage Grounds

PORT OF NEW YORK AND VICINITY

1. The Commander, 3d Coast Guard District, New York, N.Y., by letter dated September 24, 1968, recommended that General Anchorages 48A, 48B, and 48C, Sheepshead Bay, New York Harbor, be discontinued as General Anchorage Areas, and be established as Special Anchorage Areas. General Anchorages 48A, 48B, and 48C in Sheepshead Bay are primarily used by pleasure craft. Under present laws and regulations, vessels anchoring in these areas must show anchor lights. Since the area is used primarily by pleasure craft it is desirable to change the area to a Special Anchorage Area. A public notice dated July 25, 1968, was issued by the Commander, 3d Coast Guard District describing the Special Anchorage Areas and the regulation pertaining thereto. No objections were received. Therefore, the request is granted and the establishment of the Special Anchorage Areas and the regulations pertaining thereto, as described in 33 CFR 110.60(x) below, is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interests.

2. The purpose of this document is to establish and describe the Special Anchorage Areas in Sheepshead Bay, N.Y., as described in 33 CFR 110.60(x) below, wherein vessels not more than 65 feet in length, when at anchor in such special anchorage areas, are not required to carry or exhibit anchor lights. The area is principally for use by yachts and other recreational craft. The issuing of mooring permits, the assignment of moorings, and the method of anchoring mooring buoys will be as prescribed by the Captain of the Port of New York.

3. The further purpose of this document is to delete the anchorage grounds known as General Anchorages No. 48A, 48B, and 48C, Sheepshead Bay, New York Harbor, as described in 33 CFR 110.155(k).

4. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(g)(1), 33 CFR Part 110 is amended as follows to become effective on and after the date of publication of this document in the FEDERAL REGISTER:

1. Section 110.60 is amended by adding new paragraph (x) reading as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(x) *Sheepshead Bay*—(1) *Western Area.* South of a line 25 feet south of and parallel to the bulkhead wall along the south side of Emmons Avenue; east of a line 200 feet east of and parallel to the prolonged west line of East 15th Street; north of a line 75 feet north of and parallel to the bulkhead wall along the north side of Shore Boulevard between Amherst Street and Dover Street and as prolonged to a point 315 feet south of the bulkhead wall along the south side of Emmons Avenue and 25 feet west of the prolonged west side of Ocean Avenue; and west of a line parallel to and 25 feet west of the prolonged west line of Ocean Avenue.

(2) *Northern Area.* South of the established U.S. pierhead line on the north side of the bay; west of the prolonged west line of Coyle Street; north of a line ranging from a point 90 feet south of said pierhead line in said prolonged west line of Coyle Street to the intersection of the south line of Shore Boulevard and the west line of Kensington Street; north of a line parallel to and 325 feet north of the bulkhead wall along the north side of Shore Boulevard; northeast of a line ranging from the point of intersection of the last-mentioned line with the prolonged east line of East 28th Street, toward a point on the prolonged east line of East 27th Street and 245 feet south of the established U.S. pierhead line on the north side of the bay; and east of the prolonged east side of East 27th Street.

(3) *Southern Area.* South of a line extending from a point 175 feet northerly of the bulkhead wall along the north side of Shore Boulevard (perpendicular distance) and in the prolonged west side of Hastings Street to a point on the prolonged east side of Mackenzie Street 125 feet north of the bulkhead wall on the north side of Shore Boulevard; thence south of a line parallel to and 125 feet northerly of the bulkhead wall along the north side of Shore Boulevard from the last-mentioned point to the prolonged west line of Coyle Street; north of a line parallel to and 25 feet north of the bulkhead wall along the north side of Shore Boulevard; and east of the prolonged west side of Hastings Street.

(4) *Captain of the Port Regulations.* In Sheepshead Bay, N.Y., Western, Northern and Southern Special Anchorage Areas, the Captain of the Port—New York mooring regulations in § 110.155 (l)(7) apply with the following modifications:

(i) Two anchors shall be used. The anchor minimum weight and minimum chain size shall be as shown in table 110.60(x)(4) and the anchor shall be placed as shown in figure 110.60(x)(4).

(ii) A Sheepshead Bay, N.Y., mooring position is designated by the encircled number from the Coast Guard mooring chart, and the distance from the nearest range number, and the distance from the nearest bulkhead line. (Example: circle 2-W in Western Area 50' East of range No. 20, 40' South of bulkhead line.)

(iii) The area is principally for vessels used for a recreational purpose.

Table 110.60(x)(4)

Vessel length, in feet	Anchor weight, in pounds per anchor	Chain size, in inches
15 or less	100	5/16.
Greater than 15 but not greater than 21.	150	3/8.
Greater than 21 but not greater than 26.	200	3/8.
Greater than 26	10 per foot of vessel length.	½ for each anchor whose weight is not greater than 400 lbs., 5/8 for each anchor whose weight is greater than 400 lbs.

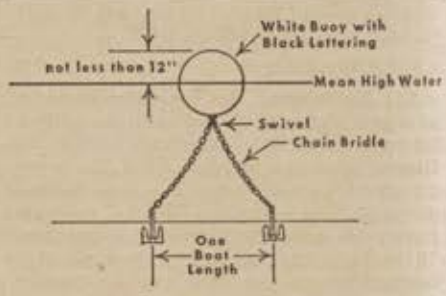

FIGURE 110.60(x)(4)

(R.S. 4233, as amended, 28 Stat. 647, as amended, 30 Stat. 98, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 180, 258, 322; 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

§ 110.155 [Amended]

2. Section 110.155 *Port of New York* is amended by deleting paragraph (k), which includes subparagraphs (1) through (4), and insert "(k) [Reserved]."

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: January 13, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 69-622; Filed, Jan. 17, 1969; 8:45 a.m.]

[CGFR 69-1]

PART 110—ANCHORAGE REGULATIONS

Subpart B—Anchorage Grounds

LOCKWOODS FOLLY INLET, N.C.

1. The Commander, 5th Coast Guard District, by letter dated November 21, 1968, requested the establishment and publication of an explosives anchorage off Brunswick County, N.C. The Commander, Military Sea Transport Service, Atlantic, has advised that an explosives anchorage is needed in that area. A public notice dated October 15, 1968, was issued by Commander, 5th Coast Guard District, Portsmouth, Va.,

describing the proposed anchorage. All known interested parties were notified and comments or objections were requested. No objections were received. Therefore, the request is granted and the establishment of an explosives anchorage, as described in 33 CFR 110.170 below is granted, subject to the right to change the requirements and to amend the regulations if and when necessary in the public interest.

2. The purpose of this document is to establish and describe the explosives anchorage off Brunswick County, N.C., as described in 33 CFR 110.170 below.

3. By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 14 U.S.C. 632 and the delegation in 49 CFR 1.4(a)(3) of the Secretary of Transportation under 49 U.S.C. 1655(g)(1), 33 CFR Part 110 is amended by inserting after § 110.168 a new § 110.170, to read as follows and to become effective on and after January 16, 1969:

§ 110.170 Lockwoods Folly Inlet, N.C.

(a) *Explosives Anchorage.* Beginning at a point southeast of Shallotte Inlet at latitude 33°52'31", longitude 78°18'49"; thence south to latitude 33°51'31", longitude 78°18'42"; thence east to latitude 33°51'51", longitude 78°14'35"; thence north to latitude 33°52'52", longitude 78°14'40"; thence west to the point of beginning.

(b) *General regulations.* (1) This anchorage is reserved for the exclusive use of vessels carrying explosives.

(2) Vessels in this anchorage shall not anchor closer than 1,500 yards to one another. This provision is not intended to prohibit barges or lighters from lying alongside vessels for transfer of cargo.

(3) The maximum quantity of explosives aboard any vessel that may be in this anchorage is 8,000 tons.

(4) Nothing in this section shall be construed as relieving the owner, master, or person in charge of any vessel from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights, fog signals, etc.

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1), 80 Stat. 940; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1); 49 CFR 1.4(a)(3))

Dated: January 15, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69-736; Filed, Jan. 17, 1969; 8:50 a.m.]

SUBCHAPTER J—BRIDGES

[CGFR 68-162]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Cape Cod Canal, Mass., and Chesapeake and Delaware Canal, Del.

1. The drawbridge operation regulation concerning Cape Cod Canal, Mass., and the Chesapeake and Delaware Canal, Del., are presently listed under 33 CFR 207.20(h) and 33 CFR 207.100(j). The purpose of this document is to transfer these drawbridge operation regulations to 33 CFR 117.78 and 33 CFR 117.235a, respectively. Minor editorial changes without substantive change in meaning or intent have been made. Accordingly, notice and opportunity for public participation is deemed unnecessary.

2. By virtue of the authority vested in me as Commandant, U.S. Coast Guard by 14 U.S.C. 632 and 49 CFR 1.4(a)(3), the text of 33 CFR 117.78 and 33 CFR 117.235a reads as follows and shall be effective on and after date of publication of this document in the FEDERAL REGISTER:

§ 117.78 Cape Cod Canal, Mass.

(a) The lift span of the Buzzards Bay Railroad bridge will normally be kept in the raised (open) position except for the passage of trains or for maintenance. No signal is required if the lift span is raised.

(b) If the lift span is in other than the raised position, the opening signal shall be one long and one short blast.

(c) Signals to be sounded from the bridge are:

(1) Immediately preceding the raising of the drawspan: One long blast.

(2) Immediately preceding the lowering of the drawspan: Two long blasts.

(3) When a vessel has sounded the opening signal and the drawspan cannot be raised immediately: Four short blasts in a rapid succession.

(4) When the draw is closed and visibility is reduced in foggy weather: Four shorts blasts in rapid succession every 2 minutes.

§ 117.235a Chesapeake and Delaware Canal, Del.

(a) When any vessel is unable to pass under a closed drawbridge of the Chesapeake and Delaware Canal, the opening signal shall be three blasts.

(1) If the drawspan is to be opened immediately: One blast.

(2) If the drawspan is not ready to be opened: Four blasts.

(3) When the drawspan is open and clear for vessel passage: Two blasts.

(b) The sound signals listed in paragraph (a) of this section shall be supplemented by the following light signals in the center of the drawspan on both upstream and downstream sides of the bridge.

(1) When the drawspan is to be opened immediately: One fixed amber light.

(2) When the drawspan is not ready to be opened: One flashing red light.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g), 80 Stat. 941; 33 U.S.C. 499, 49 U.S.C. 1655(g); 49 CFR 1.4(a)(3)(v))

Dated: January 10, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69-694; Filed, Jan. 17, 1969; 8:47 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

MISCELLANEOUS AMENDMENTS

1. In § 3.503, paragraph (h) is amended to read as follows:

§ 3.503 Children.

* * * * *

(h) *Dependents' educational assistance (§§ 3.707, 3.807, and § 21.3023 of this chapter).* Day preceding beginning date of educational assistance allowance.

* * * * *

2. In § 3.659, paragraph (b) is amended to read as follows:

§ 3.659 Two parents in same parental line.

* * * * *

(b) Any reduction or discontinuance of an award to the child or to a widow will be effective the day preceding the commencing date of death pension, compensation, or dependency and indemnity compensation or, under the circumstances described in § 3.707, the commencing date of dependents' educational assistance under 38 U.S.C. chapter 35, to or on account of the child based on the service of another parent in the same parental line. Any increase to a widow or another child will be effective the commencing date of the award to the child.

§ 3.667 [Amended]

3. Following § 3.667, the cross reference "War orphans' educational assistance" is changed to read "Dependents' educational assistance."

4. In § 3.703, paragraph (c) is amended to read as follows:

§ 3.703 Two parents in same parental line.

* * * * *

(c) *Other payees.* Where a child has elected to receive pension, compensation, dependency and indemnity compensation or dependents' educational assistance under 38 U.S.C. chapter 35 based on the death of a veteran, he will be excluded from consideration in determining the eligibility or rate payable to a widow or another child or children in the case of another deceased veteran in the same parental line. See § 3.659(b).

5. In § 3.704, paragraph (a) is amended to read as follows:

§ 3.704 Elections within class of dependents.

(a) *Children.* Where children are eligible to receive monthly benefits under more than one law in the same case, the election of benefits under one law by or on behalf of one child will not serve to increase the rate allowable for any other

child under another law in that case. The rate payable for each child will not exceed the amount which would be paid if all children were receiving benefits under the same law. Where a child is no longer eligible to receive pension, compensation or dependency and indemnity compensation because of having elected dependents' educational assistance under 38 U.S.C. chapter 35, the child will be excluded from consideration in determining the rate payable for another child or children.

* * * * *

6. Section 3.707 is revised to read as follows:

§ 3.707 Dependents' educational assistance.

(a) *Child.* The conditions applicable to the bar to payment of pension, compensation or dependency and indemnity compensation for a child concurrently with educational assistance allowance under 38 U.S.C. chapter 35 are set forth in § 21.3023 of this chapter.

(b) *Wife or widow.* There is no bar to the payment of pension, compensation or dependency and indemnity compensation to a wife or widow concurrently with educational assistance allowance under 38 U.S.C. chapter 35.

7. Immediately following § 3.707, the cross reference is amended and a new one added so that the cross references are as follows:

CROSS REFERENCES: Discontinuance. See § 3.503(h). Certification. See § 3.807.

8. In § 3.807, the introductory portion preceding paragraph (a) and paragraph (b) are amended and paragraph (d) is added so that the amended and added material reads as follows:

§ 3.807 Dependents' educational assistance; certification.

For the purposes of dependents' educational assistance under 38 U.S.C. chapter 35 (see § 21.3020 of this chapter), the child, wife or widow of a veteran will have basic eligibility if the following conditions are met.

* * * * *

(b) *Service.* Service-connected disability or death must have been the result of active military, naval, or air service on or after April 21, 1898. (Public Law 89-358; 80 Stat. 12.) Effective September 30, 1966, educational assistance for a child (but not for a wife or widow) may be authorized based on service in the Philippine Commonwealth Army or as a Philippine Scout as defined in § 3.8 (b), (c), or (d). (38 U.S.C. 1765.)

* * * * *

(d) *Relationship.* (1) "Child" means the son or daughter of a veteran who meets the requirements of § 3.57, except as to age and marital status.

(2) "Wife" means a person whose marriage to the veteran meets the requirements of § 3.50(a). A dependent husband who meets the requirements of § 3.51 is included.

(3) "Widow" means a person whose marriage to the veteran meets the requirements of § 3.50(b) or § 3.52. A dependent widower who meets the requirements of § 3.51 is included.

9. Following § 3.807, a new cross reference is added to read:

CROSS REFERENCE: * * * Nonduplication. See § 21.3023 of this chapter.

10. In § 3.1000, paragraphs (d)(2) and (f) are amended to read as follows:

§ 3.1000 Under 38 U.S.C. 3021.

* * * * *

(d) *Definitions.* * * *

(2) "Child" is as defined in § 3.57 and includes an unmarried child who became permanently incapable of self-support prior to attaining 18 years of age as well as an unmarried child over the age of 18 but not over 23 years of age, who was pursuing a course of instruction within the meaning of § 3.57 at the time of the payee's death. However, upon the death of a child in receipt of death pension, compensation, or dependency and indemnity compensation, any accrued will be payable to the surviving child or children of the veteran entitled to death pension, compensation, or dependency and indemnity compensation. Upon the death of a child, another child who has elected dependents' educational assistance under 38 U.S.C. chapter 35 may receive accrued death pension, compensation, or dependency and indemnity compensation, payable on behalf of the deceased child for periods prior to the commencement of benefits under that chapter.

* * * * *

(f) *Dependents' educational assistance.* Educational assistance allowance or special restorative training allowance under 38 U.S.C. chapter 35, remaining due and unpaid at the date of death of an eligible widow or eligible child is payable to a child or children of the veteran (see paragraphs (a)(2) and (3) and (d)(2) of this section), or on the expenses of last sickness and burial (see paragraph (a)(4) of this section). Benefits due and unpaid at the date of death of an eligible wife are payable only on the expenses of last sickness and burial (see paragraph (a)(4) of this section).

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective December 1, 1968.

Approved: January 14, 1969.

By the direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-725; Filed, Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart A—Vocational Rehabilitation Under 38 U.S.C. Ch. 31

NONDUPLICATION; 38 U.S.C. CHAPTERS 31, 34 AND 35

Section 21.21 is revised to read as follows:

§ 21.21 Nonduplication; 38 U.S.C. chapters 31, 34 and 35.

A person who is eligible for vocational rehabilitation training under chapter 31 and is also eligible for educational assistance under chapters 34 or 35 must elect which benefit he will receive. The election is subject to the conditions specified in § 21.4022.

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation is effective December 1, 1968.

Approved: January 14, 1969.

By the direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-724; Filed, Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart B—Veterans' Educational Assistance Under 38 U.S.C. Chapter 34

MISCELLANEOUS AMENDMENTS

1. Section 21.1022 is revised to read as follows:

§ 21.1022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for educational assistance under chapter 34 and is also eligible for vocational rehabilitation under chapter 31 or educational assistance under chapter 35 must elect which benefit he will receive. The election is subject to the conditions specified in § 21.4022.

2. In § 21.1040, paragraph (c) is amended to read as follows:

§ 21.1040 Basic eligibility.

Basic eligibility for educational assistance is subject to the following requirements:

* * * * *

(c) *Periods excluded; Korean conflict veterans.* Where a veteran has received education or training under the Veterans' Readjustment Assistance Act of 1952, Title II, or 38 U.S.C. ch. 33 (as in effect before Feb. 1, 1965) as a Korean conflict veteran based on service which extended beyond January 31, 1955, the months of service after January 31, 1955, which were previously used to establish eligibility for the education or training received will be excluded in determining the period of entitlement for educational assistance under chapter 34.

* * * * *

3. In § 21.1041, paragraphs (a), (b), and (d) are amended to read as follows:

§ 21.1041 Periods of entitlement.

(a) *General.* (1) A veteran with less than 18 months active duty service or a person on active duty who meets the requirements of § 21.1040 will be entitled to full-time educational assistance for a period computed on the basis of 1½ months (or the equivalent in part-time educational assistance) for each month

or fraction of month of service on active duty on or after February 1, 1955, but not in excess of 36 months. There will be excluded from the period of entitlement the periods specified in § 21.1040 (b) and (c).

(2) A veteran who has served a continuous period of not less than 18 months on active duty on or after February 1, 1955, and who has been released from such service under conditions that satisfied his active duty obligation, will be entitled to full-time educational assistance for a period of 36 months (or the equivalent in part-time educational assistance). The periods specified in § 21.1040(b) will be excluded in computing the 18-month period.

(3) The veteran may use his entitlement at any time during the 8-year period determined under § 21.1042. It is not required that the entitlement time will be used in consecutive months.

(4) The 36-month limitation may be exceeded where an extension is authorized under paragraph (d) of this section, or where no charge against entitlement is made based on a course or courses pursued at a secondary school level, as provided in § 21.1045(a).

(b) *Prior Veterans' Administration training.* The period of entitlement for educational assistance when added to education or training received under any or all of the laws cited in § 21.4020 will not exceed 48 months of full-time educational assistance, except as provided in paragraph (a)(4) of this section. A reduction in the period of entitlement by reason of prior training will be computed as provided in paragraph (c) of this section.

* * * * *

(d) *Extension.* The period of entitlement, including the 36-months period, may be extended, but not beyond the 8-year delimiting date specified in § 21.1042:

(1) To the end of a term, quarter or semester in a school regularly operated on a term, quarter or semester system, when the period of entitlement ends during the term, quarter or semester.

(2) To the end of the course or for 12 weeks, whichever is less, in all other schools, when the period of entitlement ends after more than half of the course has been completed. In a course consisting exclusively of flight training and in a course pursued exclusively by correspondence, the period of entitlement will be extended to the end of the course or for the total additional amount of instruction that $364 will provide, whichever is less. (38 U.S.C. 1661; Pub. Law 90-631; 82 Stat. 1331.)

(3) No extension of the period of entitlement will be made where training is pursued in a training establishment as defined in § 21.4200(c).

4. In § 21.1045, paragraph (b) is amended to read as follows:

§ 21.1045 Entitlement charges.

* * * * *

(b) *Correspondence courses—chapter 34.*—(1) *High school courses.* The provisions of paragraph (a)(1) of this section are applicable to correspondence courses at a secondary school level.

(2) *Other courses.* Except as provided in subparagraph (1) of this paragraph, the period of entitlement of any eligible veteran who is pursuing a program of education exclusively by correspondence will be charged with 1 month for each $130 paid to the veteran as an educational assistance allowance for such course. Where the computation results in a period of time other than a full month, or other than exactly three-fourths, one-half, or one-fourth fractional part of a month, the figure will be reduced to the next lower quarter. (38 U.S.C. 1682(c)(2); Public Law 90-631; 82 Stat. 1331)

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective December 1, 1968.

Approved: January 14, 1969.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-726; Filed, Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—War Orphans' and Widows' Educational Assistance Under 38 U.S.C. Chapter 35

MISCELLANEOUS AMENDMENTS

1. The title of Subpart C is amended to read as set forth above.

2. Immediately preceding paragraph (a) of § 21.3020, a new introduction is added and paragraph (a) is amended so that the added and amended material reads as follows:

§ 21.3020 Educational assistance.

The program of educational assistance under 38 U.S.C. chapter 35, captioned War Orphans' and Widows' Educational Assistance, may be referred to as Dependents' Educational Assistance.

(a) *General.* A program of education or special restorative training may be authorized for an eligible person who meets the definition contained in § 21.3021.

* * * * *

3. In § 21.3021, paragraphs (a), (b), (c), and (d) are amended to read as follows:

§ 21.3021 Definitions.

(a) Eligible person—child, wife and widow:

(1) "Eligible person" means (i) a child of a veteran who died of a service-connected disability or who has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence, or

(ii) The widow of any veteran who died of a service-connected disability, or

(iii) The wife of any veteran who has a total disability permanent in nature resulting from a service-connected disability, or the widow of a veteran who died while a disability so evaluated was in existence, arising out of active military, naval, or air service after the beginning of the Spanish American War. See §§ 3.6(a) and 3.807 of this chapter.

(2) "Child" means a son or daughter of a veteran as defined in § 3.807(d) of this chapter. The term includes a child of a Philippine Commonwealth Army veteran and a Philippine Scout (designated as a "New" Philippine Scout under 38 U.S.C. 1766(b)), as defined in § 3.8 (b), (c), or (d) of this chapter, but educational assistance allowance may not be authorized based on such service for any period before September 30, 1966.

(3) "Wife" and "widow" mean an individual as defined in § 3.807(d) of this chapter. Educational assistance allowance may not be authorized for a wife or widow for any period before December 1, 1968.

(b) "Parent or guardian" means a natural or adoptive parent, a fiduciary legally appointed by a court of competent jurisdiction or any person who is determined to be otherwise legally vested with the care of the eligible person (38 U.S.C. 1701(a)(4)) or it may be the eligible person himself.

(1) The term includes the eligible person if he has attained his majority under laws applicable in his State of residence as shown on his application and is under no known legal disability (38 U.S.C. 1701(b)). Also the eligible person himself (child, wife, or widow) may be designated as the person by whom required actions may be taken even though he has not attained his majority, or having attained his majority, is under a legal disability, when it is determined that to do otherwise would not be in his best interest, would result in undue delay or would not be administratively feasible.

(2) Where necessary to protect his interest and there is reason why the eligible person should not act for himself, some other individual may be designated as the person by whom required actions should be taken. (38 U.S.C. 1701(c)).

(c) "Armed Forces," as to service by the eligible person, means the U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard, including the Reserve components of each, the National Guard of the United States and the Air National Guard of the United States. (38 U.S.C. 1701 (a)(3) and (d); 1712(a).)

(d) "Duty with the Armed Forces," as to service by the eligible person, means active duty, active duty for training for a period of 6 or more consecutive months, or an initial period of active duty for training of not less than 3 months or more than 6 months in the Ready Reserve. (38 U.S.C. 1701 (a)(3) and (d); 1712(a).) See §§ 21.3041 and 21.3042.

* * * * *

4. Section 21.3022 is revised to read as follows:

§ 21.3022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

A person who is eligible for educational assistance under 38 U.S.C. chapter 35 and

is also eligible for vocational rehabilitation under 38 U.S.C. chapter 31 or educational assistance under chapter 34, must elect which benefit he will receive. The election is subject to the conditions specified in § 21.4022.

5. In § 21.3023(a), the headnote and introductory portion preceding subparagraph (1) and subparagraph (2) are amended; paragraph (b) and the headnote of paragraph (c) are amended; and paragraph (d) is added, so that the amended and added material reads as follows:

§ 21.3023 Nonduplication; pension, compensation and dependency and indemnity compensation.

(a) *Child; age 18.* A child who is eligible for educational assistance and who is also eligible for pension, compensation, or dependency and indemnity compensation based on school attendance must elect whether he will receive educational assistance or pension, compensation or dependency and indemnity compensation.

* * * * *

(2) Payment of pension, compensation or dependency and indemnity compensation to or on account of a child after his 18th birthday does not bar subsequent payments of educational assistance.

* * * * *

(b) *Child; under 18 or helpless.* Educational assistance allowance or special restorative training allowance may generally be paid concurrently with pension, compensation or dependency and indemnity compensation for a child under the age of 18 years or for a helpless child based on the service of one or more parents. Where, however, entitlement is based on the death of more than one parent in the same parental line, concurrent payments in two or more cases may not be authorized if the death of one such parent occurred on or after June 9, 1960. In the latter cases, an election of educational assistance and pension, compensation or dependency and indemnity compensation in one case does not preclude a reelection of benefits before attaining age 18 or while helpless based on the service of another parent in the same parental line.

(c) *Child; election.* The commencement of a program of education constitutes an election.

* * * * *

(d) *Wife, widow.* Educational assistance allowance may be paid for an eligible wife or widow concurrently with pension, compensation or dependency and indemnity compensation.

6. Immediately following § 21.3023, the cross references are amended to read as follows:

CROSS REFERENCES: Discontinuance. See § 3.503(h) of this chapter.

Concurrent payments. See § 3.707 of this chapter.

Certification. See § 3.807 of this chapter.

7. Section 21.3024 is revised to read as follows:

§ 21.3024 Nonduplication; Bureau of Employees' Compensation.

The provisions of this section are applicable to cases where there is eligibility for benefits from the Bureau of Employees' Compensation based on the disability or death of the veteran from whom eligibility for educational assistance is derived.

(a) *Child, wife or widow.* A person who is eligible for educational assistance and is also eligible for Bureau of Employees' Compensation benefits must elect which benefit he will receive.

(b) *Veteran, wife and child; widow and child.* An eligible person may receive educational assistance notwithstanding that Bureau of Employees' Compensation benefits are being paid to a veteran or widow.

(c) *Election.* An election of Bureau of Employees' Compensation benefits by or for a child filed on or after July 4, 1966, is a bar to subsequent payments of Veterans Administration benefits during the period of concurrent eligibility. An election of Bureau of Employees' Compensation benefits by a widow filed on or after December 1, 1968, is a bar to subsequent payments of Veterans Administration benefits during the period of concurrent eligibility. (5 U.S.C. 8101(17), 8110(a), 8116, 8133(b); Public Law 90-631, 82 Stat. 1331.)

8. Sections 21.3030 and 21.3031 are revised to read as follows:

§ 21.3030 Claims.

A specific claim in the form prescribed by the Administrator must be filed by the wife, widow, or the parent of a child or guardian in order for educational assistance allowance or special restorative training allowance to be paid. (38 U.S.C. 1713)

§ 21.3031 Informal claims.

(a) Any communication from a wife, widow, parent of a child or guardian, an authorized representative or a Member of Congress indicating an intent to apply for educational assistance for an eligible person may be considered an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the wife, widow, parent of a child or guardian for execution. If received within 1 year after the date it was sent to the wife, widow, parent of a child or guardian, it will be considered filed as of the date of receipt of the informal claim.

(b) The act of enrolling in an approved school does not, in itself, constitute an informal application.

9. In § 21.3032(a), subparagraphs (1) and (2) are amended to read as follows:

§ 21.3032 Time limits.

(a) *Completion of claim*—(1) *Processing time.* If, after filing application, the eligible child, for other than a reason determined by the Veterans Administration to have been beyond his control, fails to report for a scheduled counseling appointment or fails to submit an educational plan within 60 days after the date on which a counseling certificate is executed, the application will be considered abandoned for the purpose of computing processing time. If the eligible child reports after the 60-day period but within 1 year of filing application, the date of reporting for counseling will be considered the appropriate date from which to compute processing time.

(2) *Claim or request for change.* When required counseling is delayed by an eligible person for 12 or more months, for other than a reason beyond his control, the application or request for change of program will be considered abandoned.

* * * * *

10. In § 21.3040, the heading is changed to read as follows:

§ 21.3040 Eligibility; child.

* * * * *

11. In § 21.3041, the heading and paragraph (e) are amended (footnotes 1 and 2 are now incorporated in the text) to read as follows:

§ 21.3041 Periods of eligibility; child.

* * * * *

(e) *Extensions to ending dates.* (1) Suspension of program due to conditions determined by the Veterans Administration to have been beyond the person's control (see § 21.3043): Extended for length of period of suspension, but not beyond age 31. See § 21.3040(d).

(2) Processing time: Extended by length of processing time, but not beyond age 31. See § 21.3040(d). "Processing time" means the period of time which elapses between the eligible person's 18th birthday or the date of receipt of the application, whichever is later, and the date on which the Certificate for a Program of Education is signed by an authorized official, or would have been signed except that the expected date of enrollment is more than 60 days in the future.

(3) Period of eligibility as specified in paragraph (c) or (d) of this section ends while enrolled during last half of quarter or semester, or during last half of course not operating on quarter or semester system: Extended to end of quarter or semester for schools operating on quarter or semester system, or end of course or for 9 weeks, whichever is earlier, for schools not operating on quarter or semester system. Extension may be authorized beyond age 31, but may not exceed maximum entitlement. See § 21.3044(a).

(4) Child is enrolled and eligibility ceases because veteran is no longer rated permanently and totally disabled: Extended to date specified in subparagraph (3) of this paragraph without regard to whether the midpoint of the quarter, semester or term has been reached. See § 21.4135(o).

12. In § 21.3042, paragraphs (a), (b), and (d) are amended to read as follows:

§ 21.3042 Service with Armed Forces.

(a) No educational assistance may be provided an otherwise eligible person during any period he is on duty with the Armed Forces. See § 21.3021 (c) and

(d). This does not apply to brief periods of active duty for training. See § 21.4135 (n). (38 U.S.C. 1701(d))

(b) If the eligible person served with the Armed Forces, his discharge or release from each period of service must have been under conditions other than dishonorable. (38 U.S.C. 1701(d))

* * * * *

(d) For the eligible child called to active duty after July 30, 1961, and before August 1, 1962, by (1) an order issued to him as a Reserve or (2) an extension of an enlistment, appointment or period of duty pursuant to section 2 of Public Law 87-117, 75 Stat. 242 ("Berlin Crisis"), the extended period under § 21.3041 will be further extended by the number of months and days served during such period.

13. In § 21.3043, the heading is amended to read as follows:

§ 21.3043 Suspension of program; child.

* * * * *

14. In § 21.3044, paragraph (a) is amended to read as follows:

§ 21.3044 Entitlement.

(a) Each eligible person is entitled to educational assistance for a period not in excess of 36 months, or the equivalent thereof in part-time training. The period of entitlement when added to education or training received under any or all of the laws cited in § 21.4020 will not exceed 48 months of full-time educational assistance. The period of entitlement will not be reduced by any period during which subsistence allowance was paid after determination of employability following vocational rehabilitation. Where the period of entitlement is subject to reduction by reason of prior training the period of prior training will be converted to months and quarter fractions of a month before subtracting this period from the period of entitlement. In the conversion process a period of prior training less than a full month will be converted by using the table in § 21.1041(c).

* * * * *

15. Section 21.3046 is added to read as follows:

§ 21.3046 Periods of eligibility; wife or widow.

(a) *Beginning date.* Effective date of permanent-total rating of veteran or date of veteran's death, whichever is earlier. If the permanent-total rating was effective or the veteran's death occurred before December 1, 1968, the beginning date is December 1, 1968.

(b) *Ending date.* Whichever of the following is later:

(1) Eight years from the effective date of the permanent-total rating of veteran or date of the veteran's death or

(2) November 30, 1976.

(c) *Extension to ending date.* Wife is enrolled and eligibility ceases for a reason specified in subparagraph (1) or (2) of this paragraph: extended to end of quarter or semester for schools operating on quarter or semester system, or for schools not operating on quarter or semester system, to end of course or for 9 weeks, whichever is earlier, but not to exceed maximum entitlement or beyond the 8-year delimiting date specified in paragraph (b) of this section. Extension is authorized without regard to whether the midpoint of the quarter, semester or term has been reached.

(1) Veteran is no longer rated permanently and totally disabled.

(2) Wife is divorced from veteran without fault on her part.

(38 U.S.C. 1711(b), 1712(b), sec. 2(f), Public Law 90-631, 82 Stat. 1331) (72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective December 1, 1968.

Approved: January 14, 1969.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-727; Filed, Jan. 17, 1969; 8:49 a.m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

MISCELLANEOUS AMENDMENTS

1. A new § 21.4020 is added to read as follows:

§ 21.4020 Two or more programs.

The aggregate period for which any person may receive assistance under two or more of the laws listed below:

(a) Parts VII or VIII, Veterans Regulation numbered 1(a), as amended;

(b) Title II of the Veterans' Readjustment Assistance Act of 1952;

(c) The War Orphans' Educational Assistance Act of 1956;

(d) 38 U.S.C. chapters 31, 34, and 35 and the former chapter 33, may not exceed 48 months (or the part-time equivalent thereof), but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone. (38 U.S.C. 1791)

2. Section 21.4022 is revised to read as follows:

§ 21.4022 Nonduplication; 38 U.S.C. chapters 31, 34, and 35.

(a) *Election.* A veteran or eligible person who is eligible for education or training under more than one program under 38 U.S.C. chapters 31, 34, and 35 based on his own service or based on the service of another person must elect which benefit he will receive. The person may reelect at any time.

(b) *Prior training.* (1) If a veteran has pursued an educational or training program under chapters 33 (prior to its repeal), 34, or 35, the program of education or special restorative training previously pursued shall be utilized to the fullest extent practicable in determining the character and duration of vocational rehabilitation to be furnished him. (38 U.S.C. 1502(b))

(2) Where a veteran who is also an eligible person has received educational assistance under chapter 34 or chapter 35, the program of education previously pursued will be utilized to the fullest extent practicable in determining the character and duration of the course for which enrollment may be approved under the other chapter.

3. Section 21.4025 is revised to read as follows:

§ 21.4025 Nonduplication; Federal programs.

(a) *General.* Except where specifically permitted by law, neither educational assistance allowance nor special training allowance may be authorized for any period during which the veteran or eligible person is enrolled in and pursuing a course of education or training paid for by the United States in whole or in part under any other provision of law, where the educational assistance would constitute a duplication of benefits from the Federal Treasury. In programs subject to this prohibition, a duplication of benefits is barred where a payment is made from the Federal Treasury under any other Federal education program, either to the student or trainee or directly to a school or training establishment (as distinguished from a State agency) to provide an allowance for living expenses or tuition. (38 U.S.C. 1781).

(b) *Programs barred.* The bar to concurrent payments includes the following:

(1) An Atomic Energy Commission fellowship,

(2) A National Science Foundation fellowship,

(3) The U.S. Maritime Commission training program,

(4) The Financial Assistance program in the Senior Reserve Officers' Training Corps of the Air Force, Army or Navy (Public Law 88-647) (similar to the former regular Navy ROTC program, Holloway Plan),

(5) The program provided under the Universal Military Training and Service Act (Public Law 51, 82d Cong.),

(6) The Veterans Administration Career Residency program for full-time physicians and dentists, and the Veterans Administration Career Dental Internship program for full-time dentists, of the Veterans Administration Department of Medicine and Surgery,

(7) Tuition assistance paid by a service department to a person on active duty, and

(8) Educational assistance under the Manpower Development and Training Act (Public Law 87-415).

(c) *Programs not barred.* Educational assistance allowance or special training allowance is not barred solely because the veteran or eligible person is:

(1) Enrolled in a land-grant college which is receiving Morrill-Nelson and Bankhead-Jones funds,

(2) Enrolled in a vocational training course conducted under the Act of February 23, 1917, as amended or the Vocational Educational Act of 1946 (Public Law 586, 79th Cong.),

(3) Enrolled in a school and participating in the 2-year Senior Reserve Officers' Training Corps, or the 4-year Senior ROTC program of the Air Force, Army or Navy, other than the Financial Assistance program (see paragraph (b)(4) of this section),

(4) Participating in an on-the-job training program in a governmental establishment, such as a Navy Yard,

(5) Receiving benefits under Public Law 87-256 (Fulbright Act),

(6) Participating in the noncareer residency or internship program of the Veterans Administration Department of Medicine and Surgery,

(7) Participating in the Veterans Administration training program for clinical psychologists, social workers or similar programs and being paid for part-time work,

(8) Receiving assistance under the Higher Education Act of 1965 (section 506, Public Law 90-575),

(9) Receiving assistance under the Economic Opportunity Act of 1964 (section 506, Public Law 90-575),

(10) Receiving a grant or award under the National Defense Education Act of 1958 (section 506, Public Law 90-575),

(11) Receiving a grant or award under the National Foundation on the Arts and the Humanities Act of 1965 (section 506, Public Law 90-575),

(12) Receiving a grant or award under the International Education Act of 1966 (section 506, Public Law 90-575), or

(13) Receiving a grant or award under the Public Health Service Act (section 504, Public Law 90-574).

4. Section 21.4102 is revised to read as follows:

§ 21.4102 Requirement; 38 U.S.C. chapter 35.

(a) *Child.* Counseling is required for an eligible child before approval of an initial course, reentrance after discontinuance because of unsatisfactory conduct or progress, or a change of program. The counselor will assist in preparing an educational plan if requested by the eligible person, his parent or guardian. (38 U.S.C. 1720)

(b) *Wife or widow.* Counseling is not required for a wife or widow for approval of an initial course or for a change from such course unless the earlier course was discontinued because of unsatisfactory conduct or progress or the change constituted a second change. See § 21.4106.

5. In § 21.4106(a), subparagraph (2) is amended and subparagraph (3) is added so that the added and amended material reads as follows:

§ 21.4106 Counseling; change or reentrance.

(a) *When required.* * * *

(2) *38 U.S.C. chapter 35; child.* For any change of program or for resumption of a course of education which had been discontinued because of unsatisfactory conduct or progress under § 21.4277.

(3) *38 U.S.C. chapter 35; wife or widow.* For a change from the initial program if interrupted or discontinued due to the eligible person's own misconduct, neglect, or lack of application, for any second change of program, or for resumption of a course of education which has been discontinued under § 21.4277 because of unsatisfactory conduct or progress.

* * * * *

6. In § 21.4130(b), subparagraph (3) is amended to read as follows:

§ 21.4130 Educational assistance allowance.

* * * * *

(b) The ending date will be the earliest of the following dates:

* * * * *

(3) The ending date of the eligible person's eligibility as determined under §§ 21.3041, 21.3042 and 21.3046.

* * * * *

7. In § 21.4135, paragraphs (c) and (o) are amended and paragraph (v) is added so that the added and amended material reads as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(c) *Divorce.* (1) Veteran, chapter 34: Last day of month in which divorce occurs.

(2) Wife, chapter 35: Date the decree became final, subject to extension under paragraph (o) of this section if divorce was without fault on part of the wife.

* * * * *

(o) *Veteran no longer rated permanent-total disabled, or wife (trainee) divorced from veteran without fault on her part; chapter 35 (§§ 21.3041 and 21.3046).* (1) End of quarter or semester if school is operated on quarter or semester system.

(2) End of course or 9 weeks whichever is earlier, if school is not operated on quarter or semester system.

* * * * *

(v) *Remarriage of widow.* (1) Remarriage: Last date of attendance before remarriage.

(2) Conduct of widow: Last day of month before inception of relationship.

8. In § 21.4136, paragraph (a) is amended to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. chapter 34.

(a) *Rates.* Educational assistance allowance is payable for periods commencing on or after October 1, 1967, at the following monthly rates.

Type of courses	Monthly rate			
	No dependent	One dependent	Two dependents	Additional for each additional dependent
Institutional:				
Full time	$130.00	$155.00	$175.00	$10.00
¾ time	95.00	115.00	135.00	7.00
½ time	60.00	75.00	85.00	5.00
Less than ½, but more than ¼ time	[1] 60.00			
¼ time or less	[1] 30.00			
Cooperative, other than farm cooperative (full time only)	105.00	125.00	145.00	7.00
Apprentice or on-job (full time only):				
Payment designated training assistance allowance.				
1st 6 months	80.00	90.00	100.00	None
2d 6 months	60.00	70.00	80.00	None
3d 6 months	40.00	50.00	60.00	None
4th 6 months and succeeding periods	20.00	30.00	40.00	None
Correspondence	Established charge for number of lessons completed by veteran and serviced by school—Allowance paid quarterly.			
Flight training	90 per centum of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay—Allowance paid monthly based on actual flight training received.			
Farm cooperative:				
Full time	105.00	125.00	145.00	7.00
¾ time	75.00	90.00	105.00	5.00
½ time	50.00	60.00	70.00	3.00

(38 U.S.C. 1677, 1682, 1683; Pub. Law 90-631, 82 Stat. 1331)

[1] See paragraph (b) of this section.

* * * * * * *

9. In § 21.4153(c), a new subparagraph (3) is added and the former subparagraph (3) is redesignated (4) to read as follows:

§ 21.4153 Reimbursement of expenses.

* * * * *

(c) *Reimbursable expenses.* * * *

(3) *Administrative expenses.* An allowance for administrative expenses for which payment may be authorized will be determined in accordance with the formula contained in this subparagraph. Salary cost includes basic salary plus fringe benefits such as Social Security, retirement, and health, accident or life insurance which is provided all similarly circumstanced State employees.

Total salary cost reimbursable	*Allowance for Administrative expense*
$5,000 or less	$250.
Over $5,000 but not exceeding $10,000.	$450.
Over $10,000 but not exceeding $35,000.	$450 for the first $10,000 plus $400 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$2,625.
Over $40,000 but not exceeding $75,000.	$2,625 for the first $40,000 plus $350 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$5,225.
Over $80,000	$5,225 for the first $80,000 plus $300 for each additional $5,000 or fraction thereof.

(4) *Committee assignments.* Reimbursement may also be authorized for the salary and travel of the employee of the State approving agency serving as a designated member of the field station Committee on Educational Allowances.

* * * * *

10. In § 21.4203(b), subparagraph (3) is added and paragraph (g) is amended so that the added and amended material reads as follows:

§ 21.4203 Reports by schools; requirements.

* * * * *

(b) *Entrance or reentrance.* * * *

(3) Where the veteran is enrolling in a farm cooperative course, the school's certification will include a report of the dates of the prescheduled classroom instruction.

* * * * *

(g) *Flight training courses.* Where the course consists exclusively of flight training, the school will report by an endorsement on the veteran's certification the type and number of hours of actual flight training received by, and the cost thereof to, the veteran. Such reports may be submitted monthly.

11. In § 21.4204, a new paragraph (e) is added to read as follows:

§ 21.4204 Periodic certifications.

* * * * *

(e) *Farm cooperative courses.* The monthly certification will cover only those periods of classroom instruction which are included in the prescheduled institutional portion of the course.

12. In § 21.4205(c), a new subparagraph (4) is added to read as follows:

§ 21.4205 Absences.

* * * * *

(c) *Reporting.* * * *

(4) For a farm cooperative course the absences to be reported by the veteran and verified by the school will be those days of nonattendance which occur during a period of the prescheduled classroom instruction.

13. In § 21.4230, paragraph (d) is amended and paragraph (e) is added so that the added and amended material reads as follows:

§ 21.4230 Requirements.

* * * * *

(d) *Provisional; chapter 35; child.* When application for educational assistance under chapter 35 is approved provisionally the eligible child and, if a minor, the parent or guardian also will be informed of the need to develop a program of education consistent with paragraphs (a) and (b) of this section. (38 U.S.C. 1713, 1720.)

(e) *Selection; chapter 35; wife, widow.* A program of educational assistance under chapter 35 selected by an eligible wife or widow will be approved if it meets the requirements of paragraph (a) or (b) of this section and the individual is not already qualified for the objective for which the program of education is offered.

14. In § 21.4231, the heading is amended to read as follows:

§ 21.4231 Educational plan; 38 U.S.C. chapter 35; child.

* * * * *

15. In § 21.4232, paragraph (a) is amended to read as follows:

§ 21.4232 Specialized vocational training; 38 U.S.C. chapter 35.

(a) A program consisting of a specialized course of vocational training may be provided to an eligible person who is not in need of special restorative training and who requires such a program because of a mental or physical handicap. (38 U.S.C. 1737.) The Vocational Rehabilitation Board will determine whether such a course is in the best interest of the eligible person. If the determination is in the affirmative the board will assist in developing the program and a suitable educational plan. If it is determined that such a program is not in the best interest of the eligible person the application for the program will be denied. Specialized vocational training may be authorized for an eligible child only if the child has passed his 14th birthday.

* * * * *

16. In § 21.4233, paragraph (d) is amended to read as follows:

§ 21.4233 Combination.

* * * * *

(d) *Farm cooperative course.* A program of education consisting of institutional agricultural courses pursued by a veteran who is concurrently engaged in agricultural employment which is relevant to such institutional course may be approved if the course meets the requirements of § 21.4264.

17. In § 21.4234, paragraph (c) is amended, a new paragraph (d) is added and the former paragraph (d) is redesignated (e) so that the added, amended and redesignated material reads as follows:

§ 21.4234 Change of program.

* * * * *

(c) *Chapter 35; child.* After further counseling one change will be approved and a second change may be approved, if the criteria of paragraphs (b) (1) and (2) of this paragraph are satisfied. The approval of such change will also be subject to the requirement that the educational plan for the new program must meet the criteria applicable to final approval of an original application. See §§ 21.4230 and 21.4231. (38 U.S.C. 1722.)

(d) *Chapter 35; wife, widow.* The eligible wife or widow may make one optional change of program if the previous course was not interrupted or discontinued due to her own misconduct, neglect or lack of application. A second change or an initial change after interruption or discontinuance due to her own misconduct, neglect or lack of application may be approved if it is found that:

(1) The program of education which the eligible wife or widow proposes to pursue is suitable to her aptitudes, interests, and abilities; and

(2) In any instance where the eligible wife or widow has interrupted, or failed to progress in, her program due to her own misconduct, neglect or lack of application, there exists a reasonable likelihood with respect to the program which she proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

(e) *Adjustments; transfers.* A change in courses or places of training will not be considered a change of objective in the following instances:

(1) The pursuit of the first program is a prerequisite for entrance into and pursuit of a second program.

(2) A transfer from one school to another when the program at the second school leads to the same educational, professional or vocational objective, and does not involve a material loss of credit, or increase training time.

(3) Revision of a program which does not involve a change of objective or material loss of credit nor loss of time originally planned for completion of the veteran's or eligible person's program. For example, an eligible person enrolled for a bachelor of science degree may show a professional objective such as chemist, teacher or engineer. His objective for purposes of this paragraph shall be considered to be "bachelor degree" and any change of courses will be considered only an adjustment in the program, not a change, so long as the subjects he pursues lead to the bachelor degree and there is no extension of time in the attaining of that degree.

18. In § 21.4264, paragraphs (b)(2) and (c)(3) are amended to read as follows:

§ 21.4264 Farm cooperative courses; 38 U.S.C. chapter 34.

* * * * *

(b) *Application.* * * *

(2) That the agricultural course is offered concurrently with agricultural employment; and

* * * * *

(c) *Approval criteria.* * * *

(3) The institutional portion consists of courses prescheduled to fall within not less than 44 weeks of the year at a minimum of 6 clock hours per week. (38 U.S.C. 1682; Public Law 90-631, 82 Stat. 1331)

19. In § 21.4270, paragraph (h) and footnote 1 are amended to read as follows:

§ 21.4270 Measurement of courses.

* * * * *

Courses		Full time	¾ time	½ time	Less than ½, more than ¼ time	¼ time or less
Kind of school	Kind of course					
(h) Agricultural...	Farm cooperative.[1]	12 clock hours net instruction in institutional training scheduled within 44 weeks of the year plus agricultural employment.	9 clock hours net instruction in institutional training scheduled within 44 weeks of the year plus agricultural employment.	6 clock hours net instruction in institutional training scheduled within 44 weeks of the year plus agricultural employment.	No provision.	

[1] In measuring net instruction there will be included customary intervals not to exceed 10 minutes between classes. Shop practice, except for supervised instruction periods in school's shop in farm cooperative programs, and rest periods are excluded. High school diploma courses available only under chapter 34.

* * * * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective December 1, 1968, with the following exceptions: § 21.4025(c) (8) through (12), October 16, 1968; § 21.4025(c)(13), October 15, 1968; § 21.4025—revocation of (b)(2), October 15, 1968; § 21.4025—revocation of (b)(9), October 16, 1968.

Approved: January 14, 1969.

By direction of the Administrator.

[SEAL]

A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-728; Filed, Jan. 17, 1969; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 822—BUREAUS AND OFFICES

Organization Statement; Bureau of Research and Engineering

Section 822.8 is restated to show the current organization of the Bureau of Research and Engineering.

§ 822.8 Bureau of Research and Engineering.

(a) *Assistant Postmaster General.* (1) Provides leadership for and directs research, development and engineering activities of the Postal Service, using technical and professional skills and resources of other bureaus and offices as required.

(2) Provides (i) new concepts, systems and techniques for the processing, movement, and delivery of mail; and (ii) the related machinery and equipment to transform the concepts into efficient operating tools.

(3) Participates as follows in the postal facility program: (i) Assists the Bureau of Operations in development and analysis of basic planning data; (ii) designs the facility including utilities and mechanization; (iii) supervision of construction and installation of utilities and mechanization; (iv) provides technical guidance during phasein of new facilities and mechanization; (v) conducts postinstallation audits to evaluate prior planning and plant and equipment design and arrangement.

(4) Directs the development and administration of the budget for the Bureau of Research and Engineering, including the preparation for and presentation of information to the Congress.

(5) Furnishes staff assistance to the Postmaster General and Deputy Postmaster General on research, development, and engineering matters; represents the Department on such matters.

(6) Provides research and engineering advice and liasion with other bureaus and offices of the Department, with industry and university research centers, with other Government agencies, and in coordination with the Special Assistant for International Postal Affairs, with postal administrations of other countries.

(b) *Planning, Coordination, and Liaison*—(1) *Research and Engineering Advisory Council.* (i) Provides the Postmaster General and the Post Office Department advice, counsel, and recommendations from the scientific, engineering, academic, and business viewpoints in the Department's consideration of policies and methods to make more effective its research, development, and engineering programs.

(ii) Provides, through ad hoc panels of Council members, in-depth studies of specific areas requiring special and expert attention.

(2) *Director of Operations.* (i) Serves as advisor to the Assistant Postmaster General, and provides administrative assistance for flow of information relating to the broad programs required for management decisions of the Bureau.

(ii) Furnishes program continuity by informing the Directors of Research and Development, and Construction Engineering of special projects and policy actions impinging on their assigned functions. Coordinates actions and decisions affecting the two Directors. Formulates the Bureau position on legislative proposals.

(iii) Participates in the formulation of: (*a*) Objectives and policies used in shaping the Department's multi-million-dollar engineering research, development, and construction engineering programs and in insuring their responsiveness to the needs and programs of the Postal Establishment. Provides advice and consultation on such policy matters to the Assistant Postmaster General; and (*b*) directs planning activities necessary to produce dynamic programs in appropriate time phases for accomplishment of engineering research, development, and construction engineering programs. Recommends revisions in planning activities to correspond with changes in policy or program emphasis prescribed by the Postmaster General. Interprets policy related to new programs or changes direction to existing programs.

(iv) Responsible for providing resources and services to accomplish assigned functions and activities of the Bureau.

(v) Prescribes broad guidance and directs the efforts of staff personnel responsible for budget and fiscal management, research contracting, planning, personnel management, and related activities, and public information.

(vi) Investigates and recommends appropriate action on major problem and controversial matters having policymaking implications.

(vii) Assists the Assistant Postmaster General in presenting and justifying plans and budget estimates to the Postmaster General, Bureau of the Budget, and Appropriation Committees of Congress.

(viii) Shares with the Assistant Postmaster General the function of informing the Bureau, Post Office Department top management, and the general public on trends, policies, and progress in Bureau activities.

(ix) Assists the Assistant Postmaster General in developing and sponsoring competitive research by outside governmental and private research facilities.

(x) Participates actively in the cultivation of mutually beneficial relationships between top level personnel in the industrial community and the Bureau of Research and Engineering.

(xi) Acts for the Assistant Postmaster General, Bureau of Research and Engineering during his absence or as directed.

(xii) Performs a wide variety of special and continuing work assignments designed to relieve the Assistant Postmaster General of day-to-day actions affecting the Bureau.

(3) *Office of Technical and Fiscal Planning*—(i) *Director.* (*a*) Develops and recommends technical planning policies and priorities to the Assistant Postmaster General, and provides principal staff support in developing advanced plans required for accomplishing Departmental research and engineering objectives.

(*b*) Serves as the focal point in the Bureau for liaison related to planning, programing, and budgeting activities;

reviews and recommends Bureau plans for approval by the Assistant Postmaster General.

(e) Coordinates all planning and programing activities of the Bureau and prepares all Bureau submissions required thereby; prepares the budget, using input data from line organizations, and provides staff assistance to the Assistant Postmaster General in presentations before the Bureau of the Budget and Congressional Appropriations Subcommittees.

(d) Establishes and maintains accounting controls; provides reports on application and status of funds; advises Bureau officials as to fiscal policy and requirements as reflected in Bureau of the Budget issuances and Departmental regulations.

(e) Recommends technical areas for concentration of Bureau resources, including new concepts for providing improved postal services; plans for and conduct studies and interdisciplinary tasks requiring special engineering capabilities.

(f) Provides technical interface between the Bureau of Research and Engineering, other Bureaus of the Department, other Government agencies, mail user organizations and industry, particularly the computer and communications industries to: (1) Acquaint them with postal needs and to assure that these needs are considered in new equipment and systems development; (2) provide input data for research and engineering programs; and (3) coordinate all related policy areas that have Department-wide implications.

(g) Works with large-volume mailers—in coordination with Customer Relations Division, Bureau of Operations—to advise and assist them in the use of computerized addressing and preparation of mail to minimize cost and investment to the mailer and to maximize efficiency to the Post Office Department.

(h) Participates in policy development of mail processing compatability activities; coordinates such activities within the Bureau of Research and Engineering, with other bureaus, other Government agencies, and industry.

(i) Represents the Assistant Postmaster General at high-level meetings and conferences in the specialized areas of these functions.

(ii) *Deputy Director.* (a) Advises and assists the chief in carrying out the technical and fiscal planning activities and acts for him in his absence or as directed.

(b) Performs special assignments for the Office of the Assistant Postmaster General.

(4) *Special Assistant.* (i) Provides principal staff support in all areas of personnel administration to provide the professional and technical staff required by the Bureau; maintains continuing liaison with Bureau of Personnel.

(ii) Performs all activities related to the negotiation, preparation, consummation, administration, and settlement of research, development, and engineering contracts, in coordination with interested bureaus and offices.

(iii) Establishes and maintains a comprehensive management information system for the Bureau; prepares and issues related regular and special reports; develops and maintains a management information center.

(iv) Develops and recommends policies, plans, and schedules for conducting the Bureau's research and development contracting activities; serves as advisor and consultant on related matters.

(v) Conducts organizational, functional, staffing, and procedural studies as required in the Bureau; prepares reports of findings and recommendations and assists in implementing recommendations.

(vi) Determines the goals and requirements of training within the Bureau and provides a training program to insure the most efficient use of personnel in accomplishing the Bureau mission.

(vii) Develops policies and procedures governing the contracting for and control of engineering support services.

(viii) Coordinates automatic data processing (ADP) activities as they apply to Bureau management reporting and information systems.

(ix) Serves as the Deputy Ethical Conduct Counselor for the Bureau, and provides liaison with the Bureau of the Chief Postal Inspector on civil defense matters.

(x) Establishes travel guidelines within Departmental policy and obtains reservations for Bureau personnel.

(xi) Provides central records management services for the Bureau; recommends policies for and establishes and maintains procedures to support these services.

(xii) Provides administrative support for the Assistant Postmaster General and other Bureau organizations.

(5) *Industrial Engineering Staff.* (i) Provides industrial engineering services and guidance (a) to the two areas of concentration of Bureau efforts: Research and development, and construction engineering, and (b) to other Headquarters bureaus and offices, regional offices and applicable postal installations.

(ii) Assists in bridging the gap between the output of research and development divisions and the needs of postal operating personnel by providing the methods, standards and procedures required to translate research and development machines, equipment, concepts and specifications into productive elements of the Postal Service.

(iii) Conducts studies of existing facilities and equipment to establish better methods for processing mail in both mechanized and manually operated post offices, and develops guidelines for field application.

(iv) Evaluates processing procedures, methods, functional requirements and economic feasibility of equipment developed in the field and advises management of their applicabality, possibly on a national scale.

(v) Works with bureaus affected in establishing machine manning and operating requirements.

(vi) Develops technical criteria on amounts of space required and efficient layout standards for various items of equipment.

(vii) Develops and recommends to bureaus concerned manpower operating standards for all basic operations in post offices for use in evaluating equipment and methods.

(viii) Develops volume and manpower guides to assist in the choice of the proper equipment and to provide standardized man-machine relationships.

(ix) Evaluates equipment requirements for improving service to the public and determines the need for research and development; coordinates related research and development work to provide such equipment.

(x) Conducts management, administrative and engineering studies, as requested, to support bureau and departmental functional areas.

(xi) Coordinates with Bureau of Finance and Administration in all cost studies pertaining to or involving mechanization.

(6) *Technical Liaison*—(i) *Chief.* Directs technical liaison activities of the Bureau in the following functional areas:

(ii) *Executive Secretary, Postmaster General's Research and Engineering Advisory Council (REAC).* Provides and manages those administrative and staff support functions required to meet Council requirements as well as those of the REAC panel members.

(iii) *Industry Liaison (Technical).* (a) Provides management for and performs the functions necessary to insure effective technical and engineering liaison with industry in support of the Office of the Assistant Postmaster General.

(b) Serves as focal point within the Bureau for disseminating information to industry concerning plans, programs, and budget.

(c) Provides for and manages briefings, symposiums and other organized group activities involving broad industry representation in support of Bureau activities.

(iv) *International Liaison (Technical).* In coordination with the Special Assistant to the Postmaster General for International Postal Affairs:

(a) Provides management for and performs those functions necessary to insure effective technical and engineering liaison with foreign postal administrations and the Universal Postal Union in support of the Office of the Assistant Postmaster General, Bureau of Research and Engineering.

(b) Provides membership in and represents the Assistant Postmaster General, as required, at periodic technical sessions of the Universal Postal Union and other Departmental exchanges with foreign postal administrations.

(c) Provides the focal point for requests for information from foreign countries concerning research and engineering activities; coordinates the preparation of such information within the Bureau.

(d) Provides technical liaison services for the Bureau to postal visitors from

foreign countries; arranges for visits, discussions, and technical information desired.

(c) *Research and Development*—(1) *Director.* Plans for and directs the establishment and execution of a research and development program for the Postal Service, within the framework of Departmental policies and objectives.

(2) *Deputy Director.* (i) Advises and assists the Director and acts for him as directed.

(ii) Exercises as a management function direct supervision over the staff and activities of the directorate.

(iii) Coordinates differences between internal elements of the organization concerning policies, program, and areas of responsibility.

(iv) Delegates or withholds authority and fixes responsibility and priorities for tasks, programs, activities, and coordination.

(3) *Assistant to the Director.* The Assistant to the Director is the key advisor to the Director, research and development for general management activities, administrative duties, program development, budget formulation, project control for research and development, including the following specific functions:

(i) Implements and recommends changes to instructions for all departmental and regional policies, directives, and procedures as they pertain to research and development; advises the Director of major problems or other areas requiring his attention.

(ii) Coordinates and prepares correspondence relating to functions and programs of research and development, including external inquiries, for signature of the Assistant Postmaster General, Bureau of Research and Engineering.

(iii) Schedules and processes, research and development programs; provides assistance to Assistant Director for General Research and Assistant Director for Engineering in developing, directing, and administering such programs.

(iv) Monitors resources allocation and utilization; identifies problems and areas requiring reprograming of resources, and recommends solutions.

(v) Prepares management reports, staff reports, program analyses and similar documentation for the Director, based on input data from the Assistant Directors.

(vi) Coordinates, with the divisions, the preparation of material for the Office of Technical Liaison per requests from other countries; edits material as necessary to meet requirements.

(vii) Assists in establishing or clarifying requirements for R. & D. services, insuring full coordination of technical efforts.

(viii) Responsible for maintenance of Research and Development central files, reports, and records; collects and processes all R. & D. management data needed by the Director.

(ix) Coordinates preparation, execution, and program planning for R. & D. budget and assists the Director of Research and Development in the presentation of research and development programs to higher authorities.

(4) *Engineering Services Division.* Coordinates development of changes in the design data package, equipment modification specifications, including the following specific functions:

(i) Provides design engineering, detailing, and drafting services for all research and development activities of the Bureau.

(ii) Develops, maintains, and operates the Engineering Test Laboratory for testing and evaluating new or modified equipment and machines and modified or experimental vehicles and pilot models of standard equipment and supplies.

(iii) Provides test facility services for and collaborates with other divisions of Research and Development, Construction Engineering, and Industrial Engineering, in preparing for and conducting in-house feasibility studies or related tests and experiments, and in clarifying or defining equipment aspects of new concepts.

(iv) Fabricates equipment, components, and interfaces, develops testing instrumentation and conducts tests, including tests with live mail, to determine performance of equipment and/or components and compliance with applicable requirements.

(v) Evaluates failure of machines, components, and materials, proposing re-design, modification, or substitution of components or materials both in the Engineering Test Laboratory and field installations.

(vi) Fabricates full-size or scale-operating models of mail processing equipment, machines, components, and parts.

(vii) Furnishes consultation in determining proper materials, machining, and fabrication procedures.

(viii) Schedules work to meet completion dates for production drawings of new equipment, guide drawings or illustrations for new concepts, and expanded views or cutaways for technical manuals.

(ix) Provides charts, graphs, technical illustrations, and associated reproduction processes for all research and development activities of the Bureau.

(x) Maintains a vendor's product file master record and a complete file of R. & D. drawings and specifications and controls engineering changes thereto.

(xi) Develops performance sepcifications for postal equipment, based on technical requirements data from project engineers.

(xii) Develops and maintains a wide variety of general specifications intended for common use, covering test and acceptance standards, safety, reliability, human engineering, packaging, and other similar material.

(xiii) Develops and maintains a system of technical documentation to assure standardization of design, drawings, reliability, maintenance, procurement, spare parts interchangeability, and technical publications.

(d) *Assistant Director for General Research*—(1) *Assistant Director.* Plans, coordinates, and directs the Bureau systems engineering, research, technology, and advanced development programs which identify, analyze, define, and after meeting postal requirements, initiates the development of new postal systems, methods, and equipment which offer improved capabilities to the Bureau in carrying out its assigned mission.

(2) *Systems Engineering Division.* This division provides detailed technical support in the form of system requirements for planning and programing decisions in R. & D., by performing the following functions:

(i) Conducts system studies to define generalized solutions or approaches to postal mechanization which are optimized at the total system level.

(ii) Studies operating methods and equipment to develop and analytically evaluate concepts which form the basis for subdivision (i) of this subparagraph.

(iii) Maintains liaison with operating organization to identify and help define, in technically precise language, the operational performance requirements of new equipment with respect to present and proposed operating methods.

(iv) Conducts economic studies at the beginning of the R. & D. process to estimate costs of alternate approaches and to set realistic targets for economic characteristics of new equipment, such as development cost, production cost, and operating cost.

(v) Defines technical performance requirements for new equipment in system terms, such as equipment interface constraints, flow rate, and operating acceptance rates.

(vi) Develops a system framework in functional block diagram form for definition of such areas as standard system functions and interfaces as a mechanism for controlling the orderly evolution of future mechanized systems and assuring equipment compatibility.

(vii) Performs in-house projects and technically directs contract efforts in the following areas: (*a*) Systems, subsystems, and equipment studies in such areas as mail collection, processing, transportation, and delivery; (*b*) collection of technical data required to support system and equipment studies and organization of this data for rapid access and processing, using data available from other elements of the Department to the maximum extent feasible; (*c*) development and use of mathematical models and system simulation for systems trade-off studies; (*d*) scientific and technical computer programing in support of systems studies and as a service to other R. & D. divisions.

(3) *Advanced Technology Division.* (i) Conducts applied research to: (*a*) Identify and analytically and experimentally investigate new hardware technologies; (*b*) demonstrate their feasibility at the device or machine subsystem level; (*c*) document these results in the form of design data; and (*d*) provide information and methods for objectively evaluating the technical merits of competitive technologies.

(ii) Performs applied research on critical technology problems involved in

meeting the equipment performance requirements defined by the Systems Engineering Division, resulting in an input to the Advanced Development Division for equipment design purpose.

(iii) Provides technical expertise in support of other elements of the R. & D. organization including expert consultation on hardware contract problems.

(iv) Conducts in-house laboratory projects and technically directs contracts in the following areas of technical specialization: (*a*) Physical sciences; (*b*) behavioral sciences as they relate to new and advanced concepts for postal, man-machine relationships); (*c*) electronics; (*d*) mechanics; (*e*) optics and optical processes; (*f*) hydraulics; and (*g*) materials.

(v) Work in the areas of Item iv (above) is aimed at solving postal problems or establishing requirements in the following system technologies: (*a*) Computers for process control; (*b*) address directories; (*c*) pattern recognition; (*d*) information display; (*e*) communication and transmission of information by electronic means; (*f*) control systems and devices; (*g*) human factors; (*h*) power sources and conversion technology; and (*i*) special devices.

(vi) Provides liaison between the Bureau of Research and Engineering and the Office of ADP Management, Bureau of Finance and Administration, on matters concerning ADP, EDP, and related equipment.

(4) *Advanced Development Division.* The mission of this Division is the development and technical evaluation of operating models of new equipment and systems. Its products are designed to meet the performance specifications and to embody in hardware the process and system concepts defined by the Systems Engineering Division. This Division benefits directly from the work of the Advanced Technology Division. In carrying out this mission, the Division:

(i) Plans and executes a program for selection of equipment design concept, design, fabrication, test and technical evaluation of the operating model.

(ii) Demonstrates, based on tests and technical evaluation, that equipment performance requirements are realistic and have been met or can be met, and that the design is technically sound.

(iii) Recommends minor changes in equipment and/or systems to be accomplished during the production engineering phase.

(iv) Generates cost and economic performance data for evaluating the desirability of nursing a production engineering phase, based on advanced development work.

(v) Conducts in-house design and laboratory activities, as well as technically directing contract work, on all equipment involving the following postal operations; (*a*) Collection; (*b*) processing (including preparation, reading, coding, sorting, sweeping, culling, packaging); (*c*) transportation; (*d*) delivery; (*e*) patron services; and (*f*) control systems.

(e) *Assistant Director for Engineering*—(1) *Assistant Director.* Plans, coordinates, and directs the Bureau engineering program to translate—through project definition, engineering and operational development—previously demonstrated new concepts to provide production designs of new or improved equipment for postal operations.

(2) *In-Plant Equipment Division.* Directs all functions concerned with engineering development related to letter mail; flats, parcels and sacks; and associated support equipment required for the in-plant processing of mail, as follows:

(i) Plans and conducts the development of system integration and production engineering of equipment for in-plant processing of mail.

(ii) Prepares engineering requirements and schedules for contract and in-house engineering development projects; directs technical work to be performed.

(iii) Develops, tests, and evaluates engineering models, using live mail where approved in the engineering test center or other facility as required to prove equipment acceptance.

(iv) Develops modifications and improvements for existing equipment.

(v) Reviews and approves engineering drawings prepared by contractors and manufacturers.

(vi) In collaboration with the Maintenance Division, Bureau of Facilities, reviews and approves technical manuals, revision of manuals, and spare parts lists prepared by manufacturers.

(vii) Establishes final design and provides technical data for specifications of production engineered equipment.

(viii) Reviews contractor's proposals for technical compliance with specification requirements, management plan, progress reporting system, cost control techniques, documentation, and test data to be supplied.

(ix) Establishes engineering standards pertaining to the mechanical, electrical and electronic design and specifications for in-plant processing equipment.

(x) Reviews and approves projects, programs, and budget estimates, including required justification.

(xi) Provides consultant and advisory services to other divisions of the Bureau and to other elements of the Department on in-plant processing matters.

(xii) Provides a quick reaction capability for modification, design, and fabrication of postal equipment and components, as requested.

(3) *Out-of-Plant Equipment Division.* Directs all functions relative to engineering development of mail transportation system, material handling, and associated out-of-plant equipment, as follows:

(i) Plans and implements programs for developing, testing, evaluating, installing, system integration and production engineering of equipment for out-of-plant processing of mail.

(ii) Prepares engineering requirements and schedules for contract and in-house engineering development projects; directs technical work to be performed.

(iii) Develops, tests, and evaluates production models using live mail in the engineering test center or other facility as required to prove equipment acceptance.

(iv) Develops modifications and improvements for existing equipment, excluding vehicles.

(v) Reviews and approves engineering drawings prepared by contractors and manufacturers.

(vi) In collaboration with the Maintenance Division, Bureau of Facilities, reviews and approves technical manuals, revision of manuals, and spare parts lists prepared by manufacturers.

(vii) Establishes final design and provides technical data for specifications of production engineered equipment.

(viii) Reviews contractor's proposals for technical compliance with specification requirements, management plan, progress reporting system, cost control techniques, documentation, and test data to be supplied.

(ix) Establishes engineering standards pertaining to the mechanical, electrical and electronic design, and specifications for out-of-plant processing equipment.

(x) Reviews and approves projects, programs, and budget estimates, including required justification.

(xi) Provides consultant and advisory services to other divisions of the Bureau and to other elements of the Department on out-of-plant processing matters.

(xii) Provides a quick reaction capability for modification, design, and fabrication of postal equipment and components, as requested.

(f) *Construction Engineering*—(1) *Office of the Director.* Director. Provides leadership for and directs the construction and related mechanization engineering programs for the postal service within the framework of Departmental long-range plans and goals.

(2) *Assistant to the Director.* Responsible for all Bureau construction engineering general management activities, including program, workload, and resource planning; policy development; program and project control; budget and fiscal management; manpower and personnel management. Provides liaison with other bureaus and regional offices on construction engineering program matters. Advises, assists, and acts for the Director, Construction Engineering, as required.

(i) Coordinates the implementation of departmental and regional policies, directives, and procedures that pertain to construction engineering.

(ii) Assists in planning, developing, directing, and administering all programs of Construction Engineering, including regional, and determines related resource requirements.

(iii) Coordinates and administers Construction Engineering program budgets and associated manpower and staffing requirements, both departmental and regional.

(iv) Develops and participates in presentations of Construction Engineering

programs to top Post Office Department management and Congressional committees.

(v) Handles all external inquiries relating to Construction Engineering.

(3) *Regional Engineering Liaison.* (i) Serves as the Bureau's principal liaison with the regional offices.

(ii) Reviews regional engineering activities and procedures to insure compliance with Bureau of Research and Engineering standards and guidelines and sound engineering practices. Initiates necessary corrective action.

(iii) Establishes new criteria and standards for functions and procedures involved solely with regional engineering programs. Participates with Headquarters officials in establishing new criteria and standards for functions and procedures involving both regional and Headquarters engineering programs.

(iv) Provides technical guidance and direction in developing the planning of regional engineering programs.

(v) Reviews regional engineering personnel requirements and use, and relates these to workload; assists regions in recruiting and staffing activities of regional engineering offices.

(vi) Develops field training requirements in participation with Headquarters and regional officials. Coordinates all preparation of material for, and the conduct of, training courses and special conferences or seminars.

(4) *Assistant Director-Design*—(i) *Assistant Director.* Directs those phases of responsibility of the Director, Construction Engineering, that concern planning data requirements, architectural design, utilities design, and mail processing systems design and engineering for Headquarters, Regional and General Services Administration projects.

(ii) *Project Coordination.* Provides staff support for the assistant director in coordinating all phases of major facility projects, including liaison with other bureaus and offices.

(iii) *Planning Division.* (*a*) Provides team members who participate in developing distribution and operations concepts.

(*b*) Provides engineering and related technical assistance and maintains continuing liaison in the conduct of surveys to determine space, platform, mechanization, equipment, and other requirements for a facility; and participates in studies of mail movements and handling as necessary to establish economically correct location of a new facility.

(*c*) Applies and coordinates with affected Bureaus, engineering policies and criteria governing the determination of space requirements for postal facilities.

(*d*) Prepares flow charts, tables, and narrative reports for use in designing facilities.

(*e*) Prepares preliminary engineering guidelines for use in planning and designing mechanized mail processing systems.

(iv) *Architectural Division.* (*a*) Develops building plans and specifications for major postal facilities and extension and modernization projects.

(*b*) Determines site size requirements and studies land use; prepares schematic, preliminary, and tentative building plans to assist in determining facility requirements; assists in site selection.

(*c*) Furnishes technical assistance in evaluating and selecting architectural and engineering firms; provides technical supervision of architect-engineer contractors, involving preliminary, intermediate and final working drawings and specifications for contract compliance.

(*d*) Prepares detailed estimates of cost for all types of building construction projects.

(*e*) Prepares construction specifications and instructions for use of contract architect-engineer firms and regional offices and for inclusion in technical manuals; reviews for compliance and recommends approval of construction specifications submitted by architectural-engineering firms.

(*f*) Establishes structural design criteria; reviews and approves for compliance with contractural requirements the structural design of preliminary, intermediate, and final working drawings and specifications prepared by bidders, lessors, and architects.

(*g*) Provides required design services for minor building alteration projects involving mechanization.

(v) *Process Machinery Division.* (*a*) Develops plans and specifications for mail processing equipment including systems analysis and layout to show relationship between various mail processing functions and to assure adequacy and suitability of space.

(*b*) Prepares engineering economic analyses of proposed use of existing mechanization systems for each planned facility, showing the comparative costs and savings between the various systems that could be used.

(*c*) For equipment which has been previously developed, tested, and accepted, designs and prepares drawings for procuring mail processing systems and equipment to meet operational and functional requirements.

(*d*) Designs and prepares drawings and specifications for electrical controls required to operate mail processing equipment; coordinates the location of such controls to meet both operational and building design needs.

(*e*) Evaluates effectiveness of systems concepts developed through construction engineering activities.

(vi) *Utilities Division.* Designs mechanical and electrical utilities, building equipment, space conditioning, and communications systems for space occupied by the Post Office Department, as follows:

(*a*) Designs electrical distribution system most suitable for each major facility project; investigates available power supply and energy rates for each major facility project, selecting the most reliable and economical service.

(*b*) Prepares specific requirements and specifications to cover all special electrical needs of individual facilities; reviews and approves electrical portion of architect-engineer submissions.

(*c*) Prepares specific requirements for all special building equipment system needs of each major facility such as plumbing, water distribution, compressed air, fire protection, security alarms, elevators, scales, and shop equipment; designs the systems' special equipment to meet the requirements.

(*d*) Designs the space conditioning systems such as heating, refrigerating, ventilating and air supply most suitable for each major facility; reviews and approves the space conditioning system portion of architect-engineer submissions.

(*e*) Designs the telephone and communications systems most suitable for each major facility; prepares specific requirements and specifications to cover all special communication needs of each facility; improves and modernizes telephone systems in existing postal buildings; reviews and approves the communication portions of architect-engineer submissions.

(5) *Assistant Director—Construction Technology*—(i) *Assistant Director.* Directs those phases of responsibility of the Director, Construction Engineering, that concern the latest developments in construction technology, and applies those advances to the Department's construction program. Provides technical leadership in establishing engineering standards, evaluation, and research and development in postal construction and mechanization areas. Keeps abreast of modern technology and engineering science innovations, and develops long-range plans and programs in order to provide the most efficient postal facilities.

(ii) *Value Engineering Staff.* (*a*) Directs department-wide value engineering program, encompassing both Research and Development, and Construction Engineering programs. Assists technical personnel in the Department and regional offices to develop an increased cost-consciousness to generate value engineering studies to effect savings in the postal programs.

(*b*) Applies cost analysis techniques of value engineering to the Post Office Department construction and mechanization programs. Assuring no adverse effect on aesthetics, operation, and maintenance of facilities, selects projects for value engineering studies during the design phase, and evaluates recommendations for change proposals for projects under construction.

(*c*) Analyzes existing and proposed building requirements to isolate areas where cost effectiveness can be improved; conducts continuing value engineering studies to develop alternate standards, design or construction methods and/or specification requirements which will effect cost reductions.

(*d*) Establishes guidelines for applying cost analysis techniques of value engineering to postal equipment and components during the development process to provide cost avoidance changes or modifications prior to finalization of drawings, specifications, and other engineering documentation.

(e) Monitors the analysis of all aspects of design, procurement, scheduling, manufacture, installation, and maintenance of postal equipment and components as a basis for: (1) Developing design alternatives; (2) improving specifications and quality control requirements; (3) substituting standard equipment and/or components; (4) using more cost effective materials; (5) assuring greater reliability and maintainability; and (6) eliminating marginal refinements.

(f) Plans for and develops procedures, instructions, and standards for the application of value engineering techniques to engineering activities of the Bureau.

(iii) *Engineering Standards Division.* Develops construction and fixed mechanization standards to secure uniform postal engineering requirements applicable to postal facilities, as follows:

(a) Develops standard construction details and manuals governing the design of structural, mechanical, and electrical systems for building structures.

(b) Develops standard drawings, engineering instructions and manuals of mechanical components for mail handling systems, and prepares standard drawings of proved design.

(c) Maintains liaison with other Bureaus and Government agencies in providing guidance and instructions for inclusion and coordination of technical standards for both buildings and mechanization.

(d) Reevaluates existing standards and reviews proposed construction and mechanization standards for flexibility, performance, and application to postal requirements.

(e) Prepares and maintains record of architectural and engineering standard drawings for inclusion in technical manuals for use of the Bureau of Research and Engineering and regional offices.

(f) Prepares standard contractural documents and specification guides for all types of construction, mail handling, and mechanical equipment.

(iv) *Engineering Evaluation Division.* This division performs engineering studies of completed building structures and installation of mail processing equipment to evaluate actual performance against design or planned performance. Results of these studies will be recorded in reports which contain, but are not limited to, appraisals of original design in comparison to actual performance. Representatives from the Bureau of Operations and the Industrial Engineering Staff will assist the evaluation team in on-site phases of the studies. The Engineering Evaluation Division has sole responsibility for these studies and reports but has no authority over operating matters nor over changes. Any changes to be made remain the responsibility of appropriate operating elements and will be made through normal channels or with the delegated authority of operating officials.

(a) Makes technical analyses of operating characteristics of completed buildings and equipment; prepares engineering evaluation reports.

(b) Develops method of comparisons of actual performance of building structures and equipment with original concept and design, considering impact of interim changes.

(c) Consults with local and regional personnel on performance of facility and equipment; informs appropriate Headquarters offices of problem areas requiring immediate attention.

(d) Develops and feeds back information for improving the procedures, engineering, design, and construction of future postal facilities and mechanization.

(v) *Construction Research Division.* (a) Establishes and implements research programs in construction technology and mechanization systems with the objective of achieving optimum installation and lower construction and maintenance costs.

(b) Performs research to solve operating problems or to develop improved methods for construction, mechanization, and related components such as air conditioning and lighting.

(c) Provides technical guidance and monitoring on contracts awarded to accomplish construction research.

(d) Coordinates with other Government agencies, testing laboratories, and industry research programs in current developments in construction and mechanization methods and materials.

(e) Provides technical consultation services within construction engineering and to other Bureaus and regional offices in areas related to the latest developments in design and construction technology.

(6) *Assistant Director—Construction—*(i) *Assistant Director.* Directs those phases of construction engineering concerned with building construction and mechanization installation. Maintains construction and installation liaison and coordination with various bureaus and regional and local personnel. Supervises the management, administration, field supervision, and scheduling of Headquarters projects on leased, Federal or General Services Administration construction. Establishes construction policy and criteria for timely quality construction.

(ii) *Building Division.* (a) Manages and supervises Departmental building construction projects including leased facilities, postal public buildings, and GSA projects which involve postal occupied space for both new construction, and major modernization and extension projects.

(b) Prepares and maintains building construction schedules; coordinates schedules with lessor or other bureaus; performs interim and final inspections for contract compliance and acceptance.

(c) Supervises and examines construction and installation of mechanical and electrical equipment and systems for compliance with contract documents and applicable codes; reviews and approves shop drawings of major pieces of mechanical and electrical equipment for design compliance.

(d) Provides estimates of material quantities, labor force requirements and related costs for forming preliminary schedule estimates, critical path method (CPM) reviews, and proposed departmental construction changes; examines all contractor cost proposals involving construction and utilities changes; certifies cost proposals to be fair and reasonable.

(iii) *Mechanization Division.* (a) Provides technical management, field supervision and administration of mail processing mechanization contracts for new and existing postal building construction projects; performs interim and final acceptance; inspections for contract compliance and recommends acceptance; conducts final warranty inspections and recommends final closeout of mechanization contracts.

(b) Reviews contract proposals for changes affecting costs and time elements, and recommends appropriate action on proposals to the contracting officer.

(c) Controls and negotiates field change orders within authorized monetary limitations.

(d) Reviews and certifies reasonableness of contractors' requests for progress payments, final acceptance, and contract closeout payments.

(e) Approves contract engineering drawings, calculations, and selection of manufactured equipment.

(f) Supervises and inspects for contract compliance the installation of electronic control systems for mail processing mechanization, including interim and final acceptance inspections of such installations as an adjunct to acceptance of the total mechanization installation. Assists in final warranty inspections.

(g) Provides detailed review and checking of contractors' engineering drawings, calculations, and equipment selection.

(h) Provides detailed mechanical and electrical estimating for change proposals and field change orders.

(i) Reviews contractor's spare parts lists and recommends spare parts purchases to local and regional officials and Maintenance Division, Bureau of Facilities.

(j) Establishes and maintains construction schedules; coordinates with contractors and other bureaus.

(iv) *Installations Liaison Division.* (a) Represents the Bureau of Research and Engineering as a participating member of the Department's occupancy committee.

(b) Provides Headquarters engineering personnel to furnish technical assistance to local management during initial mail processing systems start-up; coordinates necessary training, guidance, and instruction on operation of building utilities, maintenance, and other engineering matters.

(c) Coordinates major facility start-up operations with other Headquarters Bureaus and Offices, regions, and local officials.

(d) Provides Departmental, local and regional officials with updated construction and installation schedules, and informs the respective officials of dates

training and indoctrination should be completed.

(e) Provides feedback to construction engineering divisions on problem areas, design inconsistencies and other related engineering matters during phase-in period.

(f) Provides liaison, technical guidance, and assistance to regional engineering officers on regional delegated projects, during startup and phase-in periods.

(g) Coordinates communications, reports, and information between regional, local, and Headquarters engineering offices on projects in startup phase.

(5 U.S.C. 301, 39 U.S.C. 501)

TIMOTHY J. MAY,
General Counsel.

JANUARY 14, 1969.

[F.R. Doc. 69-719; Filed, Jan. 17, 1969; 8:49 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 8—Veterans Administration

PART 8-1—GENERAL

Disputes Clause

Section 8-1.318 is revised and renumbered 8-1.318-1 so that the revised section reads as follows:

§ 8-1.318 Disputes clause.

§ 8-1.318-1 Contracting officer's final decision under a Disputes clause.

(a) When a dispute cannot be settled by agreement and a final decision under the Disputes clause of the contract is necessary, the contracting officer shall furnish the contractor his final decision in the matter.

(b) The decision must be identified as a final decision, be in writing, and include a statement of facts in sufficient detail to enable the contractor to fully understand the decision and the basis on which it was made. It will normally be in the form of a statement of the claim or other description of the dispute with necessary references to the pertinent contract provisions. It will set forth those facts relevant to the dispute, with which the contractor and the contracting officer are in agreement and, as clearly as possible, the area of disagreement.

(c) The decision shall, in addition to the material required by FPR 1-1.318-1 (a), contain the following:

The Veterans Administration Contract Appeals Board (VACAB) is the authorized representative of the Administrator for hearing and determining such disputes. The rules of the VACAB are published in § 1.774, Title 38, Code of Federal Regulations.

(d) The contracting officer's final decision will be forwarded to the contractor by certified mail, return receipt requested.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

This regulation is effective immediately.

Approved: January 16, 1969.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-729; Filed, Jan. 17, 1969; 8:50 a.m.]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 8 is amended to read as follows:

PART 8-7—CONTRACT CLAUSES

1. In § 8-7.650-16, paragraph (c) is amended and paragraph (d) is revoked to read as follows:

§ 8-7.650-16 Supplementary labor standards.

* * * * *

(c) *Payrolls and basic records.* The contractor shall submit copies of payrolls required by Clause 4(b) of Standard Form 19-A to the contracting officer through the resident engineer or engineer officer, when acting in that capacity, within seven (7) days after the close of the weekly payroll period. Department of Labor Form WH-347, available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, may be used for this purpose. If, however, the contractor or subcontractor elects to use his own payroll form, it shall contain the same information shown on Form WH-347, and in addition be accompanied by Department of Labor Form WH-348, Statement of Compliance, or any other form containing the exact wording of this form.

(d) [Revoked]

PART 8-11—FEDERAL, STATE, AND LOCAL TAXES

2. In § 8-11.502-1, paragraph (b) is amended to read as follows:

§ 8-11.502-1 Types of evidence of exemption.

* * * * *

(b) *Whiskey, alcohol, specially denatured alcohol and denatured alcohol.* Authority is hereby delegated to the Chief, Marketing Division for Drugs and Chemicals, Veterans Administration Marketing Center, Hines, Ill., and one senior contracting officer of that division to sign application permits on Treasury Department prescribed forms, which are continuing permits to procure these items tax free from bonded warehouses. Each procurement will be supported by the proper Treasury Department permit form.

* * * * *

PART 8-12—LABOR

3. In § 8-12.404-1, paragraph (c) is amended to read as follows:

§ 8-12.404-1 General.

* * * * *

(c) The preconstruction conference or letter will also be used to discuss the information required to be shown on payrolls submitted by the contractor. The model Payroll Form WH-347 and Statement of Compliance Form WH-348, developed by the Department of Labor, will be used as the basis of the discussion. Copies of these forms may be furnished the contractor for his information. Sample Forms WH-347, 348 and WH-347 Inst., Instruction for Completing Payroll Form WH-347, may be obtained from the Forms and Publications Depot in the usual manner. The attention of the contractor will be invited to the instructions contained in Form WH-347 Inst.

4. In § 8-12.404-6, paragraph (a) is amended to read as follows:

§ 8-12.404-6 Payrolls and statements.

(a) The examination required by FPR 1-12.404-6 will be made by the resident engineer or the engineer officer as appropriate. This official shall assure himself that each pay period is accounted for and that each weekly payroll contains the information as required by § 8-7.650-16(c) of this chapter.

* * * * *

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective immediately.

Approved: January 14, 1969.

By direction of the Administrator.

[SEAL] A. W. STRATTON,
Deputy Administrator.

[F.R. Doc. 69-718; Filed, Jan. 17, 1969; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 23—SURFACE EXPLORATION, MINING AND RECLAMATION OF LANDS

On November 2, 1968, a notice of rule making was published in the FEDERAL REGISTER (33 F.R. 16121-16124), which proposed the addition of a new Part 23 to Title 43, Code of Federal Regulations, relating to the surface exploration and mining of minerals and reclamation of mined lands, and which represented a revision of proposed rule making published in the FEDERAL REGISTER, Vol. 32, No. 139 on July 20, 1967. Interested parties were invited to submit written comments, suggestions or objections with respect to the revised proposed regulations within 30 days after publication in the FEDERAL REGISTER. On November 30, 1968 notice of an extension of time for the submission of comments through December 16, 1968, was published in the FEDERAL REGISTER, Vol. 33, No. 233, p. 17853.

Careful consideration was given to the comments received, and several revisions were made as a result of those comments. Among the revisions are the following:

a. A clarification of the intent of the regulations not to cover minerals under the Materials Act which are under the jurisdiction of the Secretary of Agriculture, or minerals underlying lands not owned by the United States;

b. Further clarification of the intent of the regulations not to have any retroactive effect;

c. Stipulation that, if an application or offer is made under the Mineral Leasing Act for Acquired Lands and the lands are under the jurisdiction of an agency other than the Department of the Interior, the general requirements must incorporate provisions prescribed by that agency.

d. Stipulation that, if an application or offer is made under the Mineral Leasing Act or the Materials Act and the lands are under the jurisdiction of an agency other than the Department of the Interior, the district manager shall consult representatives of that agency to obtain recommendations for provisions to be incorporated in the general requirements. In such cases, if the district manager does not concur in the recommendations of the agency administering the lands, the issues shall be referred for resolution to the Under Secretary of the Department of the Interior and the comparable officer of the agency administering the lands. In cases of disagreement, a final determination shall be made by the Secretary of the Interior.

e. Description in greater detail of the provisions for an exploration plan, listing the types of information which may be required in such a plan;

f. Revisions to strengthen the intent to encourage prompt action on the part of Federal officials in their review of exploration and mining plans, including additions and supplements to mining plans, and in their response to proposed plans, additions and supplements;

g. Revisions to the provisions for performance bonds, to clarify their purpose, to allow deposit of cash or U.S. bonds in lieu of a performance bond;

h. Substitution of a new section on appeals, providing identical prodedures for appeals from decisions or orders of either a district manager or a mining supervisor, and including provision for a discretionary hearing before a field commissioner;

i. Other revisions chiefly of a technical or administrative nature.

A new Part 23 is hereby added to Title 43 Code of Federal Regulations, to become effective upon publication in the FEDERAL REGISTER.

The new regulations are set forth below.

DAVID S. BLACK,
Under Secretary of the Interior.

JANUARY 15, 1969.

Sec.
23.1 Purpose.
23.2 Scope.
23.3 Definitions.
23.4 Application for permission to conduct exploration operations.
23.5 Technical examination of prospective surface exploration and mining operations.
23.6 Basis for denial of a permit, lease, or contract.
23.7 Approval of exploration plan.
23.8 Aproval of mining plan.
23.9 Performance bond.
23.10 Reports: Inspection.
23.11 Notice of noncompliance: Revocation.
23.12 Appeals.
23.13 Consultation.

AUTHORITY: The provisions of this Part 23 issued under sec. 32, 41 Stat. 450, as amended, 30 U.S.C. 189; sec. 5, 44 Stat. 1058, 30 U.S.C. 285; sec. 10, 61 Stat. 915, 30 U.S.C. 359; 61 Stat. 681, as amended, 30 U.S.C. 601; and sec. 2, 48 Stat. 1270, 43 U.S.C. 315.

§ 23.1 Purpose.

It is the policy of this Department to encourage the development of the mineral resources under its jurisdiction where mining is authorized. However, the public interest requires that, with respect to the exploration for, and the surface mining of, such minerals, adequate measures be taken to avoid, minimize, or correct damage to the environment—land, water, and air—and to avoid, minimize, or correct hazards to the public health and safety. The regulations in this part prescribe procedures to that end.

§ 23.2 Scope.

(a) Except as provided in paragraphs (b) and (c) of this section, the regulations in this part provide for the protection and conservation of nonmineral resources during operations for the discovery, development, surface mining, and onsite processing of minerals under permits, leases, or contracts issued pursuant to: The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181–287); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359); the Materials Act of July 31, 1947, as amended (30 U.S.C. 601–604); and title 23, United States Code, section 317, relating to appropriation for highway purposes of lands owned by the United States.

(b) The regulations in this part do not cover the exploration for oil and gas or the issuance of leases, or operations thereunder, for oil and gas under the mineral leasing acts, which are covered by regulations in Subpart 3107 and Part 3120 of this title and 30 CFR Part 221; neither do they cover minerals underlying Indian tribal or allotted lands, which are subject to regulations in Title 25 CFR, nor minerals subject to the general mining laws (30 U.S.C. 21–54); nor minerals under the Materials Act which are under the jurisdiction of the Secretary of Agriculture (74 Stat. 205); nor minerals underlying lands, the surface of which is not owned by the U.S. Government.

(c) When more than one permit or contract is expected to be issued to dispose of materials in a particular deposit or tract of land, such as community pits or common use areas, no requirement for reclamation will be made in such permits or contracts and the burden of reclamation will be assumed by the Government. Where reclamation is not required because more than one permit or contract is expected to be issued, there shall be added to the sales price under each permit or contract a reasonable charge to defer the cost of reclamation. In computing such added charge, the authorized officer shall establish the estimated cost of reclamation upon completion of extractive operations for the deposit and the estimated total volume of material to be extracted. The added charge shall be a proportionate share of the estimated cost of reclamation in the same ratio as the material sold under the permit or contract bears to the total estimated volume of the deposit which is expected to be extracted.

(d) The regulations in this part shall apply only to permits, leases, or contracts issued subsequent to the date on which the regulations become effective.

§ 23.3 Definitions.

As used in the regulations in this part:

(a) "Mineral leasing acts" means the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181–287) and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359);

(b) "Materials Act" means the Act of July 31, 1947, as amended (30 U.S.C. 601–604);

(c) "Mining supervisor" means the Regional Mining Supervisor, or his authorized representative, of the Geological Survey authorized as provided in 30 CFR 211.3 and 231.2 to supervise operations on the land covered by a permit or lease;

(d) "District manager" means the manager of the district office or other authorized officer of the Bureau of Land Management having administrative jurisdiction of and responsibility for the land covered by a permit, lease, contract, application, or offer;

(e) "Overburden" means all the earth and other materials which lie above a natural deposit of minerals and such earth and other materials after removal from their natural state in the process of mining;

(f) "Area of land to be affected" or "area of land affected" means the area of land from which overburden is to be or has been removed and upon which the overburden or waste is to be or has been deposited, and includes all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to an operation and for haulage;

(g) "Operation" means all of the premises, facilities, roads, and equipment used in the process of determining the location, composition or quality of a mineral deposit, or in developing, extracting, or onsite processing of a mineral deposit in a designated area;

(h) "Method of operation" means the method or manner by which a cut or open pit is made, the overburden is placed or handled, water is controlled or affected and other acts performed by the operator in the process of exploring or uncovering and removing or onsite processing of a mineral deposit;

(i) "Holder" or "operator" means the permittee, leasee, or contractor designated in a permit, lease, or contract;

(j) "Reclamation" means measures undertaken to bring about the necessary reconditioning or restoration of land or water that has been affected by exploration or mineral development, mining or onsite processing operations, and waste disposal, in ways which will prevent or control onsite and offsite damage to the environment.

§ 23.4 Application for permission to conduct exploration operations.

No person shall, in any manner or by any means which will cause the surface of lands to be disturbed, explore, test, or prospect for minerals (other than oil and gas) subject to disposition under the mineral leasing acts or the Materials Act without first filing an application for, and obtaining, a permit, lease or contract which authorizes such exploring, testing, or prospecting.

§ 23.5 Technical examination of prospective surface exploration and mining operations.

(a) (1) In connection with an application for a permit or lease under the mineral leasing acts or an application for a permit or an offer to make a contract under the Materials Act, the district manager shall make, or cause to be made, a technical examination of the prospective effects of the proposed exploration or surface mining operations upon the environment. The technical examination shall take into consideration the need for the preservation and protection of other resources, including recreational, scenic, historic, and ecological values; the control of erosion, flooding, and pollution of water; the isolation of toxic materials; the prevention of air pollution; the reclamation by revegetation, replacement of soil, or by other means, of lands affected by the exploration or mining operations; the prevention of slides; the protection of fish and wildlife and their habitat; and the prevention of hazards to public health and safety.

(2) A technical examination of an area should be made with the recognition that actual potential mining sites and mining operations vary widely with respect to topography, climate, surrounding land uses, proximity to densely used areas, and other environmental influences and that mining and reclamation requirements should provide sufficient flexibility to permit adjustment to local conditions.

(b) Based upon the technical examination, the district manager shall formulate the general requirements which the applicant must meet for the protection of nonmineral resources during the conduct of exploration or mining operations and for the reclamation of lands or waters affected by exploration or mining operations. The general requirements shall be made known in writing to the applicant before the issuance of a permit or lease or the making of a contract, and upon acceptance thereof by the applicant, shall be incorporated in the permit, lease, or contract. If an application or offer is made under the Mineral Leasing Act for Acquired Lands and if the lands are under the jurisdiction of an agency other than the Department of the Interior, the requirements must incorporate provisions prescribed by that agency. If the application or offer is made under the Mineral Leasing Act of February 25, 1920, or the Materials Act, and if the lands are under the jurisdiction of an agency other than the Department of the Interior, the district manager shall consult representatives of the agency administering the land and obtain their recommendations for provisions to be incorporated in the general requirements. If the district manager does not concur in the recommendations, the issues shall be referred for resolution to the Under Secretary of the Department of the Interior and the comparable officer of the agency submitting the recommendations. In the case of disagreement on the issues which are so referred, the Secretary of the Interior shall make a determination on the recommendations which shall be final and binding.

(c) In each instance in which an application or offer is made under the mineral leasing acts, the mining supervisor shall participate in the technical examination and in the formulation of the general requirements. If the lands covered by an application or offer are under the jurisdiction of a bureau of the Department of the Interior other than the Bureau of Land Management, the district manager shall consult representatives of the bureau administering the land. If the lands covered by the application or offer are under the jurisdiction of an agency other than the Department of the Interior and that agency makes a technical examination of the type provided for in paragraph (a) of this section, district managers and mining supervisors are authorized to participate in that examination.

(d) Whenever it is determined that any part of the area described in an application or offer for a permit, lease, or contract is such that previous experience under similar conditions has shown that operations cannot feasibly be conducted by any known methods or measures to avoid—

(1) Rock or landslides which would be a hazard to human lives or endanger or destroy private or public property; or

(2) Substantial deposition of sediment and silt into streams, lakes, reservoirs; or

(3) A lowering of water quality below standards established by the appropriate State water pollution control agency, or by the Secretary of the Interior; or

(4) A lowering of the quality of waters whose quality exceeds that required by the established standards—unless and until it has been affirmatively demonstrated to the State water pollution control agency and to the Department of the Interior that such lowering of quality is necessary to economic and social development and will not preclude any assigned uses made of such waters; or

(5) The destruction of key wildlife habitat or important scenic, historical, or other natural or cultural features; the district manager may prohibit or otherwise restrict operations on such part of an area.

(e) If, on the basis of a technical examination, the district manager determines that there is a likelihood that there will be a lowering of water quality as described in paragraphs (d) (3) and (4) of this section caused by the operation, no lease or permit shall be issued or contract made until after consultation with the Federal Water Pollution Control Administration and a finding by the Administration that the proposed operation would not be in violation of the Federal Water Pollution Control Act, as amended (33 U.S.C. sec. 466 et seq.) or of Executive Order No. 11288 (31 F.R. 9261). Where a permit or lease is involved the district manager's determination shall be made in consultation with the mining supervisor.

(f) Each notice of a proposed appropriation of a materials site filed by the Department of Transportation under 23 U.S.C. 317 shall be transmitted to the proper district manager. The district manager shall cause a technical examination to be made as provided in paragraph (a) of this section and shall formulate the requirements which the State highway department or its nominee must meet. If the land covered by the proposed appropriation is under the jurisdiction of a bureau of the Department other than the Bureau of Land Management, the district manager shall consult representatives of the bureau administering the land. If the district manager determines, or, in an instance in which the land is administered by another bureau, a representative of that bureau determines that the proposed appropriation is contrary to the public interest or is inconsistent with the purposes for which such land or materials are reserved, the district manager shall promptly submit the matter to the Secretary of the Interior for his decision. In other instances, the district manager shall notify the Department of Transportation of the requirements and conditions which the State highway department or its nominee must meet.

§ 23.6 Basis for denial of a permit, lease, or contract.

An application or offer for a permit, lease, or contract to conduct exploratory or extractive operations may be denied any applicant or offeror who has forfeited a required bond because of failure to comply with an exploration or mining plan. However, a permit, lease, or contract may not be denied an applicant or offeror because of the forfeiture of a bond if the lands disturbed under his previous permit, lease, or contract have subsequently been reclaimed without cost to the Federal Government.

§ 23.7 Approval of exploration plan.

(a) Before commencing any surface disturbing operations to explore, test, or prospect for minerals covered by the mineral leasing acts the operator shall file with the mining supervisor a plan for the proposed exploration operations.

The mining supervisor shall consult with the district manager with respect to the surface protection and reclamation aspects before approving said plan.

(b) Before commencing any surface disturbing operations to explore, test, or prospect for materials covered by the Materials Act the operator shall file with the district manager a plan for the proposed exploration operations.

(c) Depending upon the size and nature of the operation and the requirements established pursuant to § 23.5 the mining supervisor or the district manager may require that the exploration plan submitted by the operator include any or all of the following:

(1) A description of the area within which exploration is to be conducted;

(2) Two copies of a suitable map or aerial photograph showing topographic, cultural and drainage features;

(3) A statement of proposed exploration methods, i.e. drilling, trenching, etc., and the location of primary support roads and facilities;

(4) A description of measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife or other natural resources, and hazards to public health and safety both during and upon abandonment of exploration activities.

(d) The mining supervisor or the district manager shall promptly review the exploration plan submitted to him by the operator and shall indicate to the operator any changes, additions, or amendments necessary to meet the requirements formulated pursuant to § 23.5, the provisions of the regulations in this part, and the terms of the permit.

(e) The operator shall comply with the provisions of an approved exploration plan. The mining supervisor and the district manager may, with respect to such a plan, exercise the authority provided by paragraphs (f) and (g) of § 23.8 respecting a mining plan.

§ 23.8 Approval of mining plan.

(a) (1) Before surface mining operations may commence under any permit or lease issued under the mineral leasing acts the operator must file a mining plan with the mining supervisor and obtain his approval of the plan. Paragraphs (b) through (g) of this section confer authority upon mining supervisors with respect to mining plans pertaining to permits or leases issued under the mineral leasing acts. The mining supervisor shall consult with the district manager with respect to the surface protection and reclamation aspects before approving said plan.

(2) Before surface mining operations may commence under any permit issued or contract made under the Materials Act, the operator must file a mining plan with the district manager and obtain his approval of the plan. Paragraphs (b) through (g) of this section confer authority upon district managers with respect to mining plans pertaining to permits issued or contracts made under the Materials Act.

(b) Depending on the size and nature of the operation and the requirements established pursuant to § 23.5, the mining supervisor or the district manager may require that the mining plan submitted by the operator include any or all of the following:

(1) A description of the location and area to be affected by the operations;

(2) Two copies of a suitable map, or aerial photograph showing the topography, the area covered by the permit, lease, or contract, the name and location of major topographic and cultural features, and the drainage plan away from the area to be affected;

(3) A statement of proposed methods of operating, including a description of proposed roads or vehicular trails; the size and location of structures and facilities to be built;

(4) An estimate of the quantity of water to be used and pollutants that are expected to enter any receiving waters;

(5) A design for the necessary impoundment, treatment or control of all runoff water and drainage from workings so as to reduce soil erosion and sedimentation and to prevent the pollution of receiving waters;

(6) A description of measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife, and hazards to public health and safety; and

(7) A statement of the proposed manner and time of performance of work to reclaim areas disturbed by the holder's operation.

(c) In those instances in which the permit, lease, or contract requires the revegetation of an area of land to be affected the mining plan shall show:

(1) Proposed methods of preparation and fertilizing the soil prior to replanting;

(2) Types and mixtures of shrubs, trees, or tree seedlings, grasses or legumes to be planted; and

(3) Types and methods of planting, including the amount of grasses or legumes per acre, or the number and spacing of trees, or tree seedlings, or combinations of grasses and trees.

(d) In those instances in which the permit, lease, or contract requires regrading and backfilling, the mining plan shall show the proposed methods and the timing of grading, and backfilling of areas to be affected by the operation.

(e) The mining supervisor or the district manager shall review the mining plan submitted to him by the operator and shall promptly indicate to the operator any changes, additions, or amendments necessary to meet the requirements formulated pursuant to § 23.5, the provisions of the regulations in this part and the terms of the permit, lease, or contract. The operator shall comply with the provisions of an approved mining plan.

(f) A mining plan may be changed by mutual consent of the mining supervisor or the district manager and the operator at any time to adjust to changed conditions or to correct any oversight. To obtain approval of a change or supplemental plan the operator shall submit a written statement of the proposed changes or supplement and the justification for the changes proposed. The mining supervisor or the district manager shall promptly notify the operator that he consents to the proposed changes or supplement or, in the event he does not consent, he shall specify the modifications thereto under which the proposed changes or supplement would be acceptable. After mutual acceptance of a change of a plan the operator shall not depart therefrom without further approval.

(g) If circumstances warrant, or if development of a mining plan for the entire operation is dependent upon unknown factors which cannot or will not be determined except during the progress of the operations, a partial plan may be approved and supplemented from time to time. The operator shall not, however, perform any operation except under an approved plan.

§ 23.9 Performance bond.

(a) (1) Upon approval of an exploration plan or mining plan, the operator shall be required to file a suitable performance bond of not less than $2,000 with satisfactory surety, payable to the Secretary of the Interior, and the bond shall be conditioned upon the faithful compliance with applicable regulations, the terms and conditions of the permit, lease, or contract, and the exploration or mining plan as approved, amended or supplemented. The bond shall be in an amount sufficient to satisfy the reclamation requirements of an approved exploration or mining plan, or an approved partial or supplemental plan. In determining the amount of the bond consideration shall be given to the character and nature of the reclamation requirements and the estimated costs of reclamation in the event that the operator forfeits his performance bond.

(2) In lieu of a performance bond an operator may elect to deposit cash or negotiable bonds of the U.S. Government. The cash deposit or the market value of such securities shall be equal at least to the required sum of the bond.

(b) A bond may be a nationwide or statewide bond which the operator has filed with the Department under the provisions of the applicable leasing regulations in Subchapter C of Chapter II of this title, if the terms and conditions thereof are sufficient to comply with the regulations in this part.

(c) The district manager shall set the amount of a bond and take the necessary action for an increase or for a complete or partial release of a bond. He shall take action with respect to bonds for leases or permits only after consultation with the mining supervisor.

§ 23.10 Reports: Inspection.

(a) (1) The holder of a permit or lease under the mineral leasing acts shall file the reports required by this section with the mining supervisor. The holder of a permit or a party to a contract under the Materials Act shall file such reports with the district manager.

(2) The provisions of this section confer authority and impose duties upon mining supervisors with respect to permits or leases issued under the mineral leasing acts and upon district managers with respect to permits issued or contracts made under the Materials Act.

(b) Operations report: Within 30 days after the end of each calendar year, or if operations cease before the end of a calendar year, within 30 days after the cessation of operations, the operator shall submit an operations report containing the following information:

(1) An identification of the permit, lease, or contract and the location of the operation;

(2) A description of the operations performed during the period of time for which the report is filed;

(3) An identification of the area of land affected by the operations and a description of the manner in which the land has been affected;

(4) A statement as to the number of acres disturbed by the operations and the number of acres which were reclaimed during the period of time;

(5) A description of the method utilized for reclamation and the results thereof;

(6) A statement and description of reclamation work remaining to be done.

(c) Grading and backfilling report: Upon completion of such grading and backfilling as may be required by an approved exploration or mining plan, the operator shall make a report thereon and request inspection for approval. Whenever it is determined by such inspection that backfilling and grading has been carried out in accordance with the established requirements and approved exploration or mining plan, the district manager shall issue a release of an appropriate amount of the performance bond for the area graded and backfilled. Appropriate amounts of the bond shall be retained to assure that satisfactory planting, if required, is carried out.

(d) Planting report: (1) Whenever planting is required by an approved exploration or mining plan, the operator shall file a report with the mining supervisor or district manager whenever such planting is completed. The report shall—

(i) Identify the permit, lease, or contract;

(ii) Show the type of planting or seeding, including mixtures and amounts;

(iii) Show the date of planting or seeding;

(iv) Identify or describe the areas of the lands which have been planted;

(v) Contain such other information as may be relevant.

(2) The mining supervisor or district manager, as soon as possible after the completion of the first full growing season, shall make an inspection and evaluation of the vegetative cover and planting to determine if a satisfactory growth has been established.

(3) If it is determined that a satisfactory vegetative cover has been established and is likely to continue to grow, any remaining portion of the performance bond may be released if all requirements have been met by the operator.

(e) Report of cessation or abandonment of operations: (1) Not less than 30 days prior to cessation or abandonment of operations, the operator shall report his intention to cease or abandon operations, together with a statement of the exact number of acres of land affected by his operations, the extent of reclamation accomplished and other relevant information.

(2) (i) Upon receipt of such report the mining supervisor or the district manager shall make an inspection to determine whether operations have been carried out and completed in accordance with the approved exploration or mining plan.

(ii) Whenever the lands in a permit, lease or contract issued under the mineral leasing acts or the Materials Act are under the jurisdiction of a bureau of the Department of the Interior other than the Bureau of Land Management the mining supervisor or the district manager, as appropriate, shall obtain the concurrence of the authorized officer of such bureau that the operation has been carried out and completed in accordance with the approved exploration or mining plan with respect to the surface protection and reclamation aspects of such plan before releasing the performance bond.

(iii) Whenever the lands in a permit, lease or contract issued under the Mineral Leasing Act of 1920 or the Materials Act are under the jurisdiction of an agency other than the Department of the Interior, the mining supervisor or the district manager, as appropriate, shall consult representatives of the agency administering the lands and obtain their recommendations as to whether the operation has been carried out and completed in accordance with the approved exploration or mining plan with respect to the surface protection and reclamation aspects of such plan before releasing the performance bond. If the mining supervisor or district manager, as appropriate, do not concur in the recommendations of the agency regarding compliance with the surface protection and reclamation aspects of the approved exploration or mining plan, the issues shall be referred for resolution to the Under Secretary of the Department of the Interior and the comparable officer of the agency submitting the recommendations. In the case of disagreement on issues which are so referred, the Secretary of the Interior shall make a determination which shall be final and binding. In cases in which the recommendations are not concurred in by the mining supervisor or district manager, the performance bond shall not be released until resolution of the issues or until a final determination by the Secretary of the Interior.

(iv) Whenever the lands in a permit or lease issued under the Mineral Leasing Act for Acquired Lands are under the jurisdiction of an agency other than the Department of the Interior, the mining supervisor or the district manager, as appropriate, shall obtain the concurrence of the authorized officer of such agency that the operation has been carried out and completed in accordance with the approved exploration or mining plan with respect to the surface protection and reclamation aspects of such plan before releasing the performance bond.

§ 23.11 Notice of noncompliance: Revocation.

(a) The provisions of this section confer authority and impose duties upon mining supervisors with respect to permits or leases issued under the mineral leasing acts and upon district managers with respect to permits issued or contracts made under the Materials Act. The mining supervisor shall consult with the district manager before taking any action under this section.

(b) The mining supervisor or district manager shall have the right to enter upon the lands under a permit, lease, or contract, at any reasonable time, for the purpose of inspection or investigation to determine whether the terms and conditions of the permit, lease, or contract, and the requirements of the exploration or mining plan have been complied with.

(c) If the mining supervisor or the district manager determines that an operator has failed to comply with the terms and conditions of a permit, lease, or contract, or with the requirements of an exploration or mining plan, or with the provisions of applicable regulations under this part the supervisor or manager shall serve a notice of noncompliance upon the operator by delivery in person to him or his agent or by certified or registered mail addressed to the operator at his last known address.

(d) A notice of noncompliance shall specify in what respects the operator has failed to comply with the terms and conditions of a permit, lease, or contract, or the requirements of an exploration or mining plan, or the provisions of applicable regulations, and shall specify the action which must be taken to correct the noncompliance and the time limits within which such action must be taken.

(e) Failure of the operator to take action in accordance with the notice of noncompliance shall be grounds for suspension by the mining supervisor or the district manager of operations or for the initiation of action for the cancellation of the permit, lease, or contract and for forfeiture of the performance bond required under § 23.9.

§ 23.12 Appeals.

(a) A person adversely affected by a decision or order of a district manager or of a mining supervisor made pursuant to the provisions of this part shall have a right of appeal to the Director of the Bureau of Land Management whenever the decision appealed from was rendered by a district manager, or to the Director of the Geological Survey if the decision or order appealed from was rendered by a mining supervisor, and the further right to appeal to the Secretary of the Interior from an adverse decision of either Director unless such decison was approved by the Secretary prior to promulgation.

(b) Appeals to Director, Bureau of Land Management, or to Director, Geological Survey, and appeals to the Secretary shall be made pursuant to procedures and requirements of Parts 1840 and 1850 of this title, except that for the purposes of an appeal taken from a decision or order of a mining supervisor made pursuant to this part:

(1) The term "Director" wherever it occurs in Part 1850 or 1850 of this title shall mean the Director of the Geological Survey.

(2) The term "Field Commissioner" shall include a person designated by the Director of the Geological Survey to hold a hearing.

(3) Whenever the provisions of Parts 1840 and 1850 of this title require that a document be filed in the Office of the Director, such documents shall be filed in the Office of the Director, Geological Survey (Address: Director, Geological Survey, Washington, D.C. 20240).

(c) In any case involving a permit, lease or contract for lands under the jurisdiction of an agency other than the Department of the Interior, or a bureau of the Department of the Interior other than the Bureau of Land Management, the officer rendering a decision or order shall, in the event of an appeal from such decision or order, designate the authorized officer of such agency as an adverse party on whom a copy of a notice of appeal and any statement of reasons, written arguments or briefs must be served.

(d) Hearings to present evidence on an issue of fact before a Field Commissioner designated by the appropriate Director shall be conducted pursuant to the requirements and procedures set forth in Part 1850 of this title.

§ 23.13 Consultation.

Whenever the lands included in a permit, lease, or contract are under the jurisdiction of an agency other than the Department of the Interior or under the jurisdiction of a bureau of the Department of the Interior other than the Bureau of Land Management, the mining supervisor or the district manager, as appropriate, shall consult the authorized officer of such agency before taking any final action under §§ 23.7, 23.8, 23.10 (c) and (d) (2) and (3), and 23.11(c).

[F.R. Doc. 69-747; Filed, Jan. 17, 1969; 8:51 a.m.]

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

[Circular No. 2257]

OUTDOOR RECREATION

The purpose of these regulations is to provide for protection, enhancement, and management of outdoor recreation resources and natural values and for public use of the outdoor recreation resources of the public lands. In order to coordinate the Bureau's outdoor recreation programs, the regulations in 43 CFR Subpart 2236 are also amended to include special provisions for commercial facilities and services, and for sports events, races, and rallies.

These rules involve matters relating to public property and are not required to be published as proposed rule making. Accordingly, these regulations shall become effective on the date of publication in the FEDERAL REGISTER.

SUBCHAPTER B—LAND TENURE MANAGEMENT (2000)

PART 2230—SPECIAL USES

Subpart 2236—Permits

1. Section 2236.0–5 is amended by the addition of paragraphs (d) and (e) to read as follows:

§ 2236.0–5 Definitions.

* * * * *

(d) The term "commercial facilities and services" means accommodations, equipment, and other related supplies and services provided by a private entrepreneur, whether an individual, group, association or qualified corporation, to facilitate public use of outdoor recreation resources. These facilities and services may include but are not limited to: Resorts, hotels, motels, trailer camps, restaurants, stores, automotive and transportation services, guide and outfitter services, marinas, and ski slopes including lifts and tows.

(e) The term "sports events, races and rallies" means any outdoor sports event, including motorized vehicular events.

2. Section 2236.1–3 is amended by the addition of paragraph (d) to read as follows:

§ 2236.1–3 Permits and renewals.

* * * * *

(d) The applicant shall agree and stipulate that the Federal Government, Department of the Interior and the Bureau of Land Management and its representatives shall not be responsible for damage or injury to persons and property which may occur during the permitted use period or as a result of such use.

3. Sections 2236.2–3 and 2236.2–4 are added to read as follows:

§ 2236.2–3 Commercial facilities and services.

(a) *Applicability of general regulations.* All of the general provisions of § 2236.1 not inconsistent with the special provisions relating to permits for the provision of commercial facilities and services are applicable to such permits.

(b) *Applications.* In addition to the requirements of § 2236.1, each application for a special land use permit to provide commercial facilities and services to the public must be accompanied by three copies of a statement describing (1) the proposed use of the lands, (2) public services to be provided, (3) estimated capital investment, and (4) a showing that the application involves an established or definitely proposed project. The application shall include sufficient detail concerning the plan of development to describe the facilities and/or services and their purpose adequately.

(c) *Additional requirements.* Rental charges: Rental payments to the Government for permits shall provide a fair return to the United States.

(d) *Terms and conditions of permits.*—(1) *Protection.* Each permit issued by the authorized officer will contain provisions deemed necessary to protect the public health and safety, and will provide for periodic inspections for compliance.

(2) *Stipulations.* Each permit to provide commercial facilities and services shall contain stipulations requiring conformance with reasonable public service rules, schedules, or charges, and any other provisions necessary to protect the public interest and the public values in the lands, as may be determined by the authorized officer.

§ 2236.2–4 Sports events, races and rallies.

(a) *Applicability of general regulations.* All of the general provisions of § 2236.1 not inconsistent with the special provisions relating to permits for sports events, races, and rallies are applicable to such permits.

(b) *Additional requirements.* In addition to the requirements of § 2236.1 each application for a special land use permit for a sports event, race, rally, meet, or other contest or event shall be accompanied by three copies of:

(1) A map or diagram of the proposed route of the event in sufficient detail for an on-the-ground inspection of the proposed route or location of the event.

(2) A description of the purpose of the event and estimated number of persons participating.

(3) A description, if motorized vehicles are involved, of the type and estimated number of vehicles participating.

(c) *Terms and conditions.* (1) Notwithstanding any other provision of this subpart, the authorized officer may reject any application for any activity which he considers will constitute undue hazard to participants and spectators or will irreparably impair scenic and other values.

(2) The authorized officer may require a surety bond before issuing a permit under this section. This bond shall insure:

(i) Cleanup of litter and removal of all markers or other temporary installations.

(ii) Repair of any improvements damaged as a result of the permitted use.

(iii) Restoration of any lands requiring stabilization as a result of the event.

(3) The authorized officer is authorized to release a permittee from the bond, when all terms and conditions are met.

Subchapter F is revised to read as follows:

SUBCHAPTER F—OUTDOOR RECREATION AND WILDLIFE MANAGEMENT (6000)

Group 6000—Outdoor Recreation

PART 6000—OUTDOOR RECREATION; GENERAL

Sec.

Sec.
6000.0–4 Responsibility.
6000.0–6 Management policy.

AUTHORITY: The provisions of this Part 6000 issued under secs. 1, 3, 5, 50 Stat. 874, 875; 43 U.S.C. 1181a, 1181c, 1181e; R.S. 2478; 43 U.S.C. 1201.

§ 6000.0–1 Purpose.

The lands administered by the Bureau of Land Management are used and managed for a variety of purposes which are described in Subpart 1725 of this chapter. The regulations in this subchapter relate to the use and development of these lands for outdoors recreation purposes. The regulations also identify circumstances under which use of such lands may be restricted in order to protect the public health and safety, and natural resources and values.

§ 6000.0–2 Objective.

The Bureau shall manage lands to promote public use and enjoyment of the lands for outdoor recreation use in a manner which will protect the health, safety, and comfort of the public and preserve and protect natural resources and values.

§ 6000.0–4 Responsibility.

(a) Except where specified to the contrary, the authority of the Secretary of the Interior to develop, manage, authorize the use, and stipulate the terms and conditions of such use of lands, and make other determinations in accordance with the regulations of this part has been delegated to authorized officers of the Bureau of Land Management.

(b) The using public has the responsibility to use the lands in a manner which will permit maximum use and enjoyment by all, and will protect and preserve the lands, their resources, and any public recreation facility or value which is added thereon.

§ 6000.0–6 Management policy.

(a) Subpart 1725 of this chapter describes the program and multiple-use management policy for public lands, including the development of recreational resources, consistent with the economic and effective development and management of public lands, for use by the public.

(b) Encouragement will be given to State and local governments and private agencies to develop additional public recreation facilities when such development is consistent with long-range management plans and programs of the Bureau.

(c) Priority will be given to:

(1) Recreation development and enhancement as follows:

(i) Undeveloped sites currently under heavy, uncontrolled use that threatens public health and safety or damage to the recreation resource.

(ii) Areas in localities where public recreational demand exceeds available opportunities and facilities.

(iii) Areas adjacent to heavily traveled routes or highways near urban areas, bodies of water, and unique scenic attractions.

(2) Preservation and protection of natural and cultral resources, including but not limited to scientific, scenic, historic, and archeological values, and primitive environments.

(d) Reasonable fees in accordance with Part 18 of this title may be established and collected by the authorized officer.

PART 6010—GENERAL PROGRAM

Sec.
6010.1 Identification of lands.
6010.2 Rules of conduct.
6010.3 Supplemental rules.
6010.4 Closure of lands.
6010.5 State and local laws.

AUTHORITY: The provisions of this Part 6010 issued under secs. 1, 3, 5, 50 Stat. 874, 875; 43 U.S.C. 1181a, 1181c, 1181e; R.S. 2478; 43 U.S.C. 1201.

§ 6010.1 Identification of lands.

To assist the public in the identification of lands, the Bureau shall, where feasible, post signs, publish ownership maps, and otherwise identify public recreation opportunities.

§ 6010.2 Rules of conduct.

(a) *Permitted activities.*—(1) *Collecting—hobby specimens.* Flowers, berries, nuts, seeds, cones, leaves, and similar renewable resources and nonrenewable resources such as rocks, mineral specimens, common invertebrate fossils, and gem stones may be collected in reasonable quantities for personal use, consumption, or hobby collecting. Limitations on this privilege are contained in paragraph (b) of this section.

(2) *Collecting—for sale or barter.* Gathering or collecting of renewable or nonrenewable resources for the purpose of sale or barter may be done only where specifically authorized by law.

(3) *Petrified wood.* For regulations pertaining to collection of petrified wood see Subpart 3612 of this chapter.

(4) *Vegetative and mineral materials.* For regulations pertaining to removal of vegetative and mineral materials under the Mineral Material Sales Act, see Subparts 3610, 3611, and 5400 of these regulations.

(b) *Prohibited activities.* In the use of lands for public outdoor recreation purposes, no one shall:

(1) Intentionally or wantonly destroy, deface, injure, remove or disturb any public building, sign, equipment, marker, or other public property.

(2) Harvest or remove any vegetative or mineral resources or object of antiquity, historic, or scientific interest unless such removal is in accordance with Part 3 of this title regulations or paragraph (a) of this section, or is otherwise authorized by law.

(3) Appropriate, mutilate, deface, or destroy any natural feature, object of natural beauty, antiquity, or other public or private property.

(4) Dig, remove, or destroy any tree or shrub.

(5) Gather or collect renewable or nonrenewable resources for the purpose of sale or barter unless specifically permitted or authorized by law.

(6) Drive or operate motorized vehicles or otherwise conduct himself in a manner that may result in unnecessary frightening or chasing of people or domestic livestock and wildlife.

(7) Use motorized mechanical devices for digging, scraping, or trenching for purposes of collecting.

§ 6010.3 Supplemental rules.

Additional rules to protect the public health and safety and protect resources may be established by the authorized officer, as necessary. They shall be posted in appropriate locations to notify the public of requirements for the occupancy and use of lands, outdoor recreation facilities, and roads and trails. The posted rules may provide for, but need not be limited to, protection of public health and safety, protection of the lands from fires, prevention of soil erosion, and utilization and protection of outdoor recreation and other resource values of the Federal lands.

§ 6010.4 Closure of lands.

In the management of lands to protect the public and assure proper resource utilization, conservation, and protection, public use and travel may be temporarily restricted. For instance, areas may be closed during periods of high fire danger or unsafe conditions, or where use will interfere with or delay mineral development, timber, and livestock operations, or other authorized use of the lands. Areas may also be closed temporarily to:

(a) Protect the public health and safety.

(b) Prevent excessive erosion.

(c) Prevent unnecessary destruction of plant life and wildlife habitat.

(d) Protect the natural environment.

(e) Preserve areas having cultural or historical value.

(f) Protect scientific studies or preserve scientific values.

§ 6010.5 State and local laws.

Except as otherwise provided by law, State and local laws and ordinances shall apply. This refers, but is not limited, to laws and ordinances governing:

(a) Operation and use of motor vehicles, aircraft, and boats.

(b) Hunting and fishing.

(c) Use of firearms.

(d) Injury to persons or destruction of property.

(e) Air and water pollution.

(f) Littering.

(g) Sanitation.

(h) Use of fire.

Group 6200—Recreation Management

PART 6200—GENERAL

Sec.
6200.0–1 Purpose.
6200.0–6 Policy.

AUTHORITY: The provisions of this Part 6200 issued under secs. 1, 3, 5, 50 Stat. 874, 875; 43 U.S.C. 1181a, 1181c, 1181e; R.S. 2478; 43 U.S.C. 1201.

§ 6200.0–1 Purpose.

This group defines outdoor recreation regulations dealing with the administration of lands for specific types of public use, resource conditions, outdoor recreation occupancy and use, and resource development.

§ 6200.0–6 Policy.

Where appropriate for management and public identification purposes, lands having significant natural values may be (a) designated pursuant to the provisions of Subpart 1727 of Part 1720 of this chapter, and (b) segregated pursuant to the provisions of § 2410.1–4 of this chapter.

PART 6220—PROTECTION AND PRESERVATION OF NATURAL VALUES

Sec.

AUTHORITY: The provisions of this Part 6220 issued under secs. 1, 3, 5, 50 Stat. 874, 875; 43 U.S.C. 1181a, 1181c, 1181e; R.S. 2478; 43 U.S.C. 1201.

§ 6220.0–1 Purpose.

This part provides guidelines for the management; and criteria for the use, of lands to preserve, protect, and enhance areas of scenic splendor, natural wonder, scientific interest, primitive environment, and other natural values for the enjoyment and use of present and future generations.

Subpart 6221—Primitive Areas

§ 6221.0–1 Purpose.

This subpart provides procedures and guidelines for the protection and recreation use of lands that have been determined to be primitive in character.

§ 6221.0–2 Objective.

Lands designated as primitive areas shall be administered for public recreational use in a manner to protect primitive values, and to:

(a) Allow the free operation of natural ecological succession to the extent feasible for scientific and other study.

(b) Preserve solitude, physical and mental challenge, inspiration and primitive recreation values.

(c) Preserve public values that would be lost if the lands were developed for commercial purposes or passed from Federal ownership.

(d) Allow the natural restoration of the primitive character of the lands.

§ 6221.1 Characteristics.

Natural, wild, and undeveloped lands in settings essentially removed from the effects of civilization are appropriate for designation as primitive areas. Essential characteristics are a natural environment that can be conserved and on which there is no undue disturbance by roads and commercial uses. Primitive areas may be representative of natural environments ranging from the southwest desert to the arctic tundra.

§ 6221.2 Criteria for use.

(a) Public use of primitive areas for recreation purposes is encouraged to the optimum extent consistent with the maintenance of the primitive environment.

(b) Travel in primitive areas is restricted to nonmechanized forms of locomotion.

(c) Construction will not be allowed in or on the land except in connection with authorized nonrecreation uses of the lands, and as necessary to meet requirements for the protection and administration of the area (including measures required in emergencies involving the health and safety of persons within the area).

(d) Roads, mechanized equipment, commercial timber harvesting, nontransient occupancy, and the landing of aircraft is prohibited except in connection with activities necessary in the use of the lands for authorized nonrecreation purposes, and then only under conditions specified by the authorized officer.

(e) Grazing of domestic livestock, water storage projects, and rights-of-way for utility lines and other purposes may be permitted by the authorized officer under such conditions and restrictions as he deems necessary to preserve primitive values.

Subpart 6222—Scenic Corridor—Buffer Zones

§ 6222.0–6 Policy.

Scenic corridors may be established along roads and highways, rivers and streams, trails and other lands for the preservation, protection and enhancement of scenic and natural values. Size and use of scenic corridors shall be consistent with the purposes for which they are established.

Subpart 6223—Wild and Scenic Rivers

§ 6223.0–1 Purpose.

To provide guidelines for management of lands affected by the Wild and Scenic Rivers Act.

§ 6223.0–2 Objectives.

To assure that all lands affected by the Wild and Scenic Rivers Act are managed in a manner consistent with the purposes of the act.

§ 6223.0–3 Authority.

(a) The Wild and Scenic Rivers Act (82 Stat. 906) provides that certain selected rivers which, with their immediate environment, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

§ 6223.0–6 Policy.

Lands affected by the Wild and Scenic Rivers Act will be identified as soon as possible and will be managed in such a manner as to preserve that characteristic of the area that led to its designation under the act.

Subpart 6225—Natural Areas

§ 6225.0–1 Purpose.

To describe procedures for management, protection and recreation use of lands having unusual natural characteristics.

§ 6225.0–2 Objectives.

To provide guidelines for the outdoor recreation use of natural areas.

§ 6225.0–5 Definition.

The following types of areas may be established under the regulations of this subpart:

(a) *Research natural areas.* These are established and maintained for the primary purpose of research and education. Scientists and educators are encouraged to use research natural areas in a manner that is nondestructive and consistent with the purpose for which the area is established. The general public may be excluded or restricted where necessary to protect studies or preserve research natural areas. Lands having the following characteristics may qualify:

(1) Typical or unusual faunistic or floristic types, associations, or other biotic phenomena, or

(2) Characteristic or outstanding geologic, pedologic, or aquatic features or processes.

(b) *Outstanding natural areas.* These are established to preserve scenic values and areas of natural wonder. The preservation of these resources in their natural condition is the primary management objective. Access roads, parking areas and public use facilities are normally located on the periphery of the area. The public is encouraged to walk into the area for recreation purposes wherever feasible.

§ 6225.0–6 Policy.

Where appropriate the Bureau shall establish and record areas of sufficient number and size to provide adequately for scientific study, research, recreational use and demonstration purposes. These will include:

(a) The preservation of scenic values, natural wonders and examples of significant natural exosystems.

(b) Research and educational areas for scientists to study the ecology, successional trends, and other aspects of the natural environment.

(c) Preserves for rare and endangered species of plants and animals.

§ 6225.1 Use of natural areas.

No person shall use, occupy, construct or maintain improvements in natural areas in a manner inconsistent with the purpose for which the area is established; nor shall he use, occupy, construct or maintain improvements unless permitted by law or authorized by the regulations of this subpart.

PART 6250—RECREATION ACCESS

Sec.

AUTHORITY: The provisions of this Part 6250 issued under 1, 3, 5, 50 Stat. 874, 875; 43 U.S.C. 1181a, 1181c, 1181e; R.S. 2478; 43 U.S.C. 1201.

§ 6250.0–1 Purpose.

To provide guidelines for provision of access to and limitations on travel across lands.

§ 6250.0–2 Objective.

To assure that persons wishing to use lands have access to them and that outdoor recreation use does not damage the resources.

§ 6250.0–6 Policy.

(a) In cooperation with State and local governments and private individuals and associations, the Bureau will endeavor to provide access for public use and enjoyment of lands with outdoor recreation values.

(b) Roads and trails constructed by the Bureau shall normally be available for public access to the lands. However, lands and roads and trails may be restricted to specified authorized use or no use in the interest of public health and safety or preservation and protection of the lands.

(c) The Bureau shall, where feasible, locate, identify, construct, and maintain hiking, horse riding and motor trails, and shall post appropriate signs or markers and use other means to make the existence of such routes known to the general public.

§ 6250.1 Use of trails.

§ 6250.1–1 Hiking and horse riding trails.

Motorcycles and other motor vehicles are prohibited on trails limited to hiking and horse riding.

§ 6250.1–2 Motor trails.

(a) Motor vehicles shall remain on established routes or trails.

(b) Drivers of motor vehicles shall yield the right-of-way to pedestrians, saddle horses, pack trains and horse-drawn vehicles.

(c) Motor vehicles shall be operated in accordance with the regulations in § 6251.1

Subpart 6251—Operation of Motorized Vehicles

§ 6251.0–6 Policy.

Where appropriate, the Bureau will designate vehicle use sites and areas for the operation of motorized vehicles. Such sites and areas shall be selected from lands having terrain suitable to vehicle capability, with low resource production, erosion and siltation potentials. Selection shall be governed by the ability of the land and resources to withstand and sustain cross-country driving and vehicle use impacts. Lands where scenic qualities or other values would be impaired will not be selected for vehicle use sites and areas. Sites and areas will be designed to:

(a) Provide recreation opportunities for owners of vehicles with off-road vehicle use capability.

(b) Provide public use areas where dune buggies, motorcycles, "jeeps", tote-gotes and other vehicles may be tested and driven under varied conditions.

(c) Concentrate off-road vehicle use into specific areas and sites.

(d) Reduce impacts on other lands and resources by providing suitable locations for cross-country driving.

§ 6251.1 Motorized vehicles.

The operation of motorized vehicles for outdoor recreation and other purposes is permitted within the following limits unless more restrictive regulations of this subpart apply:

(a) Operators shall maintain safe speeds and drive in a prudent and safe manner with full consideration and regard to public safety and property.

(b) Drivers may be restricted to established roads and motor trails or existing vehicle tracks.

(c) Operators of vehicles shall at all times drive in a manner as to prevent destruction of the land or vegetative resources.

(d) Operators may not drive their vehicles where prohibited by posting or other public notice.

(e) All vehicles shall be maintained in a safe operating condition for public safety and the prevention of fire.

§ 6251.2 Motorized vehicle events.

(a) The authorized officer may issue permits in accordance with the regulations in Subpart 2236 of Part 2230 of this chapter for the operation of motor vehicles for organized races, rallies, meets, endurance contests, and other motorized vehicular events.

(b) Permits may be issued to provide a suitable location for motorized vehicular events. Any permit issued will contain provisions to:

(1) Protect the public and participants.

(2) Minimize damage to the land and its resources.

§ 6251.4 Off-road travel—restrictions.

(a) The authorized officer may specify areas where the casual operation of motorized vehicles for recreational or other purposes will be restricted if the lands are subject to (1) resource damage and soil erosion, or (2) loss of primitive, scenic or other environmental qualities.

(b) Areas where such use is restricted will be posted by means of boundary signs and identified on maps and diagrams of sufficient detail to make the existence and locations known to the general public.

PART 6260—VISITOR MANAGEMENT

Subpart 6261—Rules for Visitor Use of Developed Recreation Sites

Sec.

AUTHORITY: The provisions of this Part 6260 issued under secs. 1, 3, 5, 50 Stat. 874, 875; 43 U.S.C. 1181a, 1181c, 1181e; R.S. 2478; 43 U.S.C. 1201.

Subpart 6261—Rules for Visitor Use of Developed Recreation Sites

§ 6261.0–1 Purpose.

The rules of this subpart are designed for the comfort and well-being of the public in its use of developed outdoor recreation sites and outdoor recreation facilities provided by the Bureau.

§ 6261.0–2 Objective.

To promote orderly occupancy and use of developed recreation sites, and other locations where the Bureau has installed outdoor recreation facilities for public use.

§ 6261.0–6 Compliance.

Rules for public use and occupancy of developed recreation sites, and other locations where the Bureau has installed outdoor recreation facilities, will be posted in conspicuous locations. Failure to comply with rules so posted may result in denial of the use of developed recreation sites and facilities and such other further action as may be required.

§ 6261.1 Sanitation.

All persons shall:

(a) Dispose of all garbage, paper, cans, bottles, waste materials, and rubbish by burning in authorized fires, removal from the site, or by disposal at places which may be provided for such purpose.

(b) Drain or dump refuse or waste from any trailer or other vehicle only in places or receptacles provided for such use.

(c) Refrain from cleaning fish or food or washing clothing or articles of household use at hydrants or at water faucets located in restrooms.

(d) Avoid polluting or contaminating water supplies or water used for human consumption.

(e) Deposit any body waste only into toilet receptacles provided for that purpose. Deposit of any bottles, cans, cloths, rags, metal, wood, stone or other damaging substance in any of the receptacles in toilet structures is prohibited.

(f) Use refuse containers or other refuse facilities only for the purposes for which they are supplied. The dumping of household or commercial garbage or trash brought from private property is prohibited.

§ 6261.2 Audio devices.

The following acts are prohibited in developed recreation sites:

(a) Operating or using any audio devices, including radio, television, and musical instruments, and other noise-producing devices, such as electrical generator plants and equipment driven by motors or engines, in a manner to annoy other persons.

(b) Operating or using public address systems, whether fixed, portable, or vehicle mounted unless approved by the authorized officer.

(c) Installing aerial or other special radiotelephone or television equipment unless approved by the authorized officer.

§ 6261.3 Occupancy and use.

The following rules apply to the occupancy and use of developed camping and picnicking facilities on the public lands. As a condition to such occupancy and use, the user shall:

(a) Pitch tents or park trailers or place other camping equipment only in places provided for such purposes.

(b) Camp within a campground no longer than the period of time established by the authorized officer.

(c) Attend camping equipment within prescribed time limits. Camping equipment which is unattended for more than posted limits, without permission of the authorized officer, is subject to disposition under State and local laws.

(d) Before departure remove equipment and clean any rubbish from the place occupied for recreation purposes.

(e) Build fires only in stoves, grills, fireplaces, or fire rings provided for such purposes.

(f) Camp overnight only in places provided or posted for such purposes.

(g) Maintain reasonable quiet in campgrounds between evening and morning hours as posted.

(h) Enter or remain in campgrounds closed during established night periods only as an occupant, or to visit persons occupying the campground for camping purposes.

(i) Not enter or use a site or a portion of a site closed to public use.

§ 6261.4 Vehicles.

The following rules apply to driving and operation of motor vehicles in developed recreation sites in the interest of public safety and comfort.

Motor vehicles and trailers shall not be:

(a) Driven or operated in excess of posted speeds.

(b) Driven or parked except on roads and places provided for this purpose.

(c) Driven or operated in willful disregard of the rights or safety of others or without due caution and at a speed, or in a manner, so as to endanger, or be likely to endanger, any person or property.

(d) Driven or operated on trails within developed recreation sites, except for purposes of maintaining such sites and facilities.

(e) Driven or operated in developed recreation sites, for any purpose other than access to or from the site.

(f) Driven or operated in developed recreation sites closed to such entrance by the authorized officer.

(g) Driven or operated at any time without a muffler in working order, or in such a manner as to create excessive or unusual noise or annoying smoke or dust, or using a muffler cutoff, bypass, or similar device.

(h) Unnecessarily accelerated when not moving or approaching or leaving a stopping place.

§ 6261.5 Public health, safety and comfort.

The following rules are adopted to further the public health, safety and comfort in the use and occupancy of developed recreation sites and facilities. The user shall not:

(a) Discharge firearms, firecrackers, rockets, or other fireworks in developed recreation sites.

(b) Be accompanied by a dog, cat, or other animal unless it is crated, caged, leashed, or otherwise under physical restrictive control at all times.

(c) Bring animals, other than Seeing Eye dogs, to swimming areas.

(d) Bring saddle, pack, or draft animals into any developed recreation site except where specifically permitted or authorized

§ 6261.6 Public property and resources.

The following rules are adopted to protect public property and to preserve the resources in developed recreation sites for public use and enjoyment. The user shall not:

(a) Intentionally or wantonly destroy, deface, or remove any natural feature or plant.

(b) Intentionally or wantonly destroy, injure, deface, remove, or disturb in any manner any public building, sign, equipment, marker, or other structure or property.

PART 6270—RECREATION DEVELOPMENT

Subpart 6273—Transfer of Responsibility

§ 6273.0–6 Policy.

State and local governments and private individuals and agencies are encouraged to develop and manage recreation facilities on the public lands for public recreation use and services. Such developments and operations shall be consistent with long-range management plans and authorities of the Bureau, and consistent with leases, licenses, and permits issued under the authority of the regulations in this part.

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 16, 1969.

[F.R. Doc. 69–766; Filed, Jan. 17, 1969; 8:51 a.m.]

SUBCHAPTER E—FOREST MANAGEMENT (5000)

[Circular No. 2256]

Group 5400—Forest Product Disposals

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of the amendments is to implement and carry out the requirements of the Act of April 12, 1926 (44 Stat. 242) as amended by section 401 of the Act of October 8, 1968 (82 Stat. 960) limiting the amount of unprocessed timber which may be sold for export from the United States from Federal lands located west of the 100th meridian to not more than 350 million board feet for each calendar year 1969 through 1971, inclusive.

The regulations have been developed in close coordination with the Forest Service, which is following a parallel course of implementation in the Department of Agriculture. As a result of the limited time available and the necessity to continue an uninterrupted timber sale program, these regulations will not be published as a proposed rule making. Accordingly, these rules shall become effective upon publication in the FEDERAL REGISTER.

PART 5400—FOREST PRODUCT DISPOSALS; GENERAL

1. Subparagraph (4) is added to § 5400.0–3(a) as follows:

§ 5400.0–3 Authority.

(a) *O. and C. and public domain lands.* * * *

(4) The Act of April 12, 1926 (44 Stat. 242) as amended by section 401 of the Act of October 8, 1968 (82 Stat. 960) limits the amount of unprocessed timber which may be sold for export from the United States from Federal lands located west of the 100th meridian to not more than 350 million board feet for each calendar year 1969 through 1971 inclusive. The act also provides that specific quantities and species of unprocessed timber surplus to the needs of domestic users may be designated as available for export in addition to the quantity stated above after public hearing and a finding to this effect by the appropriate Secretary of the Department administering Federal lands. Authority to issue rules and regulations to carry out the purpose of the act including the prevention of substitution of timber restricted from export for exported non-Federal timber is contained in section 2 (c) of the act as amended. Authority

to issue rules and regulations providing for the exclusion of the limitations imposed by the act for sales having an appraised value of less than $2,000 is contained in section 2(d) of the act as amended.

(i) The Secretary of the Interior and the Secretary of Agriculture shall determine annually the distribution among the Federal lands of the 350 million board feet of unprocessed timber which may be sold for export from Federal lands west of the 100th meridian.

(ii) The rules and regulations issued to carry out the purposes of this act do not apply to Federal timber sold prior to January 1, 1969.

(iii) The Director shall coordinate actions by other Departmental agencies which are subject to this paragraph (a)(4).

* * * * *

2. New subparagraphs (k) and (l) are added to § 5400.0–5 as follows:

§ 5400.0–5 Definitions.

* * * * *

(k) "Unprocessed timber" means (1) any logs, such as sawlogs, peeler logs, and pulp logs; (2) cants or squares to be subsequently remanufactured exceeding a nominal eight (8) inches in thickness; or (3) split or round bolts, or other roundwood not processed to standards and specifications suitable for end product use.

(l) "Federal lands" as used in the Act of April 12, 1926 as amended by the Act of October 8, 1968, means all lands administered by the Department of the Interior west of the 100th meridian with the exception of tribal and trust allotted lands managed by the Bureau of Indian Affairs on behalf of the Indians.

3. A new § 5400.0–7 is added as follows:

§ 5400.0–7 Public hearings to determine surplus quantities and species of unprocessed timber.

(a) Pursuant to section 2(b) of the Act of April 12, 1926 as amended by the Act of October 8, 1968, public hearings will be held when authorized by the Director to seek advice and counsel as to the quantities and species of unprocessed timber surplus to the needs of domestic users and processors. Such species and quantities thereof determined to be surplus may be designated as available for export by the Secretary in addition to the quantities specified in section 2(a) of the Act.

(b) Such hearings will be coordinated with the Department of Agriculture and held at convenient, centralized locations within the range of the species under consideration.

(c) Before any hearing is held in this regard, a notice will be published in a newspaper of general circulation within the range of the species under consideration at least 15 days prior to the hearing. In addition, known parties or groups with special interest in the species concerned should be notified directly. The record of the hearing shall be kept open for at least 5 consecutive calendar days from the date of the hearing for receipt of additional statements.

(d) The hearing will be conducted by a representative or representatives of the Department of the Interior and the Department of Agriculture, respectively. At the conclusion of the hearing, the record thereof together with appropriate recommendations shall be forwarded to the Director for further action deemed appropriate. The Director shall give the public due notice as to the quantities and species of unprocessed timber determined to be surplus to the needs of domestic users and processors.

PART 5410—COMPETITIVE SALES OF FOREST PRODUCTS

4. In § 5411.1 the present text is designated as paragraph (a) and a new paragraph (b) is added as follows:

§ 5411.1 Competitive sales.

* * * * *

(b) All competitive sales having an appraised value of $2,000 or more shall be subject to the limitations relating to the export from the United States of unprocessed timber required by the Act of April 12, 1926 as amended by the Act of October 8, 1968.

PART 5420—NEGOTIATED SALES OF FOREST PRODUCTS

5. A new paragraph (e) is added to § 5421.1 as follows:

§ 5421.1 Negotiated sales.

* * * * *

(e) All negotiated sales having an appraised value of $2,000 or more shall be subject to the limitations relating to the export from the United States of unprocessed timber required by the Act of April 12, 1926 as amended by the Act of October 8, 1968.

PART 5430—PRESALE PREPARATION, ADVERTISEMENT AND CONTRACT PREPARATION

6. Paragraph (a) of § 5436.1 is amended to read as follows:

§ 5436.1 Provisions.

(a) All sales shall be made on contract forms approved by the Director. The Authorized Officer may include additional provisions in the contract to cover conditions peculiar to the sale area, such as road construction, logging methods, silvicultural practices, reforestation, snag felling, slash disposal, fire prevention, fire control, protection of improvements, watersheds and recreational values, and restrictions on export of unprocessed timber. Such additional provisions shall be made available for inspection by prospective bidders during the advertising period.

* * * * *

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 15, 1969.

[F.R. Doc. 69–753; Filed, Jan. 17, 1969; 8:51 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 28—PUBLIC ACCESS, USE AND RECREATION

Crab Orchard National Wildlife Refuge, Ill.

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

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public use is permitted on the Crab Orchard National Wildlife Refuge subject to the following special conditions:

(1) Swimming is permitted only at beach areas as designated by signs.

(2) All types of flotation devices, other than U.S. Coast Guard approved lifesaving devices, are prohibited on refuge waters.

(3) Foodstuffs, drink containers (cans, bottles, cartons), pets, or fires are prohibited at designated beach areas and on the rock area immediately below Crab Orchard Lake Spillway.

(4) The Carterville, Hogan, Lookout Point and Crab Orchard Beach areas are open from 5 a.m., local time, until 9 p.m., local time, daily.

(5) Horseback riding is prohibited except on designated horseback riding trails.

(6) Boats containing toilets that flush directly into the water must have the toilet sealed when the craft is on refuge waters.

(7) Sailboats when underway between sunset and sunrise must display a bright white light visible all around the horizon for a distance of 2 miles.

(8) Alcoholic liquor may not be transported, carried or possessed on any boat propelled by mechanical power except in the original packages and with the seal unbroken, while the craft is in operation on refuge waters.

(9) The drinking or possession of alcoholic liquor by persons under 21 years of age is prohibited on the refuge area.

(10) No person shall transport, carry, possess, or have any alcoholic liquor in or upon or about any motor vehicle except in the original package and with the seal unbroken, while on the refuge area.

L. A. MEHRHOFF,
Project Manager, Crab Orchard National Wildlife Refuge, Rural Route No. 2, Carterville, Ill.

JANUARY 9, 1969.

[F.R. Doc. 69–698; Filed, Jan. 17, 1969; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Deductions for Costs of Advertising in Programs of Certain Political Conventions

Notice is hereby given 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 written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. 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 § 1.276–1 of the Income Tax Regulations (26 CFR Part 1) to section 108 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 268) and to the Act of June 18, 1968 (Public Law 90–346, 82 Stat. 183), new subparagraph (2) is inserted in § 1.276–1 (b) in the place reserved therefor immediately after subparagraph (1). This new provision reads as follows:

§ 1.276–1 Disallowance of deductions for certain indirect contributions to political parties.

* * * * *

(b) *Advertising in convention program.* * * *

(2) *Amounts paid or incurred on or after January 1, 1968, for advertising in programs of certain national political conventions.* (i) Subject to the limitations in subdivision (ii) of this subparagraph, a deduction may be allowed for any amount paid or incurred on or after January 1, 1968, for advertising in a convention program of a political party distributed in connection with a convention held for the purpose of nominating candidates for the offices of President and Vice President of the United States, if the proceeds from the program are actually used solely to defray the costs of conducting the convention (or are set aside for such use at the next convention of the party held for such purpose) and if the amount paid or incurred for the advertising is reasonable. If such amount is not reasonable or if any part of the proceeds is used for a purpose other than that of defraying such convention costs, no part of the amount is deductible. Whether or not an amount is reasonable shall be determined in light of the business the taxpayer may expect to receive either directly as a result of the advertising or as a result of the convention being held in an area in which the taxpayer has a principal place of business. For these purposes, an amount paid or incurred for advertising will not be considered as reasonable if it is greater than the amount which would be paid for comparable advertising in a comparable convention program of a non-political organization. Institutional advertising (e.g., advertising of a type not designed to sell specific goods or services to persons attending the convention) is not advertising which may be expected to result directly in business for the taxpayer sufficient to make the expenditures reasonable. Accordingly, an amount spent for institutional advertising in a convention program may be deductible only if the taxpayer has a principal place of business in the area where the convention is held. An official statement made by a political party after a convention as to the use made of the proceeds from its convention program shall constitute prima facie evidence of such use.

(ii) No deduction may be taken for any amount described in this subparagraph which is not otherwise allowable as a deduction under section 162, relating to trade or business expenses. Therefore, in order for any such amount to be deductible, it must first satisfy the requirements of section 162, and, in addition, it must also satisfy the more restrictive requirements of this subparagraph.

* * * * *

[F.R. Doc. 69–717; Filed, Jan. 17, 1969; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

OLYMPIC NATIONAL PARK, WASH.

Water Supplies and Sanitary Disposal of Sewage on Privately Owned Lands

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), 245 DM–1 (27 F.R. 6395), National Park Service Order No. 34 (31 F.R. 4255), Regional Director, Western Region Order No. 4 (31 F.R. 5769), as amended, it is proposed to amend § 7.28 of Title 36, Code of Federal Regulations, as set forth below. The purpose of this amendment is to establish sanitary regulations governing water supplies and the disposal of sewage, including household waste, on privately owned lands within Olympic National Park, and to prescribe the manner in which such regulations will be administered.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Superintendent, Olympic National Park, Wash. 98362, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Paragraph (e) (1) of § 7.28 of Title 36 of the Code of Federal Regulations is amended to read as follows:

§ 7.28 Olympic National Park.

* * * * *

(e) *Privately owned lands*—(1) *Water supply and sewage disposal systems.* The provisions of this paragraph apply to the privately owned lands within Olympic National Park. The provisions of this paragraph do not excuse compliance by eating, drinking, or lodging establishments with § 5.10 of this chapter.

(i) *Facilities.* (a) Subject to the provisions of subdivision (iii) of this subparagraph, no person shall occupy any building or structure, intended for human habitation or use, unless such building is served by water supply and sewage disposal systems that comply with the standards prescribed by State and county laws and regulations applicable in the county within whose exterior boundaries such building is located.

(b) No person shall construct, rebuild or alter any water supply or sewage disposal system without a written permit issued by the Superintendent. The Superintendent will issue such permit only after receipt of written notification from the appropriate Federal, State or county officer that the plans for such system comply with State or county standards. There shall be no charge for such permits. Any person aggrieved by an action of the Superintendent with respect to any such permit or permit application may appeal in writing to the Director, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

(ii) *Inspections.* (a) The appropriate State or county officer, the Superintendent, or their authorized representatives or an officer of the U.S. Public Health Service, may inspect any water supply or sewage disposal system, from time to time, in order to determine whether such system complies with the State and county standards: *Provided, however,* That inspection shall be made only upon consent of the occupant of the premises or pursuant to a warrant.

(b) Any water supply or sewage disposal system may be inspected without the consent of the occupant of the premises or a warrant if there is probable cause to believe that such system presents an immediate and severe danger to the public health.

(iii) *Defective systems.* (a) If upon inspection, any water supply system or sewage disposal system is found by the inspecting officer not to be in conformance with applicable State and county standards, the Superintendent will send to the ostensible owner and/or the occupant of such property, by certified mail, a written notice specifying what steps must be taken to achieve compliance. If after one year has elapsed from the mailing of such written notice the deficiency has not been corrected, such deficiency shall constitute a violation of this regulation and shall be the basis for court action for the vacation of the premises.

(b) If upon inspection, any water supply or sewage disposal system is found by the inspecting officer not to be in conformance with established State and county standards and it is found further that there is immediate and severe danger to the public health or the health of the occupants or users, the Superintendent shall post appropriate notices at conspicuous places on such premises, and thereafter, no person shall occupy or use the premises on which the system is located until the Superintendent is satisfied that remedial measures have been taken that will assure compliance of the system with established State and county standards.

BENNETT T. GALE,
Superintendent,
Olympic National Park.

[F.R. Doc. 69-687; Filed, Jan. 17, 1969; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 26]

GRAIN STANDARDS

Notice of Proposed Revision of Grade Designations and Section Numbers

Pursuant to the administrative procedure provisions of 5 U.S.C., section 553, notice is hereby given that the U.S. Department of Agriculture has under consideration proposed revisions of §§ 26.101 through 26.603 of the Official Grain Standards of the United States (7 CFR Part 26, Subpart B) promulgated under the authority of the U.S. Grain Standards Act, 39 Stat. 482, as amended (7 U.S.C. 71 et seq.).

Statement of considerations. (1) The Official Grain Standards of the United States provide that grades for grain shall be the numerical grades (Nos. 1, 2, 3, etc.) and Sample grade. In most other grade standards administered by the U.S. Department of Agriculture, grades are expressed numerically or otherwise but are prefixed by the letters "U.S." before the number (U.S. No. 1, U.S. No. 2, etc.) or adjective term used to describe the grade. There apparently is no specific reason why one system of designation was adopted for some commodities and another for others, except perhaps accepted practices at the time standards were promulgated.

The Department believes that there would be merit in adding the prefix "U.S." before each of the grades for all grains. Such prefix would readily identify a grade assigned to a lot of grain as a U.S. grade. Furthermore, it adds meaning to the grade when grain is exported. Segments of the grain trade were questioned as to their views concerning the addition of the prefix "U.S." and none expressed opposition.

The format of the Official Grain Standards of the United States for Rye is not in accordance with the format of the other standards, especially with respect to § 26.402, Grade requirements. Therefore it is proposed to include in § 26.402 a paragraph on grade designations.

(2) Regulations to be promulgated to implement the U.S. Grain Standards Act as amended August 15, 1968 (82 Stat. 761 et seq.), require the use of the section numbers 26.101–26.200. At present §§ 26.101–26.129 and §§ 26.151–26.153 are allocated to the standards for wheat and corn, respectively. (§§ 26.154 through 26.200 are open.) Therefore it is necessary to allocate new section numbers to the standards for wheat and corn. This is an editorial change which would not affect the trade or inspection personnel.

Accordingly, the following changes in the standards are proposed:

Section 26.201 (c) (1) and (f) would be amended to read:

§ 26.201 Terms defined.

* * * * *

(c) (1) *Malting Barley.* The subclass Malting Barley shall be six-rowed barley of the class Barley which has 90 percent or more of the kernels with white aleurone layers; which is not semisteely in mass; which after the removal of dockage, contains not more than 5 percent of the two-rowed and/or other types or varieties of barley unsuitable for malting (such as Trebi), 4 percent damaged kernels, 3 percent foreign material, 8 percent skinned and broken kernels, 15 percent thin barley, 2 percent black barley, and 5 percent other grains; which has a minimum test weight per bushel of 43 pounds; which contains a minimum of 90 percent sound barley; which does not contain barley injured by frost or heat; and which is not smutty, garlicky, weevily, ergoty, or bleached; and which otherwise meets the requirements of grades U.S. Nos. 1 to 3, inclusive, of the subclass Barley.

* * * * *

(f) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.203.

* * * * *

In § 26.203, paragraphs (a), (b), (c), (e), and (g) (4) (i) and (5) (i) would be amended to read:

§ 26.203 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grades and grade requirements for the subclass Barley of the class Barley.* (See also paragraph (g) of this section.)

Grade	Minimum limits of—		Maximum limits of—					
	Test weight per bushel	Sound barley	Total damaged kernels	Heat-damaged kernels	Foreign material	Broken kernels	Thin barley	Black barley
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	47	97	2.0	0.2	1.0	5.0	10.0	0.5
U.S. No. 2	45	94	4.0	.3	2.0	10.0	15.0	1.0
U.S. No. 3	43	90	6.0	.5	3.0	15.0	25.0	2.0
U.S. No. 4 [1]	40	80	8.0	1.0	4.0	20.0	35.0	5.0
U.S. No. 5	36	70	10.0	3.0	6.0	30.0	75.0	10.0
U.S. Sample grade	U.S. Sample grade shall include barley of the class Barley, which does not come within the grade requirements of any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than 16.0 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one of more of the grade requirements cannot be applied accurately; or which is otherwise of distinctly low quality.							

[1] Barley that is badly stained or materially weathered, shall not be graded higher than U.S. No. 4.

(b) *Grades and grade requirements for the subclasses Malting Barley and Blue Malting Barley of the class Barley.* (See also paragraph (g) of this section.)

Grade	Minimum limits of—		Maximum limits of—					
	Test weight per bushel	Sound barley	Damaged kernels	Foreign material	Skinned and broken kernels	Thin barley	Black barley	Other grains
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	47	97	2.0	1.0	4.0	7.0	0.5	2.0
U.S. No. 2	45	94	3.0	2.0	6.0	10.0	1.0	3.0
U.S. No. 3	43	90	4.0	3.0	8.0	15.0	2.0	5.0

NOTE: Barley of the class Barley which does not meet the requirements of any of the grades U.S. No. 1 to U.S. No. 3, inclusive, for the subclasses Malting Barley and Blue Malting Barley shall be classified and graded according to the grade requirements for the subclass Barley.

(c) *Grades and grade requirements for Western Barley.* (See also paragraph (g) of this section.)

Grade	Minimum limits of sound barley	Maximum limits of—				
		Heat-damaged kernels (barley, other grains, and wild oats)	Wild oats	Foreign material	Broken kernels	Black barley
	Percent	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	98	0.1	1.0	0.5	3.0	0.5
U.S. No. 2	96	.2	2.0	1.0	6.0	1.0
U.S. No. 3	93	.3	3.0	2.0	10.0	2.0
U.S. No. 4	88	.5	5.0	3.0	15.0	5.0
U.S. No. 5	80	1.0	10.0	4.0	25.0	10.0
U.S. Sample grade	U.S. Sample grade shall include barley of the class Western Barley which does not come within the grade requirements of any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than 15 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which contains the seeds of wild brome grasses of a character and in a quantity sufficient to cause the grain to be of low quality for feeding purposes; or which is otherwise of distinctly low quality.					

* * * * *

(e) *Grade designations for barley.* The grade designations for barley shall include the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the class or subclass; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof. In the case of the class Mixed Barley, the grade designation shall also include, following the name of the class, the approximate percentage of Barley, Western Barley, and black barley in the mixture.

* * * * *

(g) *Special grades, special grade requirements and special grade designations for barley.* * * *

(4) *Choice Malting Two-rowed Barley*—(i) *Requirements.* Choice Malting Two-rowed Barley shall be two-rowed barley of the class Barley which consists of the Betzes varietal type or two-rowed barley of the class Western Barley which consists of the Hannchen or Hanna varietal type; which does not contain more than 3 percent of varietal types of barley other than Betzes, Hannchen, or Hanna; which meets the requirements for grade U.S. No. 1 Western Barley except that the class requirements for Western Barley and the limitation on seeds of wild brome grasses shall be disregarded in determining the U.S. numerical grade; which has a test weight per bushel of 52 pounds or more; which contains 90 percent or more of mellow kernels; which is not semisteely in mass; which does not contain more than 5 percent of thin barley; which does not contain more than 5 percent of skinned and/or broken kernels; and which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, smutty, garlicky, weevily, ergoty, or bleached.

* * * * *

(5) *Malting Two-rowed Barley*—(i) *Requirements.* Malting Two-rowed Barley shall be two-rowed barley of the class Barley which consists of the Betzes varietal type or two-rowed barley of the class Western Barley which consists of the Hannchen or Hanna varietal types; which does not contain more than 5 percent of varietal types of barley other than Betzes, Hannchen, or Hanna; which meets the requirements for any of the grades U.S. No. 1 to U.S. No. 3 Western Barley, inclusive, except that the class requirements for Western Barley and the limitation on seeds of wild brome grasses shall be disregarded in determining the U.S. numerical grade; which does not meet the requirements for the special grade Choice Malting Two-rowed Barley; which has a test weight per bushel of 50 pounds or more; which contains 70 percent or more of mellow kernels; which is not semi-steely in mass; which does not contain more than 10 percent of thin barley; which does not contain more than 10 percent of skinned and/or broken kernels; and which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, blighted, smutty, garlicky, weevily, ergoty, or bleached: *Provided*, That Malting Two-rowed Barley of the grade U.S. No. 1 shall contain not less than 80 percent of mellow kernels; and may not contain more than 3 percent of varietal types of barley other than Betzes, Hannchen, or Hanna, or more than 7 percent of thin barley, or more than 7 percent of skinned and/or broken kernels.

* * * * *

Section 26.251(h) would be amended to read:

§ 26.251 Terms defined.

* * * * *

(h) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.253.

* * * * *

In § 26.253, paragraphs (a) and (b) would be amended to read:

§ 26.253 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grades and grade requirements for Oats.* (See also paragraph (c) of this section.)

Grade	Minimum limits of—		Maximum limits of—		
	Test weight per bushel	Sound cultivated oats	Heat-damaged kernels	Foreign material	Wild oats
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1 [1]	34	97	0.1	2.0	2.0
U.S. No. 2 [2]	32	94	.3	3.0	3.0
U.S. No. 3 [3]	30	90	1.0	4.0	5.0
U.S. No. 4 [4]	27	80	3.0	5.0	10.0
U.S. Sample grade	U.S. Sample grade shall be oats which do not meet the requirements for any of the grades U.S. No. 1 to U.S. No. 4, inclusive; or which contain more than 16.0 percent of moisture; or which contain stones; or which are musty, or sour, or heating; or which have any commercially objectionable foreign odor except of smut or garlic; or which are otherwise of distinctly low quality.				

[1] The oats in grades U.S. No. 1 White Oats may contain not more than 5.0 percent of red oats, gray oats, and black oats, singly or in combination, of which not more than 2.0 percent may be black oats.
[2] The oats in grade U.S. No. 2 White Oats may contain not more than 3.0 percent of black oats.
[3] Oats that are slightly weathered shall be graded not higher than U.S. No. 3.
[4] Oats that are badly stained or materially weathered shall be graded not higher than U.S. No. 4.

(b) *Grade designations for oats.* The grade designations for oats shall include the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the applicable class; and the name of each applicable special grade.

* * * * *

§§ 26.301–26.329 [Redesignated]

Sections 26.101 through 26.129 would be renumbered as §§ 26.301 through 26.329, respectively.

Renumbered § 26.326 would be amended to read:

§ 26.326 Grades.

Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in §§ 26.327 and 26.328.

Renumbered § 26.327 would be amended to read:

§ 26.327 Grades and grade requirements.

(a) *Grades and grade requirements for all classes of Wheat except Mixed Wheat.* (See also § 26.328.)

Grade	Minimum test weight per bushel		Maximum limits of—						
			Defects					Wheat of other classes [1]	
	Hard Red Spring Wheat	All other classes	Heat-damaged kernels	Damaged kernels (total)	Foreign material	Shrunken and broken kernels	Defects (total)	Contrasting classes	Wheat of other classes (total)
	Pounds	*Pounds*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	58.0	60.0	0.1	2.0	0.5	3.0	3.0	1.0	3.0
U.S. No. 2	57.0	58.0	.2	4.0	1.0	5.0	5.0	2.0	5.0
U.S. No. 3	55.0	56.0	.5	7.0	2.0	8.0	8.0	3.0	10.0
U.S. No. 4	53.0	54.0	1.0	10.0	3.0	12.0	12.0	10.0	10.0
U.S. No. 5	50.0	51.0	3.0	15.0	5.0	20.0	20.0	10.0	10.0
U.S. Sample grade	U.S. Sample grade shall be wheat which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which is otherwise of distinctly low quality.								

[1] Red Durum Wheat of any grade may contain not more than 10.0 percent of wheat of other classes.

(b) *Grades and grade requirements for Mixed Wheat.* (See also § 26.328.) Mixed Wheat shall be graded according to the U.S. numerical and U.S. Sample grade requirements of the class of wheat which predominates in the mixture, except that the factor "wheat of other classes" shall be disregarded.

In renumbered § 26.328, paragraphs (f)(1) and (g)(1) would be amended to read:

§ 26.328 Special grades, special grade requirements, and special grade designations.

* * * * *

(f) *Treated wheat*—(1) *Requirements.* Treated wheat shall be wheat which has been scoured, limed, washed, sulfured, or treated in such a manner that the true quality is not reflected by either the U.S. numerical grade or the U.S. Sample grade designation alone.

* * * * *

(g) *Heavy wheat*—(1) *Requirements.* Heavy wheat shall be (i) Hard Red Spring Wheat of grade U.S. No. 1, U.S. No. 2, or U.S. No. 3 which has a test weight per bushel of 60 pounds or more, or (ii) any other class of wheat of grade U.S. No. 1, U.S. No. 2, or U.S. No. 3 which has a test weight per bushel of 62 pounds or more.

* * * * *

Renumbered § 26.329 would be amended to read:

§ 26.329 Grade designations for wheat.

(See also § 26.328.) The grade designations for wheat shall include the letters "U.S."; the number of the grade or the words "Sample grade", as the case may be; the name of the applicable subclass, or in the case of Red Durum Wheat, Soft Red Winter Wheat, and Mixed Wheat, the name of the class; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof. In the case of Western White Wheat, the grade designation shall also include, following the name of the subclass, the name and percentage of white club wheat and other white wheat in the mixture. In the case of Mixed Wheat, the grade designation shall also include, following the name of the class, the name and percentage of Hard Red Spring, Durum, Red Durum, Hard Red Winter, Soft Red Winter, and White Wheat, if any, contained in the mixture.

§§ 26.351–26.353 [Redesignated]

Sections 26.151 through 26.153 would be renumbered as §§ 26.351 through 26.353, respectively, and renumbered § 26.351(f) would be amended to read:

§ 26.351 Terms defined.

* * * * *

(f) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.353.

* * * * *

In renumbered § 26.353, paragraphs (a) and (b) would be amended to read:

§ 26.353 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grades and grade requirements for Corn.* (See also paragraph (c) of this section.)

Grade	Minimum test weight per bushel	Maximum limits of—			
		Moisture	Broken corn and foreign material	Damaged kernels	
				Total	Heat-damaged kernels
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	56	14.0	2.0	3.0	0.1
U.S. No. 2	54	15.5	3.0	5.0	.2
U.S. No. 3	52	17.5	4.0	7.0	.5
U.S. No. 4	49	20.0	5.0	10.0	1.0
U.S. No. 5	46	23.0	7.0	15.0	3.0
U.S. Sample grade	U.S. Sample grade shall be corn which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which is otherwise of distinctly low quality.				

(b) *Grade designations for corn.* The grade designations for corn shall include, in the order named, the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the applicable class; and the name of each applicable special grade.

* * * * *

Section 26.401(b) would be amended to read:

§ 26.401 Terms defined.

* * * * *

(b) *Grades.* Rye shall be graded and designated according to the respective grade requirements of the U.S. numerical grades and U.S. Sample grade of these standards, and according to the special grades when applicable.

Section 26.402 would be amended to read:

§ 26.402 Grades, grade requirements, and grade designations.

(a) *Grades and grade requirements for Rye.* (See also §§ 26.403(a) through 26.408.)

Grade No.	Minimum test weight per bushel	Maximum limits of—			
		Damaged kernels (rye and other grains)		Foreign material	
		Total	Heat-damaged	Total	Foreign matter other than wheat
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1[1]	56	2	0.1	3	1
U.S. No. 2[1]	54	4	.2	6	2
U.S. No. 3[1]	52	7	.5	10	4
U.S. No. 4	49	15	3.0	10	6
U.S. Sample grade	U.S. Sample grade shall include rye which does not come within the requirements of any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which contains more than 16 percent of moisture; or which contains inseparable stones and/or cinders; or which is musty, or sour, or heating, or hot; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which is otherwise of distinctly low quality.				

[1] The rye in grade U.S. No. 1 may contain not more than 10.0 percent, in grade U.S. No. 2 not more than 15.0 percent, and in grade U.S. No. 3 not more than 25.0 percent of "thin" rye, which "thin" rye shall consist of rye and other matter that will pass readily through a sieve 0.032 inch thick with perforations 0.064 by 0.375 inch.

(b) *Grade designations for rye.* The grade designations for rye shall include the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the word "Rye"; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof.

Section 26.451(b) would be amended to read:

§ 26.451 Terms defined.

* * * * *

(b) *Grades.* Grades shall be "U.S. Mixed Grain," "U.S. No. 1 Mixed Feed Oats," "U.S. No. 2 Mixed Feed Oats," "U.S. Sample grade Mixed Grain," and special grades provided for in § 26.453.

* * * * *

In § 26.453, paragraph (a), (b), and (c) (7) (i) would be amended to read:

§ 26.453 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grades and grade requirements for U.S. Mixed Grain.* (See also paragraph (c) of this section.)

(1) *U.S. Mixed Grain (Grade).* The grade "U.S. Mixed Grain" shall be mixed grain with not more than 15 percent of damaged kernels, and not more than 3 percent of heat-damaged kernels, and which otherwise does not meet the requirements for mixed feed oats, or the requirements for the grade "U.S. Sample grade Mixed Grain."

(2) *U.S. No. 1 Mixed Feed Oats.* The grade U.S. No. 1 Mixed Feed Oats shall be mixed grain which meets the requirements for mixed feed oats; which contains not more than 5 percent of foreign material, not more 10 percent of damaged kernels, and not more than 2 percent of heat-damaged kernels; which has a test weight per bushel of not less than 32 pounds; and which otherwise does not meet the requirements for the grades U.S. Mixed Grain, U.S. No. 2 Mixed Feed Oats, or U.S. Sample grade Mixed Grain.

(3) *U.S. No. 2 Mixed Feed Oats.* The grade U.S. No. 2 Mixed Feed Oats shall be mixed grain which meets the requirements for mixed feed oats; which contains not more than 7 percent of foreign material, not more than 15 percent of damaged kernels, and not more than 3 percent of heat-damaged kernels; which has a test weight per bushel of not less than 29 pounds; and which otherwise does not meet the requirements for the grades U.S. Mixed Grain, U.S. No. 1 Mixed Feed Oats, or U.S. Sample grade Mixed Grain.

(4) *U.S. Sample grade Mixed Grain.* The grade "U.S. Sample grade Mixed Grain" shall be mixed grain which does not meet the requirements for mixed feed oats, or the requirements for the grades U.S. Mixed Grain; or which contains more than 16 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor, except of smut or garlic; or which is otherwise of distinctly low quality.

(b) *Grade designations for U.S. Mixed Grain.* The grade designation for mixed grain shall include the words "U.S. Mixed Grain," "U.S. No. 1 Mixed Feed Oats," "U.S. No. 2 Mixed Feed Oats," or "U.S. Sample grade Mixed Grain," as the case may be, and the name of each applicable special grade. In the case of the grades "U.S. Mixed Grain" and "U.S. Sample grade Mixed Grain" the grade designation shall also include the name and approximate percentage of each kind of grain, including wild oats, which constitutes 10 percent or more of the mixture, in the order of predominance and, when applicable, the words "other grains" followed by a statement of the percentage of the combined quantity of those kinds of grains, including wild oats, each of which is present in a quantity less than 10 percent; and the words "Foreign Material" together with a statement of the percentage thereof.

(c) *Special grades, special grade requirements and special grade designations for mixed grain.* * * *

(7) *Treated mixed grain*—(i) *Requirements.* Treated mixed grain shall be mixed grain which has been scoured, limed, washed, sulfured, or treated in such a manner that its true quality is not reflected by the grade designation "U.S. Mixed Grain," "U.S. No. 1 Mixed Feed Oats," "U.S. No. 2 Mixed Feed Oats," or "U.S. Sample grade Mixed Grain."

* * * * *

Section 26.512 would be amended to read:

§ 26.512 Grades.

Grades shall be the U.S. numerical grades and U.S. Sample grade provided for in § 26.513.

Section 26.513 would be amended to read:

§ 26.513 Grades and grade requirements for flaxseed.

Grade	Minimum test weight per bushel	Maximum limits of—	
		Heat-damaged flaxseed	Damaged flaxseed (total)
	Pounds	*Percent*	*Percent*
U.S. No. 1	49	0.2	10.0
U.S. No. 2	47	.5	15.0
U.S. Sample grade	U.S. Sample grade shall be flaxseed which does not meet the requirements for grade U.S. No. 1 or U.S. No. 2; or which contains more than 9.5 percent of moisture; or which contains castor beans (*Ricinus communis*), crotalaria seeds (Crotalaria *spp.*), stones, unknown foreign substances, or commonly recognized harmful or toxic substances; or which is musty, sour, or heating; or which has any commercially objectionable foreign odor; or which is otherwise of distinctly low quality.		

Section 26.514 would be amended to read:

§ 26.514 Grade designations for flaxseed.

The grade designation for flaxseed shall include in the order named, the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the word "Flaxseed"; and, when applicable, the word "dockage" together with the percentage thereof.

Section 26.551(c) would be amended to read:

§ 26.551 Terms defined.

* * * * *

(c) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade,

and special grades provided for in § 26.553.

* * * * *

In § 26.553, paragraphs (a) and (b) would be amended to read:

§ 26.553 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grades and grade requirements for Grain Sorghum.* (See also paragraph (c) of this section.)

Grade	Minimum test weight per bushel	Maximum limits of—			
		Moisture	Damaged kernels		Broken kernels, foreign material, and other grains
			Total	Heat-damaged kernels	
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	57	13.0	2.0	0.2	4.0
U.S. No. 2	55	14.0	5.0	.5	8.0
U.S. No. 3[1]	53	15.0	10.0	1.0	12.0
U.S. No. 4	51	18.0	15.0	3.0	15.0
U.S. Sample grade	U.S. Sample grade shall be grain sorghum which does not meet the requirements of any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which contains stones; or which is musty, or sour, or heating; or which is badly weathered; or which has any commercially objectionable foreign odor except of smut; or which is otherwise of distinctly low quality.				

[1] Grain sorghum which is distinctly discolored shall not be graded higher than U.S. No. 3.

(b) *Grade designations for grain sorghum.* The grade designations for grain sorghum shall include in the order named, the letters "U.S."; the number of the grade or the words "Sample grade", as the case may be; the name of the class; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof. In the case of the class Mixed Grain Sorghum, the grade designation shall also include, following the name of the class, the approximate percentages of yellow grain sorghum, white grain sorghum, and brown grain sorghum, if any, in the mixture.

* * * * *

Section 26.601(h) would be amended to read:

§ 26.601 Terms defined.

* * * * *

(h) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.603.

* * * * *

In § 26.603, paragraphs (a) and (b) would be amended to read:

§ 26.603 Grades, grade requirements, and grade designations.

* * * * *

(a) *Grades and grade requirements for Soybeans.* (See also paragraph (c) of this section.)

Grade	Minimum test weight per bushel	Maximum limits of—					
		Moisture	Splits	Damaged kernels		Foreign material	Brown, black, and/or bicolored soybeans in yellow or green soybeans
				Total	Heat damaged		
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	56	13.0	10	2.0	0.2	1.0	1.0
U.S. No. 2	54	14.0	20	3.0	0.5	2.0	2.0
U.S. No. 3[1]	52	16.0	30	5.0	1.0	3.0	5.0
U.S. No. 4[2]	49	18.0	40	8.0	3.0	5.0	10.0
U.S. Sample grade	U.S. Sample grade shall be soybeans which do not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which are musty, sour, or heating; or which have any commercially objectionable foreign odor; or which contain stones; or which are otherwise of distinctly low quality.						

[1] Soybeans which are purple mottled or stained shall be graded not higher than U.S. No. 3.
[2] Soybeans which are materially weathered shall be graded not higher than U.S. No. 4.

(b) *Grade designations for soybeans.* The grade designations for soybeans shall include in the order named, the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the class; and the name of each applicable special grade. In the case of mixed soybeans, the grade designation shall also include, following the name of the class, the approximate percentages of yellow, green, brown, black, and bicolored soybeans in the mixture.

* * * * *

The U.S. Grain Standards Act requires that public notice be given on any amendment of the standards not less than 90 days in advance of the effective date of such amendment. If the proposals as set forth herein are adopted, it is intended that they be made effective on or about May 1, 1969.

Public hearings will not be held, but all persons who desire to submit written data, views, or recommendations in connection with these proposals may file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 20 days after the proposals have been published in the FEDERAL REGISTER. All comments filed will be available for public inspection during official hours of business (7 CFR 1.27(b)).

Consideration will be given to all written comments filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture in arriving at a decision on the proposed amendment of the grain standards.

Copies of the current grain standards may be obtained from the Director, Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, or from any field office of the Grain Division.

Done at Washington, D.C., this 10th day of January 1969.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 69-617; Filed, Jan. 17, 1969; 8:45 a.m.]

[7 CFR Part 1064]

[Docket No. AO-23-A37]

MILK IN GREATER KANSAS CITY MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the President Hotel, 14th and Baltimore Streets, Kansas City, Mo., beginning at 10 a.m., on February 4, 1969, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Greater Kansas City marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Proposal No. 1 raises two issues for consideration: First, whether an increase in the Class I price such as would result from eliminating the 10-cent location adjustment in certain areas is appropriate, and second, whether the Class I price should be uniform throughout the marketing area. Consideration of the second issue, independent of the first issue, raises the question of what uniform Class I price level should be adopted.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mid-America Dairymen, Inc., and St. Joseph Milk Producers Association, Inc.:

Proposal No. 1. In § 1064.53 delete paragraph (a) and redesignate paragraph (b) as paragraph (a) and redesignate paragraph (c) as paragraph (b). Include St. Joseph, Mo., as a basing point for computing location adjustments. The revised language would read as follows:

§ 1064.53 Location adjustments to handlers.

(a) For milk received from producers at a plant located outside the marketing area and more than 50 miles but not more than 70 miles by the shortest highway distance as measured by the Market Administrator, from the nearer of the City Halls in Kansas City, Mo.; St. Joseph, Mo.; or Topeka, Kans., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which location adjustments are applicable, the price computed pursuant to § 1064.51(a) shall be reduced by 10 cents, and by an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 70 miles from such City Hall.

(b) For purposes of calculating such adjustment, bulk transfers between pool plants shall be assigned to the Class I disposition at the transferee plant prorated with the sum of receipts at such plant of producer milk and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants.

Proposed by Mid-America Dairymen, Inc.:

Proposal No. 2. Amend § 1064.15 (a) and (b) to read as follows:

§ 1064.15 Diverted milk.

* * * * *

(a) A handler pursuant to § 1064.7(b) may divert for its account without limit during any day of the month the milk of any member producer. The total quantity of milk so diverted may not exceed 35 percent in September through January and 100 percent in February through August of the larger of the following amounts: (1) The total quantity of its member producer milk received at all pool distributing plants during the current month, or (2) the average daily quantity of its member producer milk received at pool distributing plants during the previous month multiplied by the number of days in the current month;

(b) A handler in his capacity as the operator of a pool distributing plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section. However, the total quantity of milk so diverted may not exceed 35 percent in September through January and 100 percent in February through August of the larger of the following amounts: (1) The total quantity of producer milk received at such plant during the current month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, or (2) the average daily quantity of producer milk received at such plant during the previous month multiplied by the number of days in the current month from producers who are not members of a cooperative association which has diverted milk in the current month pursuant to paragraph (a) of this section; and

* * * * *

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, U. Grant Grayson, Post Office Box 4606, 7939 Floyd Avenue, Overland Park, Kans. 66204, or from the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on January 14, 1969.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 69-706; Filed, Jan. 17, 1969; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 1, 2, 50, 115]

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Proposed Establishment

The Atomic Energy Commission is authorized under section 191 of the Atomic Energy Act of 1954, as amended (the Act), notwithstanding the provisions of sections 7(a) and 8(a) of the Administrative Procedure Act (now 5 U.S.C. 556(b) and 557(b)), to establish one or more atomic safety and licensing boards, each composed of three members, two of whom shall be technically qualified and one of whom shall be qualified in the conduct of administrative proceedings, to conduct such hearings as the Commission may direct and to make such intermediate or final decisions as the Commission may authorize with respect to the granting, suspending, revoking or amending of any license or authorization under the provisions of the Act, any other provision of law, or any regulation of the Commission issued thereunder. The Commission is also authorized to delegate to a board such other regulatory functions as it deems appropriate.

The Commission has selected board members from a panel of qualified persons appointed pursuant to section 191 to conduct hearings on applications for certain facility licenses, and to render initial decisions in such cases. The atomic safety and licensing boards, as the "presiding officer" in such proceedings, exercise the same powers as are accorded hearing examiners under 5 U.S.C. 556 (formerly section 7 of the Administrative Procedure Act).

The Commission now has under consideration the establishment of an Atomic Safety and Licensing Appeal Board, to perform the review functions which would otherwise be performed by the Commission, and certain functions of the Commission on interlocutory matters,[1] in (a) such licensing proceedings as the Commission may specify, and (b) those proceedings on applications for licenses or authorizations for facilities in which the Commission has a direct financial interest. Proceedings on applications for licenses or authorizations for facilities in which the Commission has a direct financial interest are (1) proceedings on applications for authorizations under Part 115, "Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements," and (2) proceedings on applications for licenses or construction permits under Part 50, "Licensing of Production and Utilization Facilities," for facilities as to which the Commission has made an arrangement for financial assistance under section 31 of the Act, as amended, or has waived charges for use of special nuclear material or source material under section 53 c. (4) or 63 c. of the Act. If the proceeding is uncontested, the Appeal Board would perform the customary function of the Commission in deciding whether to review the initial decision on its own motion or allow the decision to become final. If the proceeding is a contested proceeding, the Appeal Board would consider the exceptions to the initial decision and make a decision thereon. In review of proceedings other than those in which the Commission has a direct financial interest, the Appeal Board would be authorized, either in its discretion or on the direction of the Commission, to certify to the Commission for its determination, major or novel questions of policy, law or procedure.

The final decision of the Appeal Board in proceedings on applications for licenses or authorizations for facilities in which the Commission has a direct financial interest would constitute the final action of the Commission. In other proceedings, the Commission would reserve the right to review the Appeal Board's decision on its own motion, on the ground that the Appeal Board's decision (a) is, with respect to an important matter, in conflict with statute, regulation, case precedent or established Commission policy and (b)(1) could significantly and adversely affect the public health and safety or the common defense and security, or (2) involves an important question of public policy.

If the proposed amendments are adopted, the Commission intends to delegate its review function to the Appeal Board in a number of proceedings (both contested and uncontested) sufficient to

[1] It is contemplated that the Commission would determine whether to assign a particular proceeding to the Appeal Board at the same time that it selects the Atomic Safety and Licensing Board.

give the Commission an adequate opportunity to evaluate the new review procedure. In any event, the Commission's review function in licensing proceedings on applications for licenses or authorizations for facilities in which the Commission has a direct financial interest would be delegated to the Appeal Board. The Commission would thereby be enabled to devote more of its time and energies to major matters of policy and planning. The Appeal Board, on the other hand, would be required to exercise the authority delegated to it in accordance with the rules and regulations, case precedent, and established policies of the Commission, and would have no responsibility or authority for issuing rules or regulations.

The Appeal Board would be composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member of the panel who is technically qualified, designated by the Commission for each proceeding. Members of the Appeal Board would not be members of the atomic safety and licensing board which conducted the hearing and made the initial decision. Atomic safety and licensing boards would not be permitted to consult, on any fact in issue, with members of the Appeal Board in any proceeding in which the Appeal Board had the review function. The members of the Atomic Safety and Licensing Appeal Board would be subject to the provisions of the Commission's regulation on ex parte communications in 10 CFR 2.780 applicable to Commissioners.

The proposed amendments to Parts 1, 2, 50, and 115 set out below would reflect in the Commission's regulations the establishment of the Atomic Safety and Licensing Appeal Board.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 1, 2, 50, and 115 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received by the Commission may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

1. The first sentence of § 1.10(d) of 10 CFR Part 1 is revised to read as follows:

§ 1.10 The Commission.

* * * * *

(d) The Commission appoints the General Manager, the Director of Regulation, the General Counsel, the Director of the Division of Inspection, an Assistant General Manager for Military Application, the directors of other program divisions established under section 25(a) of the Act, 42 U.S.C. 2035(a); the hearing examiners, the Board of Contract Appeals, the Chairman and Vice Chairman and members of the Atomic Safety and Licensing Board Panel, and the members of the Atomic Safety and Licensing Appeal Board. * * *

* * * * *

2. Paragraph (c) of § 1.15a of 10 CFR Part 1 is amended to read as follows:

§ 1.15a Chairman and Vice Chairman of Atomic Safety and Licensing Board Panel.

* * * * *

(c) In addition to performing the functions described in paragraph (a) of this section, the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel may serve from time to time as members of atomic safety and licensing boards. The Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel also serve as members of the Atomic Safety and Licensing Appeal Board. They do not serve as members of atomic safety and licensing boards in proceedings in which exceptions to an initial decision may be taken to the Atomic Safety and Licensing Appeal Board.

* * * * *

3. A new paragraph (f) is added to § 1.240 of 10 CFR Part 1 to read as follows:

§ 1.240 Committees and Boards established by the Atomic Energy Act of 1954, as amended.

* * * * *

(f) The Atomic Safety and Licensing Appeal Board, authorized by the Act of August 29, 1962 (Public Law 87-615), which amended the Atomic Energy Act of 1954 by adding section 191, reviews initial decisions of presiding officers, including atomic safety and licensing boards, in (1) such licensing proceedings under the regulations in this chapter as may be referred to the Appeal Board by the Commission, (2) proceedings on applications for authorizations under Part 115 of this chapter, and (3) proceedings on applications for licenses under Part 50 of this chapter, for facilities as to which the Commission has made an arrangement for financial assistance under section 31 of the Act, or has waived charges for use of special nuclear material or source material under section 53 c. (4) or 63 c. of the Act. The Atomic Safety and Licensing Appeal Board is composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member of the panel who is technically qualified, designated by the Commission for each proceeding.

4. Paragraph (d) of § 2.704 of 10 CFR Part 2 is amended to read as follows:

§ 2.704 Designation of presiding officer, disqualification, unavailability.

* * * * *

(d) If a presiding officer becomes unavailable during the course of a hearing, the Commission will designate another presiding officer. If he becomes unavailable after the hearing has been concluded, the Commission may:

(1) Designate another presiding officer to make the decision;

(2) Direct that the record be certified to it for decision, except in adjudications in which exceptions to the initial decision may be taken to the Atomic Safety and Licensing Appeal Board; or

(3) Designate another presiding officer.

* * * * *

5. Paragraph (c) of § 2.719 of 10 CFR Part 2 is amended to read as follows:

§ 2.719 Separation of functions.

* * * * *

(c) In any adjudication for the determination of an application for initial licensing, other than a contested proceeding, the presiding officer may consult (1) the regulatory staff, and (2) members of the panel appointed by the Commission from which members of atomic safety and licensing boards are drawn: *Provided, however,* That in adjudications in which exceptions to the initial decision may be taken to the Atomic Safety and Licensing Appeal Board, the presiding officer shall not consult any member of the Atomic Safety and Licensing Appeal Board on any fact in issue.

* * * * *

6. Paragraph (c) of § 2.721 of 10 CFR Part 2 is redesignated paragraph (d) and a new paragraph (c) is added to § 2.721 to read as follows:

§ 2.721 Atomic safety and licensing boards.

* * * * *

(c) In a proceeding in which exceptions to the initial decision may be taken to the Atomic Safety and Licensing Appeal Board, the Commission will not designate any members of the Appeal Board as members or alternates of the atomic safety and licensing board established to preside in such proceeding.

* * * * *

7. A new paragraph (f) is added to § 2.780 of 10 CFR Part 2 to read as follows:

§ 2.780 Ex parte communications.

* * * * *

(f) The provisions and limitations of this section applicable to Commissioners, members of their immediate staffs, and other AEC officials and employees who advise the Commissioners in the exercise of their quasi-judicial functions are applicable to members of the Atomic Safety and Licensing Appeal Board, members of their immediate staffs, and other AEC officials and employees who advise members of the Appeal Board in the exercise of their quasi-judicial functions.

8. An undesignated center head and new §§ 2.785, 2.786, and 2.787 are added to 10 CFR Part 2 following § 2.780 to read as follows:

ATOMIC SAFETY AND LICENSING APPEAL BOARD

§ 2.785 Function of the Atomic Safety and Licensing Appeal Board.

(a) The Commission will establish an Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise have been exercised and performed by the Commission, including, but not limited to, those under §§ 2.760–2.771, 2.912, and 2.913, in (1) such licensing proceedings under the regulations in this chapter as the Commission may specify, (2) proceedings on applications for authorizations under Part 115 of this chapter, and (3) proceedings on applications for licenses under Part 50 of this chapter, for facilities as to which the Commission has made an arrangement for financial assistance under section 31 of the Act, or has waived charges for use of special nuclear material or source material under section 53c(4) or 63c of the Act.

(b) In the proceedings described in paragraph (a) of this section, the Atomic Safety and Licensing Appeal Board will also exercise the authority and perform the functions which would otherwise have been exercised and performed by the Commission under §§ 2.711, 2.717(a), 2.718(l), 2.720(f), 2.730, 2.742(b), 2.743(b), 2.752 (a) and (c) and Subpart I of this part, except those functions referred to in § 2.905 (c), (g), and (h).

(c) In the proceedings described in subparagraphs (1), (2), and (3) of paragraph (a) of this section, the Atomic Safety and Licensing Appeal Board shall exercise the authority and perform the functions delegated to it subject to the provisions and limitations of the referenced sections and subpart. Except as provided in § 2.786, any action taken by the Atomic Safety and Licensing Appeal Board pursuant to its delegated authority shall have the same force and effect and shall be made, evidenced, and enforced in the same manner as actions of the Commission.

(d) In the proceedings described in paragraph (a)(1) of this section, the Atomic Safety and Licensing Appeal Board may, either in its discretion or on direction of the Commission, certify to the Commission for its determination major or novel questions of policy, law or procedure.

§ 2.786 Review of decisions and actions of the Atomic Safety and Licensing Appeal Board.

(a) Within 15 days after the date of a decision or action by the Atomic Safety and Licensing Appeal Board under § 2.785, the Commission, in the proceedings described in paragraph (a)(1) of § 2.785, may on its own motion, direct that the record of the proceeding be certified to it for review on the ground that the decision or action of the Atomic Safety and Licensing Appeal Board (1) is, with respect to an important matter, in conflict with statute, regulation, case precedent, or established Commission policy, and (2) (i) could significantly and adversely affect the public health and safety or the common defense and security, or (ii) involves an important question of public policy. The effect of the Atomic Safety and Licensing Appeal Board's decision or action is then stayed until the Commission's review of the proceeding has been completed.

(b) No petition or other request for Commission review of an Appeal Board's decision or action will be entertained by the Commission.

§ 2.787 Composition of Atomic Safety and Licensing Appeal Board.

The Atomic Safety and Licensing Appeal Board will be composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member of the panel who is technically qualified, designated by the Commission for each proceeding.

9. Appendix A of 10 CFR Part 2 is amended by adding a new section VII to read as follows:

VII. LICENSING PROCEEDINGS SUBJECT TO APPELLATE JURISDICTION OF ATOMIC SAFETY AND LICENSING APPEAL BOARD

(a) An Atomic Safety and Licensing Appeal Board, designated by the Commission under the authority of section 191 of the Act, reviews initial decisions of presiding officers in (1) such licensing proceedings as the Commission specifies, (2) proceedings on applications for authorizations under Part 115, and (3) proceedings on applications for facility licenses or construction permits as to which the Commission has made an arrangement for financial assistance under section 31 of the Act, or has waived charges for use of special nuclear material or source material under section 53c(4) or 63c of the Act. In such proceedings, the Atomic Safety and Licensing Appeal Board performs the functions and exercises the authority of the Commission described in sections I(g), III(g)(2), and IV(g), except as their context may require otherwise. The Atomic Safety and Licensing Appeal Board is required to decide each matter before it in accordance with the rules and regulations, case precedent, and established policies of the Commission. It has no responsibility or authority for issuing rules or regulations. The Atomic Safety and Licensing Appeal Board is composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member of the panel who is technically qualified, designated by the Commission for each proceeding.

(b) Two members, being a majority of the Appeal Board, constitute a quorum, if one of those members is the member qualified in the conduct of administrative proceedings. The vote of a majority controls in any decision by the Appeal Board, including orders in interlocutory matters and final decisions. A dissenting member is, of course, free to express his dissent and the reasons for it in a separate opinion for the record.

(c) Consultation between members of the Atomic Safety and Licensing Appeal Board and the staff, in initial licensing proceedings other than contested proceedings, is permitted on the same conditions specified for the Commissioners under 10 CFR § 2.780. However, atomic safety and licensing boards are not permitted under § 2.719 to consult, on any fact in issue, with the Chairman, Vice Chairman, or third member of the Atomic Safety and Licensing Appeal Board, in any proceeding in which an appeal from the initial decision may be taken to the Atomic Safety and Licensing Appeal Board, whether contested or not.

10. Paragraph (e) of § 50.57 of 10 CFR Part 50 is amended to read as follows:

§ 50.57 Provisional operating license.

* * * * *

(e) In a case where a hearing has been held in connection with a proceeding under this section the presiding officer may, upon written motion and upon good cause shown, provide that any initial decision issued pursuant to this section shall become effective ten (10) days after issuance subject to (1) the review thereof and further decision by the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate, upon exceptions filed by any party, and (2) such order as the Commission or the Atomic Safety and Licensing Appeal Board may enter upon such exceptions or upon its own motion within forty-five (45) days after the issuance of such initial decision. In the absence of a Commission or an Appeal Board order pursuant to the foregoing, and in the absence of exceptions to the initial decision, the initial decision shall become the final decision of the Commission at the end of such forty-five (45) day period. If any party opposes the motion for expedited effectiveness of the initial decision, the presiding officer may stay its effectiveness pending filing within five (5) days after its issuance of an exception to the provision for expedited effectiveness, and thereafter until decision by the Commission or the Atomic Safety and Licensing Appeal Board on the exception.

11. Paragraph (e) of § 115.45 of 10 CFR Part 115 is revised to read as follows:

§ 115.45 Provisional operating authorization.

* * * * *

(e) In a case where a hearing has been held in connection with a proceeding under this section, the presiding officer may, upon written motion and upon good cause shown, provide that any initial decision issued pursuant to this section shall become effective ten (10) days after issuance subject to (1) the review thereof and further decision by the Atomic Safety and Licensing Appeal Board upon exceptions filed by any party, and (2) such order as the Atomic Safety and Licensing Appeal Board may enter upon such exceptions, or upon its own motion within forty-five (45) days after issuance of such initial decision. In the absence of an Atomic Safety and Licensing Appeal Board order pursuant to the foregoing, and in the absence of exceptions to the initial decision, the initial decision shall become the final decision of the Commission at the end of such forty-five (45) day period. If any party opposes the motion for expedited effectiveness of the initial decision, the presiding officer may stay its effectiveness, pending filing within five (5) days after its issuance of an exception to the provision for expedited effectiveness, and thereafter until decision by the Atomic Safety and Licensing Appeal Board on the exception.

(Secs. 161, 191, 68 Stat. 948; 76 Stat. 409; 42 U.S.C. 2201, 2241)

Dated at Washington, D.C., this 15th day of January 1969.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 69-739; Filed, Jan. 17, 1969; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[Docket No. 18416; FCC 69-9]

TELEVISION SIGNALS

Eligibility and Contents of Application and Notification Prior to Commencement of New Service

In the matter of amendment of §§ 74.1031(c) and 74.1105 (a) and (b) of the Commission's rules and regulations as they relate to addition of new television signals, Docket No. 18416.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The question has recently arisen whether the Commission's CATV notification requirements (§ 74.1105 (a) and (b) for CATV systems generally; and § 74.1031(c) for CATV applicants utilizing Community Antenna Relay Stations of the Commission's rules) are applicable to the addition of local television signals on existing CATV systems.[1] The rationale of the second report and order requires that §§ 74.1105 (a) and (b); and 74.1031(c) apply to local as well as distant television signals, and we have consistently applied these portions of the specified sections referring to new CATV systems and to CATV systems proposing to extend lines into obviously new geographic areas to all signals to be carried. As we stated upon reconsideration of the second report, "The notice requirement in § 74.1105 applies to all proposed service, whether or not § 74.1107 is involved." (FCC 67-34, 6 FCC 2d 309, released Jan. 19, 1967). However, in the circumstances, we consider it appropriate to issue proposed rule making in this matter. We also believe it desirable to amend our rules to require that notice also be given when a CATV system proposes to delete any signals which it is carrying. We are proposing a revision in our rules to accomplish this as well.

[1] For example, it has been argued that § 74.1105(a) is not applicable where an existing CATV system adds local signals to its service because § 74.1105(a) provides that "No CATV system shall * * * commence supplying to its subscribers the signal of any television broadcast station carried beyond the Grade B contour of the station unless the system has given prior notice of the proposed new service * * *", and it further states "Such notice shall be given by existing systems which propose to add new distant signals * * *"

3. Accordingly, we believe it desirable to consider amending the present rules, and to that end we are proposing the changes set forth below. The proposed amendment would make it clear that §§ 74.1105 (a) and (b), and 74.1031(c) apply to local television signals for all CATV systems.

4. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before February 17, 1969, and reply comments on or before February 27, 1969. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

5. Authority for the amendments proposed herein is contained in section 4(i), 303(r), and 307 of the Communications Act of 1934, as amended.

6. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: January 8, 1969.

Released: January 15, 1969.

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

1. In Part 74 of Chapter I of Title 47 of the Code of Federal Regulations, paragraph (c) of § 74.1031 is amended to read as follows:

§ 74.1031 Eligibility and contents of application.

* * * * *

(c) An application for any authorization subject to § 74.1033 shall contain a statement that the applicant(s) have notified the licensee or permittee of any television broadcast station within whose predicted Grade B contour the CATV system(s) operate or will operate, in whole or in part, and the licensee or permittee of any 100 watts or higher power translator station operating in the community of each such system, of the filing of the application. Where it is proposed to supply the signal of any noncommercial educational television station in a community with an unoccupied reserved educational television channel assignment under § 73.606 of this chapter, the notice shall also be served upon the superintendents of schools in the community and county in which the system(s) will operate and the local, area, and State educational television agencies, if any. Such statement of the applicant(s) shall be supported by copies of the letters of notification directed to such licensees or permittees and educational interests pursuant to § 74.1105. The notice shall include the fact of intended filing by the applicant(s), the name and address of each CATV system served or to be served under the authorization sought, the identification of the community served or to be served by each such CATV system, the television, standard broadcast and FM station(s) whose programs will be distributed by each such CATV system, and the estimated time operations will commence.

NOTE 1: As used in § 74.1031(c), the term "predicted Grade B contour" means the field intensity contour defined in § 73.683(a) of this chapter, the location of which is determined exclusively by means of the calculations prescribed in § 73.684 of this chapter.

* * * * *

2. In Part 74 of Chapter I of Title 47 of the Code of Federal Regulations, § 74.1105(a) and (b) are amended to read as follows:

§ 74.1105 Notification prior to the commencement of new service.

(a) No CATV system shall commence operations in a community or commence supplying to its subscribers the signal of any television broadcast station, unless the system has given prior notice of the proposed new service to the licensee or permittee of any television broadcast station within whose predicted Grade B contour the system operates or will operate, in whole or in part, and to the licensee or permittee of any 100 watts or higher power translator station operating in the community of the system, and has furnished a copy of each such notification to the Federal Communications Commission, within sixty (60) days after obtaining a franchise or entering into a lease or other arrangement to use facilities; in any event, no CATV system shall commence such operations until thirty (30) days after notice has been given. Such notice shall be given by existing systems which propose to add new signals or to delete an existing signal at least thirty (30) days prior to effecting the change and by systems which propose to extend lines into another community within sixty (60) days after obtaining a franchise or entering into a lease or other arrangement to use facilities or where no new local authorization or contractual arrangement is necessary, at least thirty (30) days prior to commencing service. Where it is proposed to supply the signal of any noncommercial educational television station in a community with an unoccupied reserved educational television channel assignment under § 73.606 of this chapter, the notice shall also be served upon the superintendents of schools in the community and county in which the system will operate and the local, area, and State educational television agencies, if any.

(b) The notice shall include the name and address of the system, the identification of the community served or to be served, the television, standard broadcast and FM station(s) whose programs will be distributed, and the estimated time operations will commence.

* * * * *

[F.R. Doc. 69-731; Filed, Jan. 17, 1969; 8:50 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 10577]

MONTANA

Notice of Classification of Public Lands for Multiple-Use Management

JANUARY 10, 1969.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 586; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the lands described in paragraph 2 from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, and 25 U.S.C. sec. 334), from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), from exchange under Section 8 of the Taylor Grazing Act (43 U.S.C. 315g), and the lands shall remain open to all other forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 2169), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. No adverse comments were received following publication of a notice of proposed classification on October 18, 1968. The public lands affected by this classification are located within the following described areas:

PRINCIPAL MERIDIAN, MONTANA

CARTER COUNTY

T. 5 S., R. 60 E.,
Sec. 15, NE¼ and NE¼SE¼;
Sec. 22, S½NE¼ and SE¼;
Sec. 27, N½NE¼.

The lands described above aggregate 520 acres.

3. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2c. For a period of 30 days, interested parties may submit comments to the Secretary of Interior, LLM, 721, Washington, D.C. 20240.

JAMES M. LINNE,
Acting State Director.

[F.R. Doc. 69–699; Filed, Jan. 17, 1969; 8:47 a.m.]

[New Mexico 7208]

NEW MEXICO

Notice of Classification of Public Lands for Transfer Out of Federal Ownership; Correction

JANUARY 13, 1969.

In F.R. Doc. 68–15057 appearing on pages 18713 and 18714 of the FEDERAL REGISTER issue of Wednesday, December 18, 1968, the following correction should be made:

Change

T. 24 N., R. 3 W.,
Sec. 12, NW¼NW¼, SW¼SE¼, and S½SE¼;

To Read

T. 24 N., R. 3 W.,
Sec. 12, NW¼NW¼, SW¼, SW¼SE¼, and S½SE¼;

R. BUFFINGTON,
Acting State Director.

[F.R. Doc. 69–700; Filed, Jan. 17, 1969; 8:47 a.m.]

Fish and Wildlife Service

DEPREDATING AMERICAN COOTS (FULICA AMERICANA)

Order Permitting Killing in Designated Agricultural Areas in California

It has been determined from investigations and observations by the Bureau of Sport Fisheries and Wildlife and the California Department of Fish and Game that serious depredations to agricultural crops are occurring because of large numbers of coots in the Sacramento and San Joaquin Valleys of California. This cannot be considered of a localized nature. It was further determined that damages to crops can best be minimized or alleviated by permitting the depredating coots to be killed and taken by shooting in the affected areas under specific conditions and restrictions. Accordingly, pursuant to authority contained in § 16.25, Title 50, Code of Federal Regulations, it is ordered as follows:

1. (a) Coots may be killed by shooting only with a shotgun not larger than No. 10 gauge fired from the shoulder; in the counties of Butte, Colusa, Fresno, Glenn, Kern, Kings, Madera, Merced, Placer, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Tulare, Yolo, and Yuba.

(b) Shooting of coots shall be limited to the hours between sunrise and sunset. The authorization to kill coots, as contained in this order shall terminate on May 18, 1969: *Provided*, If prior to that date it is found that the emergency condition no longer exists, the killing of coots as permitted under this order will be terminated earlier on the date of publication of an order of revocation in the FEDERAL REGISTER.

(c) Coots killed under the provision of this order may be used for food, donated to hospitals or other charitable institutions within the State for use as food, and they may be donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes. Birds killed under provisions of this order may not be sold, offered for sale, bartered, or shipped for purposes of sale or barter, or be wantonly wasted or destroyed.

2. This order does not permit the killing of coots in violation of any State law or regulation. This order contemplates emergency measures designed to aid in relieving crop depredations and it is not to be construed as a reopening or extension of any open hunting season prescribed by regulations promulgated under section 3 of the Migratory Bird Treaty Act (Sec. 3, 40 Stat. 755, as amended, 16 U.S.C. 704).

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 69–738; Filed, Jan. 17, 1969; 8:50 a.m.]

Geological Survey

[Coal Land Classification Order 102]

NEW MEXICO

Coal Land Classification Order

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

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

COAL LANDS

T. 20 N., R. 2 W.,
Sec. 4, lots 1 to 4, inclusive, S½N½, SW¼;
Secs. 5 to 8, inclusive;
Sec. 9, NW¼;
Sec. 18, N½.
T. 19 N., R. 3 W.,
Secs. 5 to 8, inclusive;
Sec. 17, W½;
Sec. 18;
Sec. 19;
Sec. 30, lots 1 to 4, inclusive; E½W½.
T. 20 N., R. 3 W.,
Secs. 1 to 22, inclusive;
Sec. 23, N½, SW¼;
Sec. 27, N½, SW¼;
Secs. 28 to 32, inclusive;
Sec. 33, N½, SW¼.

T. 19 N., R. 4 W.
T. 20 N., R. 4 W.
T. 21 N., R. 4 W.

The area described totals about 94,349 acres.

ARTHUR A. BAKER,
Acting Director.

JANUARY 13, 1969.

[F.R. Doc. 69-686; Filed, Jan. 17, 1969; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

GRAINS AND SIMILARLY HANDLED COMMODITIES

Notice of Extension of Warehouse Storage Loans

Pursuant to the provisions of § 1421.55 of the General Regulations Governing Price Support for the 1964 and Subsequent Crops of Grains and Similarly Handled Commodities, as amended, CCC hereby gives notice that, unless earlier demand for payment is made, the loan maturity dates of price support warehouse-storage loans on the 1967 and 1968 crops of barley, corn, grain sorghum, oats, soybeans, and wheat are extended for an additional 1 year period from the current maturity dates for such loans, as provided below, with respect to producers who prior to the current original maturity dates of loans secured by the 1968 crops of such commodities or the current extended maturity date of loans secured by the 1967 crops thereof, or such later dates that may be authorized for good cause by the Deputy Administrator, State and County Operations, ASCS, notify in writing the ASCS county office through which they obtained such loans that they wish to have such maturity dates extended; loans with respect to which no request for extensions are received will mature on the current original and extended maturity dates of loans secured by the 1968 and 1967 crops of the commodities designated in this notice.

Commodity	1967 Crop		1968 Crop	
	From current extended maturity date	To re-extended maturity date	From current original loan maturity date	To extended loan maturity date
Barley in Alaska, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming	May 31, 1969	May 31, 1970	May 31, 1969	May 31, 1970
Barley in all other states	Apr. 30, 1969	Apr. 30, 1970	Apr. 30, 1969	Apr. 30, 1970
Corn in all states	July 31, 1969	July 31, 1970	July 31, 1969	July 31, 1970
Grain Sorghum in Oklahoma and Texas	June 30, 1969	June 30, 1970	June 30, 1969	June 30, 1970
Grain Sorghum in all other states	July 31, 1969	July 31, 1970	July 31, 1969	July 31, 1970
Oats in Alaska, Idaho, Maine, Michigan, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin, and Wyoming	May 31, 1969	May 31, 1970	May 31, 1969	May 31, 1970
Oats in all other states	Apr. 30, 1969	Apr. 30, 1970	Apr. 30, 1969	Apr. 30, 1970
Soybeans in all states	July 31, 1969	July 31, 1970	July 31, 1969	July 31, 1970
Wheat in Idaho, Minnesota, Montana, North Dakota, Oregon, Washington, and Wyoming	May 31, 1969	May 31, 1970	May 31, 1969	May 31, 1970
Wheat in all other states	Apr. 30, 1969	Apr. 30, 1970	Apr. 30, 1969	Apr. 30, 1970

(Secs. 4, 5, 62 Stat. 1070, as amended; secs. 101, 401, 403, 405, 63 Stat. 1051, as amended; 15 U.S.C. 714 b and c; 7 U.S.C. 1441, 1421, 1423, 1425)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on January 13, 1969.

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

[F.R. Doc. 69-709; Filed, Jan. 17, 1969; 8:45 a.m.]

Office of the Secretary

SECRETARY; DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assignments of Responsibility—Title VI, Civil Rights Act of 1964; Revocation

Notice is hereby given that pursuant to mutual agreement the Secretary of Agriculture has revoked the assignment of responsibilities made to the Secretary of Health, Education, and Welfare with respect to elementary and secondary schools and school systems pursuant to Title VI of the Civil Rights Act of 1964 and the U.S. Department of Agriculture regulations issued thereunder, 7 CFR Part 15. Accordingly, item 1 of the notice appearing in 32 F.R. 2823 (Feb. 11, 1967) is no longer effective.

Done at Washington, D.C., this 14th day of January 1969.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 69-710; Filed, Jan. 17, 1969; 8:48 a.m.]

Packers and Stockyards Administration

[P. & S. Docket No. 1211]

ST. PAUL UNION STOCKYARDS

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on November 9, 1967 (26 A.D. 1176), continuing in effect to and including May 31, 1969, an order issued on January 28, 1966 (25 A.D. 58), authorizing the respondent, St. Paul Union Stockyards, St. Paul, Minn., a division of United Stockyards Corp., to assess the current temporary schedule of rates and charges.

By a petition filed on December 23, 1968, the respondent requested authority to modify, as soon as possible, the current temporary schedule of rates and charges as indicated below, and requested that the current schedule, as so modified, be continued in effect to and including December 31, 1970.

Whereas the Respondent is operating under certain outstanding orders prescribing rates and charges to be assessed for stockyards services and that such rate orders are to remain in effect to an including May 31, 1969, unless modified or extended by further order before that date.

The Respondent hereby respectfully requests that a new order be issued further modifying current orders now in effect.

1. Respondent is presently operating under rate orders prescribing rates and charges, the latest modification of said rates and charges being authorized by an order issued January 28, 1966. The duration of the rates and charges as amended by the order issued on January 28, 1966, was extended by an order dated November 9, 1967, to May 31, 1969.

2. The Respondent now requests that this aforesaid order be further modified so as to change the rates and charges and be published in Tariff No. 30 as follows:

A. Amend Item 1 in the present tariff to provide an increase in basic yardage charges per head as follows:

	Present	Proposed
Cattle (except bulls 700 lbs. or over)	$1.30	$1.46
Bulls (minimum 700 lbs.)	1.96	2.15
Calves (400 lbs. or under)	.70	.78
Hogs	.44	.50
Sheep or Goats	.25	.28

B. Amend Item 2 of the present tariff to provide an increase in Resale in the Commission Division under Column 1 per head as follows:

	Present	Proposed
Cattle (except bulls 700 lbs. or over)	$1.30	$1.46
Bulls (minimum 700 lbs.)	1.96	2.15
Calves (400 lbs. or under)	.70	.78
Hogs	.44	.55
Sheep or Goats	.25	.28

C. Amend Item 3 of the present tariff on Direct Shipment to Packers and Slaughterers at South St. Paul and not offered for sale as follows:

	Present	Proposed
Cattle (except bulls 700 lbs. or over)	$0.66	$0.74
Bulls (minimum 700 lbs.)	.98	1.08
Calves (400 lbs. or under)	.35	.39
Hogs	.24	.27
Sheep or Goats	.13	.14

D. Amend Item No. 6, paragraph (d) providing for a charge per bushel for grinding feed by providing increases as follows:

	Present	Proposed
Corn, Wheat or Rye	$0.08	$0.10
Oats	.05	.10
Barley	.07	.10

E. Amend Item 6, paragraph (f) by striking, "No feed of any kind from other sources may be used by market or transportation

agencies, dealers or others except at the sales barns located north of Swift Avenue by special arrangement."

F. Amend Item 7, paragraph (b) by striking, "Carload Shipments—$1 per deck" and "Maximum $1 per truck." Amend "Truck shipments—$0.02 per head" to read "Rail or Truck Shipments—$0.02 per head."

G. Amend Item 7, paragraph (c) by striking, "except to the sales barns located north of Swift Avenue by special arrangement."

H. Amend Item 8, Hog Immunization, paragraph (b) as follows:

(1) Amend third sentence under paragraph (b) by adding "blood testing" so that the sentence now reads, "For the use of facilities and necessary labor for vaccinating, temperaturizing, holding, blood testing, castrating, removing tusks, branding and ear-tagging hogs, owner will be assessed the following charges:"

(2) Increase the charge per head for Temperaturizing and holding hogs weighing under 175 pounds from 14¢ to 25¢ per head.

(3) Increase the charge for additional weight for Temperaturizing and holding hogs from 14¢ to 25¢ for each 100 pounds so that the sentence will read, "A additional 25¢ for each 100 pounds or fraction thereof will be charged for hogs weighing over 175 pounds."

(4) Increase the charge for hogs temperaturized but not vaccinated (except rejects) from 5¢ per head to 10¢ per head.

(5) Increase the charge for applying ear tags or rings from 3¢ to 5¢ per head.

(6) Increase the charge for branding with paint from 3¢ per head to 5¢ per head.

(7) Increase the charge for castration of hogs weighing 175 pounds or under from 50¢ per head to 75¢ per head.

(8) Increase the charge for castration of hogs weighing over 175 pounds to provide for an increase from 50¢ for each 100 pounds or fraction thereof to 75¢ for each 100 pounds or fraction thereof will be charged for hogs weighing over 175 pounds.

(9) Increase the charge for removing tusks on hogs when removed at the time of castration from 25¢ to 50¢ per head.

(10) Increase the additional charge for removing tusks on hogs without castration from 25¢ per head to 50¢ per head.

(11) Add a new service providing for Brucellosis or Blood Testing at 50¢ per head.

I. Amend Item 9, Paragraph (b) as follows:

(1) Eliminate charge for dipping or spraying hogs of 10¢ per head.

(2) Add to the charge for dipping or spraying sheep of 15¢ per head the words "Minimum $50. (See Note)."

(3) Eliminate the following: "The maximum charge for dipping sheep will be $12.50 per single deck or $25 per double deck. When ordered out of regular sheep dipping season, a straight charge of 15¢ per head will be made."

(4) Add: "Note: The mimimum charge will not apply when two or more owners dip 335 head or more of sheep at one time."

The modifications, if authorized, will produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 10 days after the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of January 1969.

DONALD A. CAMPBELL,
Administrator, Packers and Stockyards Administration.

[F.R. Doc. 69-701; Filed, Jan. 17, 1969; 8:47 a.m.]

[P. & S. Docket No. 425]

SIOUX CITY STOCK YARDS

Notice of Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on December 2, 1968, continuing in effect to and including March 31, 1969, an order issued on March 18, 1966 (25 A.D. 346), authorizing the respondent, the Sioux City Stock Yards, Sioux City, Iowa, a division of United Stockyards Corp., to assess the current temporary schedule of rates and charges.

By a petition filed on December 23, 1968, the respondent requested authority to modify, as soon as possible, the current temporary schedule of rates and charges as indicated below, and requested that the current schedule, as so modified, be continued in effect to and including December 31, 1970.

Whereas the Respondent is operating under certain outstanding orders prescribing the rates and charges to be assessed for stockyards services and such rate orders are to remain in effect to and including March 31, 1969, unless modified or extended.

Respondent therefore respectfully requests that a new order be issued further modifying current orders now in effect.

1. The Respondent is presently operating under a rate order prescribing rates and charges, the latest modification of rates and charges being authorized by an order issued on March 18, 1966. These rates and charges have been extended from time to time, the latest extension being granted in rate order dated December 2, 1968.

2. The Respondent now requests that the aforesaid order be further modified so as to change the rates and charges to be published as a supplement to Respondent's Tariff No. 19 as follows:

a. Amend Item No. 1 to provide an increase in basic yardage charges per head as follows:

	Present	Proposed
Cattle (except bulls 700 lbs. or over)	$1.08	$1.23
Bulls (minimum 700 lbs.)	1.40	1.65
Calves (400 lbs. or under)	.60	.67
Hogs	.37	.42
Sheep or Goats	.21	.24

b. Amend Item No. 3 of said tariff to provide an increase in yardage charges per head in Column 1 on so-called "Plants" or Resales by selling agencies as follows:

	Present	Proposed
Cattle (except bulls 700 lbs. or over)	$1.08	$1.23
Bulls (minimum 700 lbs.)	1.40	1.65
Calves (400 lbs. or under)	.60	.67
Hogs	.37	.42
Sheep or Goats	.21	.24

3. The Respondent has just concluded negotiating a three year contract with the union representing its production employees which provided for substantial increases in wages, as well as fringe benefits. With inflation of around 4 percent a year, one can also expect increases in taxes and cost of materials and supplies used in conducting business. In view of the increased activity of direct buying in the Respondent's area by interior packers, as well as those located adjacent to the market, the Respondent cannot expect to show any increase in receipts for the fiscal year ending October 31, 1969, over that for the fiscal year ended October 31, 1968. The receipt pattern at Respondent's market for the past several years has been continuing downward and there seems to be nothing on the horizon which will change this trend. It, therefore, is necessary that an increase in rates be granted to offset ever-increasing expenses.

Since the increases negotiated at the last labor negotiations are retroactive to November 1, 1968, and because of the continuing inflationary pressure, the Respondent respectfully requests that the Judicial Officer at the earliest possible date enter an order to adjust its rates and charges as hereinbefore set forth and that its current schedule of rates and charges, as so modified, be prescribed to be in effect to and including December 31, 1970, unless modified by further orders.

The modifications, if authorized, will produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 10 days after the publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of January 1969.

DONALD A. CAMPBELL,
Administrator, Packers and Stockyards Administration.

[F.R. Doc. 69-702; Filed, Jan. 17, 1969; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-3072 etc.]

HUMBLE OIL & REFINING CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JANUARY 10, 1969.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 6, 1969.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing of petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field and location	Price per Mcf	Pressure base
G-3072 D 10-30-61	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a Division of Tenneco Inc., various fields and counties, Tex.	(1)	.....
G-20130 C 12-23-68	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	Transcontinental Gas Pipe Line Corp., Dilworth Dome Field, McMullen County, Tex.	[2] 16.0	14.65
CI64-725 C 12-24-68	Samedan Oil Corp. (Operator) et al., Post Office Box 909, Ardmore, Okla. 73401.	Michigan Wisconsin Pipe Line Co., Woodward Area, Dewey County, Okla.	[3] 19.5	14.6 [4]
CI65-1243 C 12-19-68	Sun Oil Co.-DX Division [4] Post Office Box 2039, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Gallegos Canyon, San Juan County, N. Mex.	13.0	15.025
CI66-290 E 12-17-68	Atoka, Inc., et al. (successor to Franks Petroleum (Operator) et al.), Post Office Box 772, Olney, Tex. 76374.	United Gas Pipe Line Co., South Downsville Field, Lincoln Parish, La.	18.75	15.025
CI66-470 C 12-19-68	Sun Oil Co.-DX Division [4]	Arkansas Louisiana Gas Co., Arkoma Area, Le Flore County, Okla.	16.0	14.65
CI66-470 C 12-19-68	do [4]	Arkansas Louisiana Gas Co., Arkoma Area, Pittsburg County, Okla.	16.0	14.65
CI66-1110 E 11-15-68	Helen F. York et al., d.b.a. Wolfpen Oil and Gas Co. (successor to L. E. Farnsworth et al., d.b.a. Wolfpen Oil and Gas Co.), Box 1803, Huntington, W. Va. 25072.	Carnegie Natural Gas Co., Union District, Ritchie County, W. Va.	20.0	15.325
CI66-1136 E 11-15-68	Helen F. York, Agent for Ritchland Gas Co. (successor to L. E. Farnsworth, Agent for Ritchland Gas Co.).	Carnegie Natural Gas Co., Murphy District, Ritchie County, W. Va.	20.0	15.325
CI66-1137 E 11-15-68	Helen F. York, Agent for Harvey L. Starr, d.b.a. Burnt Star Gas Co. (successor to L. E. Farnsworth, Agent for Harvey L. Starr d.b.a. Burnt Star Gas Co.).	do	20.0	15.325
CI68-1021 C 12-30-68	Ozark-Mahoning Co., Suite 203, 415 West 8th St., Amarillo, Tex. 79105.	Michigan Wisconsin Pipe Line Co., acreage in Major and Woodward Counties, Okla.	[3] 15.0	14.65
CI69-577 A 11-15-68	Helen F. York, Agent for Ritchland Gas Co.	Carnegie Natural Gas Co., Murphy District, Ritchie County, W. Va.	20.0	15.325
CI69-578 A 11-15-68	Helen F. York, Agent for Ralph D. Gerber et al., d.b.a. Ritchland Gas Co.	do	20.0	15.325
CI69-584 (CI60-546) F 12-13-68	Frio Production Co. (successor to Occidental Petroleum Corp.), Post Office Box 290, Alice, Tex. 78332.	Valley Gas Transmission, Inc., C. A. Winn Field, Live Oak County, Tex.	[3] 15.0	14.65
CI69-587 A 12-20-68	Midwest Oil Corp., 1700 Broadway, Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Rowley Unit, Woodward County, Okla.	[3] 17.0	14.65
CI69-588 A 12-23-68	Humble Oil & Refining Co.	South Texas Natural Gas Gathering Co., South Jay Simmons Field, Starr County, Tex.	16.0	14.65
CI69-589 B 12-23-68	Cherokee Gas Corp. (Operator) et al., Post Office Box 308, Central City, Ky.	Texas Gas Transmission Corp., Vandetta Field, Hopkins County, Ky.	Depleted	.....
CI69-590 B 12-23-68	Cherokee Gas Corp.	Texas Gas Transmission Corp., Midland Field, Muhlenberg County, Ky.	Depleted	.....
CI69-591 A 12-23-68	J. C. Baker & Son, Inc., Gassaway, W. Va. 26624.	Equitable Gas Co., Collins Settlement District, Lewis County, W. Va.	25.0	15.325
CI69-592 A 12-23-68	Mess Petroleum Co. et al., Post Office Box 2009, Amarillo, Tex. 79105.	Panhandle Eastern Pipe Line Co., Lower Morrow Formation, Ellis County, Okla.	[3] 17.0	14.65
CI69-593 A 12-23-68	Tenneco Oil Co., Post Office Box 2511, Houston, Tex 77001.	Michigan Wisconsin Pipe Line Co., Cedardale Northeast Field, Major County, Okla.	[3] 19.5	14.65
CI69-594 A 12-24-68	Mess Petroleum Co. (Operator) et al.	Panhandle Eastern Pipe Line Co., Texas Hugoton Field, Hansford County, Tex.	[3] 17.0	14.65
CI69-595 A 12-23-68	Sun Oil Co., 1608 Walnut St., Philadelphia, Pa. 19103.	Florida Gas Transmission Co., Krotz Springs Field, St. Landry Parish, La.	21.25	15.025
CI69-596 A 12-23-68	CRA, Inc., Post Office Box 7305, Kansas City, Mo. 64116.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Sweet Lake Bay Field, Terrebonne Parish, La.	21.25	15.025
CI69-597 A 12-24-68	Sun Oil Co.-DX Division [4]	Natural Gas Pipeline Co. of America, Ernest F. McGaughey Unit, Wise County, Tex.	16.0	14.65
CI69-598 A 12-24-68	Star Gas Co., 809 Kanawha Valley Bldg., Charleston, W. Va. 25301.	United Fuel Gas Co., Rocky Fork Field, Kanawha County, W. Va.	28.0	15.325
CI69-599 A 12-26-68	Quaker State Oil Refining Corp., Post Office Box 1327, Parkersburg, W. Va. 26101.	The Ohio Fuel Gas Co., Groundhog Field, Lebanon Township, Meigs County, Ohio.	24.0	15.025
CI69-600 A 12-26-68	Sun Oil Co.-DX Division [4]	United Gas Pipe Line Co., GOM St. 904 Field, Nueces County, Tex.	17.0	14.65
CI69-601 A 12-26-68	J. S. Turner, Post Office Box 108, Shreveport, La. 71102.	United Gas Pipe Line Co., East Sikes Field, Winn Parish, La.	18.0	15.025
CI69-602 A 12-24-68	Viersen & Cochran, Post Office Box 280, Okmulgee, Okla. 74447.	Northern Natural Gas Co., Vici Field, Woodward and Dewey Counties, Okla.	[3] 18.0	14.65
CI69-603 F 12-24-68 [7]	Texaco, Inc. (successor to Cities Service Oil Co.), Post Office Box 52332, Houston, Tex. 77052.	Northern Natural Gas Co., Gooch Field, Stevens County, Kans.	16.0	14.65
CI69-604 B 12-24-68	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	El Paso Natural Gas Co., Ignacio Field, La Plata County, Colo.	Depleted	.....

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] Certificate filing made to reflect deletion of acreage not necessary to meet contract quantity. Contract provides that any reserves dedicated in excess of 500,000,000 Mcf may be deleted from contract at seller's option.
[2] Contract provides for rate of 16 cents per Mcf; however, Applicant is willing to accept certificate at 15 cents per Mcf.
[3] Subject to upward B.t.u. adjustment.
[4] Formerly Sunray DX Oil Co.
[5] Subject to upward and downward B.t.u. adjustment.
[6] Rate in effect subject to refund in Docket No. RI67-42.
[7] Partially succeeds Cities Service Oil Co., FPC GRS No. 288.

[F.R. Doc. 69-598; Filed, Jan. 17, 1969; 8:45 a.m.]

[Docket No. RI69-412 etc.]

MOBIL OIL CORP. ET AL.

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

JANUARY 8, 1969.

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

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

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

The Commission orders:

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

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

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

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 24, 1969.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

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

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI69-412	Mobil Oil Corp. (Operator), Post Office Box 1774, Houston, Tex. 77001.	434	2	Panhandle Eastern Pipe Line Co. (Putnam Field, Dewey County, Okla.) (Oklahoma "Other" Area).	$11,278	12- 9-68	[3] 1- 9-69	6- 9-69	15.53	[4] [5] 17.61	
RI69-414	Humble Oil & Refining Co. (Operator) et al., Post Office Box 2180, Houston, Tex. 77001.	307	7	Natural Gas Pipeline Co. of America (Bryans Mill et al., Fields, Cass County, Tex.) (RR District No. 6).	4,320	12-13-68	[3] 1-13-69	6-13-69	[7] 15.0	[3] [7] 18.0	
RI69-415	Oklahoma Natural Gas Co., Post Office Box 871, Tulsa, Okla. 74102.	10	4	Northern Natural Gas Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	1,323	12-13-68	[3] 1-13-69	6-13-69	[8] 17.81	[3] [8] 18.92	RI68-22.
RI69-416	Humble Oil & Refining Co.	240	5	Colorado Interstate Gas Co. (Hugoton Field, Haskell County, Kans.).	90	12-13-68	[10] 1-13-69	6-13-69	[7] 13.5	[7] [8] 14.5	RI68-2.
RI69-417	Phillips Petroleum Co., Bartlesville, Okla. 74003.	257	8	Natural Gas Pipeline Co. of America (Camrick Field, Texas County, Okla.) (Panhandle Area).	987	12- 9-68	[3] 1-23-69	6-23-69	[7] 17.0	[7] [11] 18.6	RI61-314.
	do	290	3	Panhandle Eastern Pipe Line Co. (Hugoton Deep Field, Texas County, Okla.) (Panhandle Area).	1,125	12- 9-68	[3] 1- 9-69	6- 9-69	17.0	[8] 18.0	RI62-16.
	do	294	17	Northern Natural Gas Co. (East Hansford Area, Hansford, Hutchinson, and Ochiltree Counties, Tex.) (RR District No. 10).	61,000	12- 9-68	[3] 1- 9-69	6- 9-69	16.5	[7] [8] 17.5	
	do	298	8	Natural Gas Pipeline Co. of America (Carmick Field, Tex. County, Okla.) (Panhandle Area).	1,600	12- 9-68	[3] 1- 23-69	6- 23-69	[7] 17.0	[7] [11] 18.0	RI61-314.
	do	304	6	Transwestern Pipeline Co. (Flowers Area, Roberts County, Tex.) (RR. District No. 10).	11,250	12- 9-68	[3] 1- 9-69	6- 9-69	[7] 17.0	[7] [8] 19.5	
	do	307	4	Northern Natural Gas Co. (Six Mile Field, Beaver County, Okla.) (Panhandle Area).	1,765	12- 9-69	[10] 1- 9-69	6- 9-69	[12] 15.765	[8] [12] [13] 17.867	
	do	309	7	Transwestern Pipeline Co. (North Omar Area, Cimarron County, Okla.) (Panhandle Area).	8,250	12- 9-68	[3] 1- 9-69	6- 9-69	[7] 17.0	[7] [8] 19.5	
	do	380	3	Colorado Interstate Gas Co. (Hugoton Field, Finney County, Kans.).	1,000	12- 9-68	[10] 1- 9-69	6- 9-69	[7] 12.5	[8] [13] 14.5	RI62-400.
RI69-418	Phillips Petroleum Co. (Operator) et al.	389	6	Northern Natural Gas Co. (Anadarko Basin Area, Beaver County, Okla.) (Panhandle Area).	15,000	12- 9-68	[3] 1- 9-69	6- 9-69	[7] 17.0	[8] [9] 18.0	
	do	403	2	Northern Natural Gas Co. (Anadarko Basin Area, Beaver County, Okla., and Lipscomb and Ochiltree Counties, Tex.) (RR. District No. 10).	8,500	12- 9-68	[3] 1- 9-69	6- 9-69	[7] 17.0	[7] [8] 18.0	
	do	409	2	Panhandle Eastern Pipe Line Co. (Northeast Seiling Field, Major County, Okla.) (Oklahoma "Other" Area).	2,937	12- 9-68	[3] 1- 9-69	6- 9-69	17.61	[8] [11] 19.96	
	do	413	3	Michigan-Wisconsin Pipe Line Co. (Gageby Creek Field, Wheeler County, Tex.) (RR. District No. 10).	240,000	12- 9-68	[3] 1- 9-69	6- 9-69	[11] 17.0	[8] [11] 19.0	
RI69-420	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	81	[11] 15	Michigan-Wisconsin Pipe Line Co. (Dacoma Southeast Field, Alfalfa County, Okla.) (Oklahoma "Other" Area).	595	12-10-68	[3] 1-10-69	6-10-69	[11] 16.10	[8] [11] [13] 19.015	
RI69-421	Reynolds Mining Corp., Reynolds Metals Bldg., Richmond, Va. 23218.	3	3	Arkansas Louisiana Gas Co. (Gragg Field, Sebastian County, Ark.).	14,600	12-11 68	[10] 1-11-69	6-11-69	15.0	[8] 16.0	
RI69-422	Tenneco Oil Co., Post Office Box 2511, Houston, Tex. 77001.	58	3	Colorado Interstate Gas Co. (Keyes Field, Cimarron County, Okla.) (Panhandle Area).	193	12-13-68	[10] 1-13-69	6-13-69	[10] 17.34	[8] [10] 18.36	RI66-370.
RI69-423	Tenneco Oil Co. (Operator) et al.	168	6	Arkansas Louisiana Gas Co. (Arpelar Area, Pittsburg County, Okla.) (Oklahoma "Other" Area).	16,484	12-13-68	[3] 1-13-69	6-13-69	15.0	[8] 16.0	

See footnotes at end of table.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI69-424..	Texaco Inc., Post Office Box 60252, New Orleans, La. 70160.	273	19	Texas Eastern Transmission Corp. (Delhi Field, Richland Parish, La.) (North Louisiana Area).	43	12-16-68	[2] 1-16-69	6-16-69	[3] [4] 16.8283	[5] [6] [7] 17.8519	
RI69-444..	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	301	7	Panhandle Eastern Pipe Line Co. (Guymon-Hugoton Field, Texas County, Okla.) (Panhandle Area).	7,964 110,167	12-16-68	[2] 1-16-69	6-16-69	[7] [8] 17.093	[6] [7] [8] [9] 17.696 [6] [7] [8] [9] 18.802	

[2] The stated effective date is the effective date requested by Respondent.
[3] Filing from initial certificated rate of 15.08 cents (14.73 p.s.i.a. plus 0.45 cent upward B.t.u. adjustment (1,030 B.t.u. gas) to the initial contract base rate of 17.09 cents (14.73 p.s.i.a.) plus 0.52 cent upward B.t.u. adjustment. Base rate subject to upward and downward B.t.u. adjustment.
[4] Pressure base is 14.73 p.s.i.a.
[5] "Fractured" rate increase. Respondent contractually due 19 cents per Mcf.
[6] Pressure base is 14.65 p.s.i.a.
[7] Subject to a downward B.t.u. adjustment.
[8] Periodic rate increase.
[9] Includes base rate of 16 cents plus 1.80 cents upward B.t.u. adjustment (1,126 B.t.u. gas) plus 0.01 cent tax reimbursement before increase and 17 cents plus 1.98 cents upward B.t.u. adjustment plus 0.01 cent tax reimbursement after increase. Base rate subject to upward and downward B.t.u. adjustment.
[10] The stated effective date is the first day after expiration of the statutory notice.
[11] Eight-step periodic rate increase.
[12] Two-step periodic rate increase.
[13] Includes base rate of 15 cents plus 0.765 cent upward B.t.u. adjustment (1,051 B.t.u. gas) before increase and base rate of 17 cents plus 0.867 cent after increase. Base rate subject to upward and downward B.t.u. adjustment.
[14] Filing from initial certificated base rate of 15 cents plus 2.71 cents upward B.t.u. adjustment 1,174 (B.t.u. gas) to initial contract base rate of 17 cents plus 2.96 cents upward B.t.u. adjustment. Base rate subject to upward and downward B.t.u. adjustment.
[15] Subject to upward and downward B.t.u. adjustment.
[16] Applicable to acreage added by Supplement No. 13 only.
[17] "Fractured" rate increase. Contractually due a base rate of 22 cents per Mcf.
[18] Includes 1.10 cents upward B.t.u. adjustment (base rate subject to upward and downward B.t.u. adjustment).
[19] Includes 0.015 cent tax reimbursement.
[20] Includes base rate of 17 cents plus 0.34 cent upward B.t.u. adjustment (1,020 B.t.u. gas) before increase and base rate of 18 cents plus 0.36 cent upward B.t.u. adjustment. Base rate subject to upward and downward B.t.u. adjustment.
[21] Pressure base is 15.025 p.s.i.a.
[22] Buyer deducts 1.35 cents for handling gas.
[23] Includes 1.75 cents tax reimbursement.
[24] "Fractured" rate increase. Respondent contractually due 19.5 cent per Mcf.
[25] Wellhead gas.
[26] Settlement rate as approved by Commission order issued May 5, 1964, in Docket Nos. G-12193 et al. Moratorium on increased rate filings expired on Jan. 1, 1967.
[27] Gathered gas.

Humble Oil & Refining Co. (Humble) requests an effective date of January 1, 1969, for Supplement No. 5 to its FPC Gas Rate Schedule No. 240. Phillips Petroleum Co. requests an effective date of January 1, 1969, for Supplement Nos. 4 and 3 to its FPC Gas Rate Schedule Nos. 367 and 380, respectively. Reynolds Mining Corp. (Reynolds) requests that its proposed rate increase be permitted to become effective on December 11, 1968. Tenneco Oil Co. requests an effective date of January 1, 1969, and Texaco Inc., requests a retroactive effective date of November 1, 1968, for their proposed rate increases. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

Humble and Humble Oil & Refining Co. (Operator) et al. (also referred to herein as Humble), request that should the Commission suspend their proposed rate increases that the suspension periods with respect thereto be shortened to 1 day, or as short a period as possible. Good cause has not been shown for granting Humble's request for limiting to 1 day the suspension periods with respect to their rate filings and such requests are denied.

Reynolds proposes a rate increase for a sale in the Arkoma Area of Arkansas where no formal ceiling rates have been established. Since the proposed 16 cents per Mcf rate exceeds the 11 cents per Mcf rate established for adjacent Oklahoma "Other" Area which has previously been applied to increased rates filed in this area of Arkansas, we conclude that Reynolds' proposed rate increase should be suspended for 5 months from January 11, 1969, the date of expiration of the statutory notice.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56), with the exception of the rate increase filed by Reynolds, mentioned above, for which no formal ceiling rates have been established for the area involved but exceeds the area increased rate ceiling for adjacent Oklahoma "Other" Area which has been used for similar cases in the past.

[F.R. Doc. 69-599; Filed, Jan. 17, 1969; 8:45 a.m.]

[Docket No. RI69-458 etc.]

UNION TEXAS PETROLEUM ET AL.

Order Accepting Contract Agreement, Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JANUARY 10, 1969.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

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

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-458..	Union Texas Petroleum, a division of Allied Chemical Corp., Post Office Box 2120, Houston, Tex. 77001. Attn: Mr. Elliott G. Flowers.	93	1	Southern Union Gathering Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin Area).	$1,680	12-26-68	[2] 1-26-69	6-26-29	13.0	[2] [4] 15.0	
RI69-459..	Husky Oil Co., Post Office Box 380, Cody, Wyo. 82414.	17	[1] 7	El Paso Natural Gas Co. (Gallegos Gallup Pool, San Juan County, N. Mex.) (San Juan Basin Area).	.....	12-25-68	[2] 12-31-68	(Accepted)	.....	.....	
		17	8		3,607	12-18-68	[1] 1-18-69	6-18-69	12.0495	[4] [7] 14.0536	
RI69-460..	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001. Attn: Mr. John J. Carter.	193	11	Colorado Interstate Gas Co. (Greenwood Field, Baca County, Colo.) and Greenwood Field, Morton and Stanton Counties, Kans.	2,290	12-13-68	[1] 1-13-69	6-13-69	17.0 17.0	[3] [9] 18.0 [3] [9] 18.0	RI68-2. RI68-2.
RI69-461..	J. B. Whisenant, Post Office Box 931, Palm Desert, Calif. 92260.	1	11	Montana Dakota Utilities Co. (Worland Field, Washakie and Big Horn Counties, Wyo.).	619	1-16-69	[1] 1-16-69	6-16-69	13.6154	[4] [8] 14.6410	
RI69-462..	Marathon Oil Co. (Operator) et al., 539 South Main St., Findlay, Ohio 45840. Attn: Mr. R. N. Ayars.	55	1 to 6	El Paso Natural Gas Co. (Kute Canyon Area—Dakota Formation, San Juan County, N. Mex.) (San Juan Basin Area).	32	12-16-68	[1] 1-16-69	6-16-69	[3] 12.0	[3] [4] [8] [10] 14.0578	
		4	.....		.....	.....	.....	.....	[3] 12.0	[3] [4] [8] [11] 14.2678	
RI69-463..	National Cooperative Refinery Association, 1704 Security Life Bldg., Denver, Colo. 80202. Attn: John H. Tippit, Esq.	4	2	El Paso Natural Gas Co. (Basin-Dakota Pool, Rio Arriba County, N. Mex.) (San Juan Basin Area).	1,275	12-13-68	[1] 1-13-69	6-13-69	[10] [12] 14.0536	[3] [4] [11] [12] 15.0593	
RI69-464..	Sun Oil Co.—DX Division, 907 South Detroit Ave., Tulsa, Okla. 74120. Attn: Homer E. McEwen, Jr., Esq.	189	10	El Paso Natural Gas Co. (Bisti Field, San Juan County, N. Mex.) (San Juan Basin Area).	422	12-18-68	[1] 1-18-69	6-18-69	[11] 14.2678	[3] [4] [11] 15.2869	RI68-444.
	.....do.....	238	5	Southern Union Gathering Co. (Basin Field, San Juan County, N. Mex.) (San Juan Basin Area).	2,938	12-18-68	[1] 1-18-69	6-18-69	[11] 14.2678	[3] [4] [11] 15.2869	RI68-444.
RI69-465..	Tenneco Oil Co. (Operator) et al., Post Office Box 2511, Houston, Tex. 77001.	1	3	El Paso Natural Gas Co. (Gallegos Fork Field, San Juan County, N. Mex.) (San Juan Basin Area).	1,454	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 13.2534	[3] [4] [11] [12] 15.2924	RI65-202.
	.....do.....	17	4	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin Area).	1,506	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 13.2534	[3] [4] [11] [12] 15.2924	
	.....do.....	36	3	El Paso Natural Gas Co. (West Kutz Canyon Field, San Juan County, N. Mex.) (San Juan Basin Area).	649	12-16-68	[1] 1-16-69	6-16-69	[11] 12.2339	[3] [4] [11] 13.2534	RI64-746.
	.....do.....	37	3	El Paso Natural Gas Co. (Blanco Mesa Field, San Juan County, N. Mex.) (San Juan Basin Area).	375	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 13.2534	[3] [4] [11] [12] 15.2924	RI65-202.
	.....do.....	45	4	El Paso Natural Gas Co. (Totah Gallup and West Huerfano (Basin Dakota) Fields, San Juan County, N. Mex.) (San Juan Basin Area).	26,184	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 14.2729	[3] [4] [11] [12] 15.2924	RI66-377.
	.....do.....	47		El Paso Natural Gas Co. (Aztec Mesa Verde Field, San Juan County, N. Mex.) (San Juan Basin Area).	564	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 13.2534	[3] [4] [11] [12] 15.2924	RI65-202.
	.....do.....	57	3	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex.) (San Juan Basin Area).	919	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 13.2549	[3] [4] [11] [12] 14.2729	RI65-202.
	.....do.....	69	4	El Paso Natural Gas Co. (West Huerfano Field, San Juan County, N. Mex.) (San Juan Basin Area).	159	12-16-68	[1] 1-16-69	6-16-69	[11] 14.2729	[3] [4] [11] 15.2924	RI66-379.
	.....do.....	180	2	El Paso Natural Gas Co. (San Juan Field, San Juan County, N. Mex.) (San Juan Basin Area).	1,391	12-16-68	[1] 1-16-69	6-16-69	[13] 13.0	[3] [4] [13] 14.0	
RI69-466	Tenneco Oil Co.....	21	4	El Paso Natural Gas Co. (Flora Viste and Pallnche Wash Field, San Juan, and Rio Arriba Counties, N. Mex.) (San Juan Basin Area).	1,569	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 13.2534	[3] [4] [11] [12] 15.2924	R165-203.
	.....do.....	26	3	El Paso Natural Gas Co. (Aztec Pictured Cliffs Field, San Juan County, N. Mex.) (San Juan Basin Area).	720	12-16-68	[1] 1-16-69	6-16-69	[11] 12.2339	[3] [4] [11] 13.2534	RI64-736.
	.....do.....	38	3	El Paso Natural Gas Co. (Blanco Pictured Cliffs Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	548	12-16-68	[1] 1-16-69	6-16-69	[11] 12.2339	[3] [4] [11] 13.2534	RI64-737.
	.....do.....	39	4	El Paso Natural Gas Co. (Blanco Mesa Verde Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	726	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 14.2729	[3] [4] [11] [12] 15.2924	RI68-251.
	.....do.....	50	5	El Paso Natural Gas Co. (Blanco Pictured Cliffs Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	326	12-16-68	[1] 1-16-69	6-16-69	[11] 12.2339	[3] [4] [11] 13.2534	RI64-737.
	.....do.....	51	4	El Paso Natural Gas Co. (Blanco Mesa Verde Field, Rio Arriba County, N. Mex.) (San Juan Basin Area).	242	12-16-68	[1] 1-16-69	6-16-69	[11] [12] 14.2729	[3] [4] [11] [12] 15.2924	RI66-378.

See footnotes at end of table.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-466...	Tenneco Oil Co.	120	5	El Paso Natural Gas Co. (Kutz Dakota Field, San Juan County, N. Mex.) (San Juan Basin Area).	15	12-16-68	[2] 1-16-69	6-16-69	[11] [13] 13.2534	[3] [4] [11] [13] 15.2924	RI65-203.
	do	121	4	El Paso Natural Gas Co. (Fulcher Gallegos Fork and South Blanco Terrace Fields, San Juan County, N. Mex.) (San Juan Basin Area).	11,119	12-16-68	[2] 1-16-69	6-16-69	[11] [13] 13.2534	[3] [4] [11] [13] 15.2924	RI65-203.
	do	124	5	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin Area).	18,275	12-16-68	[2] 1-16-69	6-16-69	[11] [13] 13.2534	[3] [4] [11] [13] 15.2924	RI65-203.
	do	126	3	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex.) (San Juan Basin Area).	588	12-16-68	[2] 1-16-69	6-16-69	[11] [13] 13.2534	[3] [4] [11] [13] 15.2924	RI65-203.
	do	144	6	El Paso Natural Gas Co. (San Juan Basin, San Juan County, N. Mex.) (San Juan Basin Area).	354	12-16-68	[2] 1-16-69	6-16-69	[11] 12.2295	[3] [4] [11] 13.2534	RI64-482.
	do	147	6	do	204	12-16-68	[2] 1-16-69	6-16-69	[11] 12.2295	[3] [4] [11] 13.2534	RI64-482.
	do	151	4	El Paso Natural Gas Co. (Rincon Unit Area, Rio Arriba County, N. Mex.) (San Juan Basin Area).	35	12-16-68	[2] 1-16-69	6-16-69	[11] [13] 14.2486	[3] [4] [11] [13] 15.2924	RI64-484.
	do	152	4	El Paso Natural Gas Co. (San Juan Basin, Bisti Area, San Juan County, N. Mex.) (San Juan Basin Area).	734	12-20-68	[2] 1-20-69	6-20-69	[11] [13] 14.2295	[3] [4] [11] [13] 15.2924	RI64-484.
	do	153	4	El Paso Natural Gas Co. (Bisti Field, San Juan County, N. Mex.) (San Juan Basin Area).	808	12-16-68	[2] 1-16-69	6-16-69	[11] 14.2677	[3] [4] [11] 15.2924	RI64-484.
	do	157	5	El Paso Natural Gas Co. (Ella Blaise Field, San Juan County, N. Mex.) (San Juan Basin Area).	3	12-16-68	[2] 1-16-69	6-16-69	[11] [13] 14.2486	[3] [4] [11] [13] 15.2924	RI64-484.
	do	158	7	El Paso Natural Gas Co. (Pipkin Lease and Krause No. 1, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin Area).	55	12-16-68	[2] 1-16-69	6-16-69	[11] 12.2295	[3] [4] [11] 13.2534	RI64-482.
	do	161	8	El Paso Natural Gas Co. (Huerfano Unit, San Juan County, N. Mex.) (San Juan Basin Area).	887	12-16-68	[2] 1-16-69	6-16-69	[11] [13] 14.2486	[3] [4] [11] [13] 15.2924	RI64-484.
	do	162	6	El Paso Natural Gas Co. (San Juan Basin, San Juan County, N. Mex.) (San Juan Basin Area).	21	12-16-68	[2] 1-16-69	6-16-69	[11] 12.2295	[3] [4] [11] 13.2534	RI64-482.
	do	172	1	El Paso Natural Gas Co. (San Juan Basin, Rio Arriba County, N. Mex.) (San Juan Basin Area).	445	12-16-68	[2] 1-16-69	6-16-69	13.0	[3] [4] 14.0	
	do	196	3	El Paso Natural Gas Co. (Allison Unit Area, La Plata and Archulets Counties, Colo., and San Juan County, N. Mex.) (San Juan Basin Area).	107	12-16-68	[2] 1-16-69	6-16-69	[12] 13.0	[3] [4] [14] 14.0	
	do	198	1	El Paso Natural Gas Co. (Jicarilla Area, Rio Arriba County, N. Mex.) (San Juan Basin Area).	15,781	12-16-68	[2] 1-16-69	6-16-69	13.0	[3] [4] 14.0	
RI69-467...	Tenneco Oil Co. et al.	176	18	El Paso Natural Gas Co. (San Juan Basin, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin Area).	45,097	12-16-68	[2] 1-16-69	6-16-69	13.0	[3] [4] 14.0	

[1] The stated effective date is the effective date requested by Respondent.
[2] Periodic rate increase.
[3] Pressure base is 15.025 p.s.i.a.
[4] Letter Agreement dated Jan. 25, 1968, amends contract to provide for sale of the gas under provisions of a June 18, 1958 low pressure casing-head contract, which is attached as part of filing, at a rate of 14.0536 cents per Mcf.
[5] The stated effective date is the first day after expiration of the statutory notice.
[6] Renegotiated rate increase.
[7] Pressure base is 14.65 p.s.i.a.
[8] Applies only to acreage dedicated by amendment dated July 25, 1963, designated Supplement No. 1.
[9] Includes partial reimbursement for the 0.55 percent New Mexico Emergency School Tax.
[10] Includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax.
[11] Includes 1 cent per Mcf minimum guarantee for liquids.
[12] Includes partial reimbursement for the 0.55 percent New Mexico Emergency School Tax plus 0.015 Conservation Tax.
[13] 2-cent periodic increase from 12 cents per Mcf rate.
[14] Rate for high pressure gas.

Husky Oil Co. (Husky) requests that its proposed rate increase be permitted to become effective as of December 31, 1968. J. B. Whisenant requests a retroactive effective date of November 1, 1968, for his proposed rate increase. Humble Oil & Refining Co. (Humble), Marathon Oil Co. (Operator) et al., National Cooperative Refinery Association, Sun Oil Co., Tenneco Oil Co. (Operator) et al., Tenneco Oil Co., and Tenneco Oil Co. et al., all request a January 1, 1969, effective date for their proposed rate increases. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

Humble also requests that should the Commission suspend its proposed rate increases that the suspension period with respect thereto be shortened to one day, or as short a period as possible. Good cause has not been shown for granting Humble's request for limiting to one day the suspension period with respect to its rate filing and Humble's request is denied.

Concurrently with the filing of its rate increase, Husky submitted a Letter Agreement dated January 25, 1968, designated at Supplement No. 7 to Husky's FPC Gas Rate Schedule No. 17, which provides the basis for its proposed rate increase under such rate schedule. We believe that it would be in the public interest to accept for filing Husky's letter agreement to become effective on December 31, 1968, the proposed effective date, but not the proposed rate contained therein which is suspended as hereinafter ordered.

Thirty of the proposed rate increases herein reflect partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax. The buyers, El Paso

Natural Gas Co. (El Paso) and Southern Union Gathering Co. (Southern Union), in accordance with their policy of protesting tax filings proposing reimbursement for the New Mexico Emergency School Tax in excess of 0.55 percent, are expected to file a protest to these rate increases. El Paso and Southern Union question the right of the producer under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While they concede that the New Mexico legislation effected a higher rate of at least 0.55 percent, they claim there is controversy as to whether or not the new legislation effected an increased rate in excess of 0.55 percent. In view of the contractual problem presented, we shall provide that the hearings herein with respect to the rate filings containing such tax shall concern themselves with the contractual basis for the rate filings, as well as the statutory lawfulness of the proposed increased rates and charges.

The basic contract related to the proposed rate increase filed by Tenneco Oil Co. (Tenneco) (Supplement No. 3 to Tenneco's FPC Gas Rate Schedule No. 196) contains a 1 cent per Mcf minimum guarantee for liquids provision but this 1 cent has been excluded from the proposed increased rate. Tenneco is advised that a notice of change in rate will be required if it intends to collect the 1 cent per Mcf minimum guarantee for liquids in the future. See the Commission's order issued December 7, 1967, in Docket Nos. RI64-491 et al., Union Texas Petroleum, a division of Allied Chemical Corp. (Operator) et al.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

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

The Commission finds:

(1) Good cause has been shown for accepting for filing the letter agreement filed by Husky, as set forth above, and for permitting such supplement to become effective as of December 31, 1968, the proposed effective date.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered (except for the supplement referred to in paragraph (1) above).

The Commission orders:

(A) Supplement No. 7 to Husky's FPC Gas Rate Schedule No. 17 is accepted for filing and permitted to become effective as of December 31, 1968, the proposed effective date.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except the supplement set forth in paragraph (A) above).

(C) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 26, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-600; Filed, Jan. 17, 1969; 8:45 a.m.]

[Docket No. CP68-179]

FLORIDA GAS TRANSMISSION CO.

Notice of Filing of Supplement to Application

JANUARY 13, 1969.

Take notice that on December 23, 1968, Florida Gas Transmission Co. (Applicant), Post Office Box 44, Winter Park, Fla. 32789, filed in Docket No. CP68-179 a supplement to a previously filed application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity by presenting modifications to the facilities originally proposed and various cost estimates, all as more fully set forth in the supplement which is on file with the Commission and open to public inspection.

Originally the application proposed that Applicant construct approximately 73 miles of main line looping, construct 2 new compressor stations, modify 2 existing stations and construct approximately 63 miles of lateral loops on existing sales laterals. The original estimated cost of the facilities proposed was $18 million.

The supplement herein filed provides for the construction of a compressor station of 900 horsepower at Avon Park, Polk County, Fla., and the modification of facilities at Applicant's Compressor Stations Nos. 5 and 8 by the installation of gas turbine driven centrifugal compressors. Also contained in the supplement is a revised estimate of the total cost of the facilities. The additional cost proposed is $279,000 which reflects revised estimated costs of goods and services as well as sales tax increases.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 10, 1969.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-675; Filed, Jan. 17, 1969; 8:46 a.m.]

[Docket No. G-3735, etc.]

GETTY OIL CO. ET AL.

Notice of Application for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

NOVEMBER 19, 1968.

Getty Oil Co. and other Applicants listed herein, Docket Nos. G-3735, etc.; Ashland Oil & Refining Co., Docket No. G-3913.

In the notice of applications for certificates, abandonment of service and petitions to amend certificates, issued October 10, 1968 and published in the FEDERAL REGISTER (Oct. 18, 1968; 33 F.R. 15495), on page 3, Column 2, Docket No. G-3913: Change Applicant's name to read "Ashland Oil & Refining Company" in lieu of "Ashland Oil & Gas Company."

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-673; Filed, Jan. 17, 1969; 8:45 a.m.]

[Docket No. G-3718, etc.]

GETTY OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

NOVEMBER 19, 1968.

Getty Oil Co. and other Applicants listed herein, Docket Nos. G-3718, etc.; Omega Gas Co., Docket No. CI69-404.

In the notice of applications for certificates, abandonment of service and petitions to amend certificates, issued November 12, 1968 and published in the FEDERAL REGISTER (Nov. 20, 1968; 33 F.R. 17213), on page 6, Column 4, Docket No. CI69-404: Change price to read "15.384¢" in lieu of "16.384¢."

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-674; Filed, Jan. 17, 1969; 8:45 a.m.]

[Docket No. G-7679, etc.]

KOCH INDUSTRIES, INC.

Notice of Petition To Amend

JANUARY 13, 1969.

Koch Industries, Inc. (formerly Rock Island Oil & Refining Co., Inc., G-7679, G-11055, G-12165, G-13395, G-15343, CI60-181, CI61-1563, CI63-1203, CI66-525, CI67-1568.

Take notice that on November 19, 1968, Koch Industries, Inc., Post Office Box 2256, Wichita, Kans. 67201, filed in Docket No. G-7679, et al., a petition to amend the orders issuing certificates of public convenience and necessity to Rock Island Oil & Refining Co., Inc., by changing the name of the certificate holder to Koch Industries, Inc., to reflect a change in corporate name, with no change in corporate structure, effective as of July 1, 1968, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 4, 1969.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-676; Filed, Jan. 17, 1969; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

SINAI HOSPITAL OF DETROIT ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00264-33-46040. Applicant: Sinai Hospital of Detroit, 6767 West Outer Drive, Detroit, Mich. 48235. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for research in ultramicroscopic histochemistry as applied to atherosclerosis, diabetes, and tumors; also to answer problems of localization of enzyme and immunochemical reactions in disease states which can only be solved by localization of the end-points to the finest structures of mitochondrial and other structural membranes. Application received by Commissioner of Customs: November 5, 1968.

Docket No. 69-00265-33-46040. Applicant: University of Pittsburgh, Department of Biophysics and Microbiology, Pittsburgh, Pa. 15213. Article: Electron microscope, Model EM 300 and accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use of article: The article will be used for studies concerning surface structures of bacterial cells and their interactions with small molecules, viruses, and other cells. Different ways in which the article will be used include: (1) The counting and length measurement of cell appendages such as pili and flagella; (2) the examination of fine structure of appendages themselves and their origins within the cell and their interactions with virus particles; (3) also a large number of specimens will be examined each day. Application received by Commissioner of Customs: November 5, 1968.

Docket No. 69-00266-90-46070. Applicant: Georgia Institute of Technology, 225 North Avenue NW., Atlanta, Ga. 30332. Article: Scanning electron microscope, Model Stereoscan Mark II A. Manufacturer: Cambridge Instruments Co., Ltd., United Kingdom. Intended use of article: The article will be used for education and research in biology, solid state physics and electronics, textiles, metallurgy, and ceramics. The education objectives are to familiarize students of different disciplines with a method investigation which will lead to results not obtainable by other techniques. The instrument will be of great importance for the following research projects; (1) frictional properties of cotton fibers; (2) studies in stress corrosion cracking; (3) interface phenomena in engineering materials; (4) neutron diffraction studies of tooth components and crystal growth supplement to neutron diffraction studies of tooth components. Application received by Commissioner of Customs: November 6, 1968.

Docket No. 69-00267-33-46500. Applicant: Gulf Coast Research Laboratory, Post Office Box AG, Ocean Springs, Miss. 39564. Article: Ultramicrotome, Model LKB 4800A Ultrotome I. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies concerning heart tissues from various invertebrate and vertebrate classes. Heart muscle and nerve tissues are sectioned very thin for observation in the electron microscope. They are studied from the viewpoint of comparative ultrastructure. Therefore, the thickness of these sections must be chosen by the operator so as to obtain maximum information from the tissues. Application received by Commissioner of Customs: November 8, 1968.

Docket No. 69-00268-33-46500. Applicant: The University of Texas, M. D. Anderson Hospital and Tumor Institute, 6723 Bertner Avenue, Houston, Tex. 77025. Article: Ultramicrotome, Model LKB 8800 Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in connection with studies of synovial fibroblasts grown in tissue culture, from both normal and rheumatoid patients. A study is currently under way defining the differences between the two groups of cells at the ultrastructural level. For this purpose, very thin sectioning is required for observation under the electron microscope. The fibroblasts must be carefully fixed and embedded so that the ultrathin sections needed must be prepared in long series and sectioned in equal thickness. This work requires changing the cutting thickness readily anywhere between 50 angstrom units to 2 microns. Application received by Commissioner of Customs: November 8, 1968.

Docket No. 69-00269-33-46500. Applicant: University of Illinois, Urbana Campus, 223 Administration Building, Urbana, Ill. 61801. Article: Ultramicrotome, Model LKB 8800A Ultrotome III. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for research work on viruses and their effect on structural and functional integrity of cells. This work requires the utilization of all the resolving power an electron microscope can provide. To use this power, it is essential to obtain ultrathin serial sections of high quality and even thickness. The instrument should have a capacity to provide sections, for thickness of which would range from 50 angstrom units to 2 microns. Application received by Commissioner of Customs: November 8, 1968.

Docket No. 69-00271-33-46040. Applicant: University of Washington Medical School, Department of Pathology, Seattle, Wash. 98105. Article: Electron microscope, Model EM-801 and accessories. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article will be used for research and research training. Present projects requiring the highest resolution possible include studies of amyloid, collagen, and elastic fibers by sectioning, negative staining procedures and shadowing procedures, as well as studies of morphologic variations of elementary particles of mitochondrial membranes after negative staining procedures. Projects requiring large num-

bers of low magnification, low distortion, high resolution pictures include comparative studies of renal ultrastructure, studies of various disease tissues, of experimentally altered tissues, or of autoradiographic studies in which large areas of tissue must be examined. Application received by Commissioner of Customs: November 12, 1968.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-669; Filed, Jan. 17, 1969; 8:45 a.m.]

Patent Office

GUIDELINES FOR INCORPORATION BY REFERENCE IN PATENT APPLICATIONS

An application for a patent may incorporate essential material by reference to a U.S. patent, or an allowed U.S. application, subject to the conditions set out below. Essential [1] material is defined as that which is necessary (1) to support the claims, or (2) for adequate disclosure of the invention (35 U.S.C. 112). Material which is essential to the referencing application may not be incorporated by reference to patents issued by foreign countries or to nonpatent publications. Essential material may not be incorporated by reference to a patent or application which itself incorporates essential material by reference.

The referencing application must include (1) an abstract, (2) a brief summary of the invention, (3) an identification of the referenced patent or application, (4) at least one view in the drawing in those applications admitting of a drawing, and (5) one or more claims. Where appropriate it would be advisable to direct particular attention to specific portions of the referenced patent or application.

If an application is filed with a complete disclosure, essential material may be canceled by amendment and the same material substituted by reference to a patent or a pending and commonly owned allowed application in which the issue fee has been paid. The amendment must be accompanied by an affidavit executed by the applicant or his attorney or agent of record stating that the material canceled from the application is the same material that has been incorporated by reference.

If an application incorporates essential material by reference to a U.S. patent or a pending and commonly owned allowed U.S. application for which the issue fee has been paid, applicant will be required prior to examination to furnish the Patent Office with a copy of the referenced material together with an affidavit executed by the applicant or his attorney or agent of record stating that the copy consists of the same material incorporated by reference in the referencing application.

If an application incorporates essential material by reference to a pending and commonly owned application other than one in issue with the fee paid, applicant will be required prior to examination to amend the disclosure of the referencing application to include the material incorporated by reference. The amendment must be accompanied by an affidavit executed by the applicant or his attorney or agent of record stating that the amendatory material consists of the same material incorporated by reference in the referencing application.

EDWARD J. BRENNER,
Commissioner.

Approved: January 15, 1969.

JOHN F. KINCAID,
Assistant Secretary for Science and Technology.

[F.R. Doc. 69-721; Filed, Jan. 17, 1969; 8:49 a.m.]

[1] Nonessential subject matter may be incorporated by reference to patents issued by the United States or foreign countries, prior filed commonly owned patent applications filed in the United States, and nonpatent publications for purposes of indicating the background of the invention or illustrating the state of the art.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 69-3]

DELAWARE RIVER

Security Zone

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by 49 CFR 1.4 (32 F.R. 5606) and Executive Order 10173 as amended by Executive Orders 10277, 10352, and 11249, I hereby affirm for publication in the FEDERAL REGISTER the order of J. J. McClelland, Captain, U.S. Coast Guard, Acting Commander, 3d Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

DELAWARE RIVER

SECURITY ZONE

Under authority of Title II of the Espionage Act of June 15, 1917, 40 Stat. 220, 14 U.S.C. 91, 50 U.S.C. 191 and Executive Order 10173 as amended, I declare that on Tuesday, January 21, 1969, the following area is a security zone and I order that it be closed to any person or vessel due to the transiting and undocking of the "Saratoga" (CVA-60):

The waters of the Delaware River main channel from the coordinates latitude 39°21' No., longitude 75°26.3' W., at buoy No. 42, upriver to the coordinates latitude 39°53' N., longitude 75°10' W., at the shoreline of Eagle Point, N.J.

It is further directed that this area be closed to navigation from 11 a.m. to 4:30 p.m., e.s.t., on Tuesday, January 21, 1969, however vessels will be allowed to transit the Delaware River in either direction after the passage of the "Saratoga." That the waters from the coordinates of latitude 39°52' N., longitude 75°13' W., at the shoreline of Fort Mifflin, Pa., to the coordinates latitude 39°53' N., longitude 75°10' W., at the shoreline of Eagle Point, N.J., remain a security area until the departure of the "Saratoga" is completed and further, that prescribed anchorages will remain open during this period for the purpose of anchoring vessels that enter the areas involved prior to 11 a.m., January 21, 1969, or those vessels previously anchored.

The Captain of the Port, Philadelphia, Pa., shall enforce this order. The Captain of the Port may be assisted by employees and facilities of any State or political subdivision thereof or any Federal Agency.

For violation of this order Title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192) provides:

"If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000.

"If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000."

Dated: January 15, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 69-737; Filed, Jan. 17, 1969; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20442]

AIR JAMAICA (1968) LTD. FOREIGN AIR CARRIER PERMIT

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on January 23, 1969, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., January 14, 1969.

[SEAL] GREER M. MURPHY,
Hearing Examiner.

[F.R. Doc. 69-730; Filed, Jan. 17, 1969; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18319; FCC 69-6]

IMPROVED MARITIME DISTRESS SYSTEM

Order Terminating Inquiry

In the matter of an inquiry relating to preparation for the fifth session of the Intergovernmental Maritime Consultative Organization (IMCO), Sub-Committee on Radio Communications, to formulate proposals for improving maritime distress systems.

1. In its continuing efforts to develop an improved maritime distress system, the Sub-Committee on Radio Communications (IMCOCOM) of the Intergovernmental Maritime Consultative Organization (IMCO) requested comments by its member nations on a series of items addressed to the subject of improving the present distress system. Responsive recommendations and suggestions are to be used by IMCOCOM in deliberations at its fifth session scheduled to be held in London, England, January 14–17, 1969.

2. A Commission notice of inquiry (Docket 18319) on this subject was released on September 24, 1968, and published in the FEDERAL REGISTER (33 F.R. 14565). Comments have been received and recommendations prepared. The recommendations are based on information received from Government and industry. There were no areas of real controversy and for the most part the requests of the commentators were included in the recommendations. The purpose of this notice of inquiry has been fulfilled.

3. In view of the foregoing: *It is ordered*, That the proceeding is hereby terminated.

Adopted: January 8, 1969.

Released: January 14, 1969.

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

[F.R. Doc. 69-732; Filed, Jan. 17, 1969; 8:50 a.m.]

MEXICAN STANDARD BROADCAST STATIONS

List of New Stations, Proposed Changes in Existing Stations, Deletions, and Corrections in Assignments

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power watts	Antenna	Schedule	Class	Expected date of commencement of operation
		1090 kilocycles				
XEPE (assignment deleted).	Nogales, Sonora	1,000	ND	D	III	

(FCC NOTE: This notification was transmitted by letter in accordance with provisional procedures for exchange of notifications established in a September 27, 1968 Memorandum of Understanding between the Delegations of Mexico and the United States.)

Dated: November 23, 1968.

Issued: January 13, 1969.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Assistant Chief, Broadcast Bureau.

[F.R. Doc. 69-733; Filed, Jan. 17, 1969; 8:50 a.m.]

[Dockets Nos. 18310-18313; FCC 69R-16]

NORTH AMERICAN BROADCASTING CO., INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of North American Broadcasting Co., Inc., Boynton Beach, Fla., Docket No. 18310, File No. BP-17843; Radio Boynton Beach, Inc., Boynton Beach, Fla., Docket No. 18311, File No. BP-17999; Boynton Beach Community Services, Inc., Boynton Beach, Fla., Docket No. 18312, File No. BP-18000; J. Stewart Brinsfield, Sr., J. Stewart Brinsfield, Jr., J. Luther Carroll and Max R. Carroll, doing business as Radio Voice of Naples, Naples, Fla., Docket No. 18313, File No. BP-17991; for construction permits.

1. This proceeding involves the above-captioned, mutually exclusive Boynton Beach applications, each requesting an authorization to construct a new standard broadcast station utilizing the deleted facilities (1510 kHz, 1 kw., Day) of former Station WZZZ at Boynton Beach, Fla.; and the mutually exclusive application of J. Stewart Brinsfield, Sr., J. Stewart Brinsfield, Jr., J. Luther Carroll and Max R. Carroll, doing business as Radio Voice of Naples (Voice)[1] seeking a construction permit for a new standard broadcast station at Naples, Fla. By Memorandum Opinion and Order, FCC 68-904, released September 11, 1968, these applications were designated for consolidated hearing on various issues, including areas and populations, financial, Suburban, transmitter site and air hazard issues against Voice, and section 307(b) and contingent standard comparative issues. Presently before the Review Board is a motion to enlarge issues, filed October 2, 1968, by Radio Naples, Inc. (Naples),[2] which seeks the addition of Rule 1.526,[3] Rule 1.65, lack of candor, ineptness, trafficking, site availability and suitability issues and an additional financial inquiry, against Voice.[4]

The Rule 1.526 issue. 2. Petitioner contends that, in contravention of Rule 1.526, Voice has failed to make its application available for local public inspection. Affidavits submitted with the petition state that the alleged depository, 305 Wedge Drive, Naples, Fla., is the private residence of one Orion L. Parker, Jr.; that subsequent to the designation of this proceeding for hearing, three unsuccessful attempts were made to inspect the application at said residence; and that said residence appears to have been unoccupied for the summer. In response, Voice argues that Rule 1.526(a) applies only to "pending" applications and that its application was not accepted for filing by the Commission prior to designation. In any event, Voice contends, subsequent to designation, its application has at all times been on file at 305 Webb Drive, Naples, Fla.; that the brief lapse in the time when the file was unavailable "occured solely because the owner of the residence was on vacation"; that a new filing location has since been selected; and that petitioner was not prejudiced by its failure to see

[1] The Voice application was originally tendered on December 4, 1967 (which was the "cutoff" date for the Boynton Beach applications), but was returned as not acceptable because of the prohibited overlap which would result from a grant of its proposal. The application was resubmitted on February 1, 1968, with appropriate engineering modification and, in the designation order of this proceeding, was accepted for filing nunc pro tunc the original tender date.

[2] Naples, licensee of Station WNOG, and FM Station WNFM, Naples, Florida, was made a party to this proceeding by the Examiner. Memorandum Opinion and Order, FCC 68M-1494, released November 5, 1968.

[3] Rule 1.526 requires, in part, that:

"Every applicant for a construction permit for a new station in the broadcast services shall maintain for public inspection a file for such station containing * * * (1) a copy of every application tendered for filing by the applicant for such station. * * * (d) The file shall be maintained at the main studio of the station, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours."

[4] Also before the Review Board are: (a) Opposition, filed November 21, 1968, by Voice; (b) comments, filed November 22, 1968, by the Broadcast Bureau; (c) reply to opposition, filed October 31, 1968, by Naples; and (d) reply to comments, filed December 2, 1968, by Naples.

the file as evidenced by its ability to prepare the instant petition.

3. As noted by the Broadcast Bureau in its argument in support of the requested issue,[4] there is an inconsistency between the address specified as the filing location (305 Webb Drive),[5] and the residence visited by petitioner's affiant (305 Wedge Drive). While petitioner's allegations would therefore ordinarily be rendered inadequate, Voice concedes in its opposition that its actual file location was unoccupied for at least a portion of the critical period after its application had been accepted for filing.[7] A substantial question is therefore raised, and an appropriate issue will be specified to determine whether Voice's application was, in fact, available for public inspection as required by Rule 1.526. Neither the allegation that a new filing site has been selected nor that petitioner has not been prejudiced obviates the need for the specified inquiry.

Brinsfield broadcast interests. 4. A clear understanding of the Board's disposition of the requested 1.65, lack of candor, ineptness and trafficking issues, will be facilitated by a brief review of the broadcast activities of J. Stewart Brinsfield, Sr. and Jr., as described by Naples in its petition.[8]

Catonsville, Md.—Christian Broadcasting Co. (of which the Brinsfields are principals received a construction permit for WCBC–FM on January 10, 1962, and program test authorization was granted on November 15, 1963. On December 19, 1967, a contract for sale of this station to Key Broadcasting Corp. was signed, and consent to the assignment was granted by the Commission on March 1, 1968. On February 15, 1965, the application of Catonsville Broadcasting Co. (owned by the Brinsfields) for a standard broadcast station in Catonsville was designated for hearing. Said application was ultimately dismissed for failure to prosecute on January 1, 1967.

Beckley, W. Va.—A construction permit was granted on July 13, 1966, to Christian Broadcasting Corp. (in which the Brinsfields have a 45-percent interest) for a standard broadcast station and a license ultimately issued on January 1, 1967.

Herndon, Va.—Christian Broadcasting Corp. has acquired 100 percent ownership of Three Towers, Inc., licensee of Station WHRN. The assignment of license was granted by the Commission on August 31, 1967.

Oil City and Corry, Pa.—Assignment of the licenses of Stations WKRZ and WDJR, Oil City, Pa., and WOTR, Corry, Pa., to J. Stewart Brinsfield, Sr., and J. Stewart Brinsfield, Jr., doing business as Brinsfield Broadcasting Co., were conditionally granted by the Commission on July 26, 1968. By letter dated September 17, 1968, counsel for Brinsfield Broadcasting Co. advised the Commission that the assignors of these stations had refused to consummate the transfers, and that it was the intention of the Brinsfields to file mutually exclusive applications for these facilities while their renewal applications are pending.

Raytown, Mo.—On June 3, 1968, Brinsfield Broadcasting Co. filed an application for a construction permit for a new FM broadcast station at Raytown, which application is still pending.

La Plata, Md.—On September 16, 1968, an application was filed with the Commission for assignment of Station WSMD–FM to B & M Broadcasters (in which the Brinsfields are principals). The agreement to purchase WSMD–FM is dated June 27, 1968, and is conditioned on Commission approval of a change in location of the station. An application for a construction permit to change and move the facility was accepted for filing on September 26, 1968.

Peoria, Ill.—On October 29, 1968, an application was tendered by the Brinsfields for an FM broadcast station in Peoria.

The Rule 1.65 and misrepresentation issues. 5. Naples submits that despite Voice's obligation to insure that its application is substantially accurate and complete, the Voice application continues to reflect a Brinsfield interest in WCBC–FM, Catonsville, Md., and in a pending application for a new Catonsville standard broadcast station, although, as indicated above, the license of WCBC–FM has been transferred and its standard broadcast station application has been dismissed. In addition, Naples notes that the Voice application fails to mention the Brinsfield activities in Oil City and Corry, Pa.; Raytown, Mo.; or La Plata, Md. Petitioner argues that a disclosure of all of the Brinsfield interests is critical to a resolution of the financial qualifications issue designated against Voice. In opposition, Voice argues that Rule 1.65 only applies to "pending applications"; that its subject application was not "pending" until it was accepted for filing by the Commission's designation order of September 11, 1968;[9] and that supplemental information concerning Brinsfield interests was timely filed on October 7, 1968.[10]

6. Substantial questions have been raised as to Voice's compliance with Rule 1.65 and the accuracy of the representations contained in the Voice application. Thus, the resubmitted application, filed by Voice on February 1, 1968, fails to indicate that on December 20, 1967, an application was filed with the Commission requesting approval of an assignment of its Catonsville FM station. In addition, although consent to such assignment was granted by the Commission on March 1, 1968, an amendment reflecting the transfer was not filed until October 7, 1968.[11] Furthermore, the application states that Catonsville Broadcasting Co. (in which the Brinsfields are directors, officers and stockholders) is an applicant for a new standard broadcast station at Catonsville, although that application was dismissed for failure to prosecute 1 month prior to the refiling of the instant application. Finally, as noted above, current information concerning Brinsfield ventures in Oil City and Corry, Pa., Raytown, Mo., and La Plata, Md., was not furnished for more than 7 months after the Voice application had been resubmitted. For these reasons both Rule 1.65 and "non-disclosure" issues will be specified against this applicant.

Fitness to be licensee. 7. Petitioner seeks an issue to determine the fitness of Voice to be a licensee or, in the alternative, an issue to determine whether this applicant is so "inept and careless" that it should not be entrusted with a license. In support of these requests, petitioner avers that (a) a Rule 1.65 issue has previously been sought against Catonsville Broadcasting Co. (in which the Brinsfields are principals) in the Lebanon Valley Radio proceeding; (b) petitions for approval of agreement filed by Catonsville Broadcasting Co. were twice

[4] The Broadcast Bureau supports the addition of a Rule 1.526 issue and opposes the remaining requests in their entirety. Concluding paragraph 19 of the Bureau's pleading is not in accord with the remainder of the pleading and has been disregarded.

[5] In the Public Notice submitted with Voice's affidavit of publication (filed October 10, 1968), 305 Webb Drive, Naples, Fla., is designated as the file location.

[7] With respect to Voice's argument that Rule 1.526 applies only to "pending" applications, see footnote 11, infra.

[8] The data submitted by petitioner was allegedly obtained from Commission files and its substantial accuracy has not been challenged by Voice.

[9] Voice notes that Rule 165 states that: For the purposes of this section [Rule 1.65], an application is "pending" before the Commission from the time it is accepted for filing by the Commission until a Commission grant or denial of the application is no longer subject to reconsideration by the Commission or to review by any court.

[10] Current information regarding Brinsfield interests in facilities located in Catonsville, Md.; Herndon, Va.; Beckley, W. Va.; Oil City and Corry, Pa.; Raytown, Mo.; and La Plata, Md., is contained in an amendment informally tendered to the Examiner on Oct. 7, 1968, and formally filed Oct. 21, 1968. On Nov. 14, 1968, an additional amendment was filed indicating that applications have been filed by Brinsfield Broadcasting Co. for new standard broadcast stations in Corry and Oil City, Pa., and for a new FM broadcast station in Peoria, Ill. Both amendments have been accepted by the Examiner.

[11] In the Board's view, Voice may not successfully argue that Rule 1.65 was not applicable prior to Sept. 11, 1968 (the date of the instant designation order), having previously contended in its petition for reconsideration, filed Feb. 1, 1968, that its application was "both complete and meritorious as originally filed" and should therefore be accepted nunc pro tunc as of the original date. The Commission's subsequent grant of the requested relief and nunc pro tunc acceptance of the application conferred upon this applicant various rights and responsibilities as of the original filing date; including a continuing responsibility to maintain the accuracy of its application pursuant to Rule 1.65.

denied by the Board primarily because of a failure to comply with the "5 day" requirement of § 1.525(a) of the Commission's rules; (c) in October 1966, Christian Broadcasting Co. (in which the Brinsfields are principals), was ordered to forfeit $250 for various rule violations; and (d) contrary to the representations made by the applicant in the instant application, the station ownership file for Station WCIR, Beckley, W. Va., reveals that the Brinsfields hold subscribed but not issued stock in that corporate licensee. Petitioner argues that this conduct, considered together with that described in support of the other requested issues, warrants the addition of the fitness issues.

8. Initially, it should be recognized that the petition which sought the addition of a Rule 1.65 issue against Catonsville Broadcasting Co. in the Lebanon Valley Radio proceeding was dismissed by the Review Board (Lebanon Valley Radio, 9 FCC 2d 762, 11 RR 2d 64 (1967)), and the merits of the allegations in that petition were never considered. As such, that petition can have no bearing on the disposition of the instant request.[12] With respect to the status of the stock held by the Brinsfields in Station WCIR, Beckley, W. Va., it appears that the representations of ownership contained in the Voice application are consistent with the Brinsfields' actual stock interest in that company; and a corrected ownership report has been filed for Station WCIR reflecting such interest. Petitioner's remaining allegations, viewed jointly or severally, are not sufficient to warrant the addition of either disqualifying fitness or "ineptness" issues against Voice. The violations cited by petitioner are not, of themselves, so serious as to warrant the disqualification of this applicant and fail to evidence a pattern of misconduct which would warrant such a result.[13] These issues will therefore not be added.

Trafficking. 9. Contrary to petitioner's contention, the above-described broadcast activity of the Brinsfields' fails to justify the addition of a trafficking issue against this applicant. "Trafficking in broadcast operations occurs when a licensee (or its principals) acquires and/or operates a station for the primary purpose of selling or otherwise disposing of it for profit rather than for the primary purpose of serving the public interest * * *" Harriman Broadcasting Company (WXXL), FCC 67-925, 9 FCC 2d 731. While, as petitioner notes, "the Brinsfields have engaged in numerous transactions in broadcast authorizations", such activity alone does not constitute proscribed conduct. Thus, petitioner has not alleged that the Brinsfields have concealed their intentions to request the relocation of the La Plata station. Cf. J. W. Furr (WMBC), 10 FCC 2d 354, 11 RR 2d 407 (1967). Nor is there any indication that the Brinsfields have or had any improper speculative intent with regard to any of its station licenses or applications. Cf. Edina Corp., 4 FCC 2d 36, 7 RR 2d 767 (1966).[14] A trafficking issue is therefore not justified.

Financial issue. 10. Naples requests that the financial issue specified against Voice be modified and expanded to include an inquiry into the basis used by Naples in estimating its allocation for "other" costs. Petitioner submits that Naples' original application estimated an amount of $2,500 for "other" costs which included "fees, furnishing and fixtures, misc., and contingencies"; and although Voice's refiled application contains a new engineering showing for a newly designed directional radiation pattern, no change in the estimate for "other" costs has been offered. Petitioner argues that Voice's estimate thus fails to reflect the double engineering and additional legal expenses which will be incurred by this applicant due to the revision of its engineering proposal and the forthcoming comparative hearing. In opposition, Voice argues that professional fees are not "a normal part of the cost of construction of a radio station." The applicant alleges that its principals are all employed and can be expected to continue to pay these fees out of their income, without reliance on capital assets.

11. Contrary to Voice's contention, sums expended for professional, legal and engineering fees have traditionally been included within an applicant's construction cost estimates. Thus, section III, paragraph 1(a) indicates that "costs of items such as professional fees * * * should be included under 'Other Items' below." While Voice's application does indicate that its "fees" are included within "other costs", its instant opposition suggests that such fees are not included within its estimated costs and are satisfied, on a continuing basis, by the personal assets of it principals. Inasmuch as an issue has already been specified against this applicant to determine whether its principals will have the necessary net available current liquid assets to meet their respective commitments, and in light of the ambiguity in the applicant's provision for "fees" discussed above, an additional financial issue will be specified.

Site availability and sufficiency issues. 12. Arguing in favor of the addition of these issues, Naples submits the affidavit of its president, who states that the owner of the site told him that Voice has no binding contract or agreement to purchase the land specified as its proposed site. In addition, petitioner avers that the available property, which was originally 660 feet wide, has a present width of only 340 feet available for use, due to a sale of a portion of the property and the existence of a high powerline on the site. In opposition, Voice indicates that it has filed a petition for leave to amend to change slightly the configuration of its ground system so that the directional antenna system can be accommodated on the portion of the site which is available. Subsequent to the filing and acceptance of said amendment (Memorandum Opinion and Order, FCC 68M-1491, released Nov. 5, 1968), Naples filed a reply in which it argues that Voice has not shown that the property will be available at the conclusion of this proceeding[15] or that the proximity of the powerline will permit the proposed operation.[16]

13. Petitioner's allegations are insufficient. The revised engineering data submitted by Voice contemplates an available site with a width of approximately 338 feet. Even according to petitioner's computations, such an area is still available for purchase. Thus, Naples indicates that of the original 660 feet available, approximately 212 feet have been sold and 110 feet are occupied by a high tension line. According to petitioner's calculations then, "a width of 339 feet remains available for use;" and it therefore appears that applicant's site, as amended, is available and is dimensionally suitable to accommodate the directional antenna system. In addition, the Commission has repeatedly held that absolute assurance of site availability is not required but only that there be a showing of reasonable assurance of site availability made in good faith. Lorenzo W. Milam & Jeremy D. Lansman, 4 FCC 2d 610, 7 RR 2d 765 (1966). Petitioner's affidavits of October 23, and October 2, 1968, indicate respectively that the principals of Voice have secured a 90 day option on the specified property and that the land is "now available for sale to any prospective purchaser." Aside from the fact that petitioner relies entirely on hearsay and no affidavit from persons with personal knowledge has been submitted, no allegation has been made that the property will not be available to this applicant as represented. The requested issues will therefore be denied.

14. *Accordingly, it is ordered,* That the motion to enlarge issues, filed October 2, 1968, by Radio Naples, Inc., is granted to the extent indicated below and is denied in all other respects; and

15. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issues:

(1) To determine whether Radio Voice of Naples has maintained a copy of its

[12] Naples does not profess to have personal knowledge of the facts alleged in support of the earlier petition, and does not adopt the allegations contained therein in the instant motion.

[13] However, with respect to the forfeiture ordered in Christian Broadcasting Company, FCC 66-938, 5 FCC 2d 352, adopted Oct. 20, 1966, if petitioner is able to make a prima facie showing that this violation is indicative of an usually poor Brinsfield broadcast record, these violations may be considered under the contingent comparative issue previously specified. Such a showing, however, must be presented initially to the Examiner.

[14] As noted by Voice, Station WCBC is the only broadcast station or broadcast interest which has ever been sold or otherwise disposed of by the Brinsfields, and such sale occurred only after the station had been operated for more than 4 years.

[15] In an affidavit attached to the reply, Naples' president states that on or about Oct. 10, 1968, a principal of Voice secured a 90-day option on the land specified in its revised application.

[16] The latter allegation lacks the specific allegations of fact required by § 1.229(c) of the rules.

application available for public inspection as required by § 1.526(a)(1) of the rules.

(2) To determine whether Radio Voice of Naples submitted complete and accurate information in response to the Commission's application form, Form 301, and has continued to keep the Commission advised of "substantial and significant changes" as required by § 1.65 of the Commission's rules.

(3) To determine, in light of the evidence adduced under the foregoing issues, whether Radio Voice of Naples possesses the comparative and/or requisite qualifications to be a Commission licensee.

16. *It is further ordered*, That designated issue 3, is modified to read as follows:

3. To determine, with respect to the application of Radio Voice of Naples:

(a) Whether the individual partners will have the necessary net available current liquid assets to meet their respective loan and contribution commitments.

(b) Whether the Gates equipment agreement line of credit is available to the applicant.

(c) The basis for its estimated "other costs" described in section III, paragraph 1, FCC Form 301.

(d) The manner in which the applicant will obtain additional funds to construct and operate the proposed station for 1 year.

(e) Whether, in light of the evidence adduced pursuant to (a), (b), (c), and (d) above, the applicant is financially qualified.

17. *It is further ordered*, That the burden of proceeding with the introduction of evidence shall be on Radio Naples, Inc., and burden of proof under the issues added herein shall be on Radio Voice of Naples.

Adopted: January 10, 1969.

Released: January 14, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[17]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-734; Filed, Jan. 17, 1969; 8:50 a.m.]

[Docket Nos. 18274-18277; FCC 69R-22]

WARWICK BROADCASTING CORP. ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Warwick Broadcasting Corporation, Warwick, N.Y., Docket No. 18274, File No. BP-16957; Blue Ribbon Broadcasting Co., Inc., Pittsfield, Mass., Docket No. 18275, File No. BP-17054; Everette Broadcasting Co., Inc., Walden, N.Y., Docket No. 18276, File No. BP-17480; Robert K. McConnell and Edward H. Peene, Jr., doing business as Taconic Broadcasters, Pittsfield, Mass., Docket No. 18277, File No. BP-17499; for construction permits.

[17] Review Board Member Nelson absent.

1. Taconic Broadcasters (Taconic) and Blue Ribbon Broadcasting Co., Inc. (Blue Ribbon) are mutually exclusive applicants for a new standard broadcast station at Pittsfield, Mass.; the applications were designated for hearing[1] by Commission Order (FCC 68-792, released August 6, 1968) which specified, inter alia, a limited financial issue as to the ability of Blue Ribbon's majority stockholders to meet their respective commitments under the proposal. Now before the Review Board is a petition to enlarge issues, filed August 26, 1968, by Taconic,[2] seeking addition of the following issues:

(a) Whether each of Blue Ribbon's stockholders has sufficient liquid assets to meet his or her commitment to the applicant;

(b) The basis of Blue Ribbon's estimates of construction and first-year operating costs;

(c) Whether, in light of issues (a) and (b), Blue Ribbon is financially qualified;

(d) To determine the employment status and residence of Herbert M. Levin [Blue Ribbon's president and single largest stockholder] and whether he has entered into any contractual obligations which may bear on Blue Ribbon's proposal; and

(e) Whether Blue Ribbon's application has been kept current as required by Rule 1.65.

The requests will be considered seriatim.

Availability of funds. 2. Taconic notes that the Commission specified a limited financial issue because Blue Ribbon's three controlling stockholders failed to establish that they had sufficient liquid assets to meet their financial commitments to the applicant; it contends that the balance sheets of Blue Ribbon's other four stockholders, who have in the aggregate committed $10,250 to the company, fail to show that such stockholders have sufficient liquid assets to honor their commitments. In response, Blue Ribbon relies on an amendment to its application containing, among other things, updated balance sheets for all of its stockholders. The amendment was accepted by the Hearing Examiner by Order FCC 68M-1479, released November 1, 1968. Blue Ribbon argues that the updated balance sheets establish the liquidity of the Blue Ribbon stockholders to provide the company with the needed funds. Taconic, however, presses the attack in its reply, claiming that the amendment does not resolve the question presented. It contends that the balance sheets do not disclose noncurrent obligations of the stockholders as required by Form 301, and also do not disclose the nature of the outstanding obligations. Taconic also points out that the updated balance sheets indicate certain discrepancies in the financial position of the Blue Ribbon stockholders, which, of themselves, mandate enlargement of the issues. Thus, one minority stockholder showed $10,500 in assets as of May 15, 1968, but $33,630 in assets as of October 15, 1968, when the amendment was filed. Similarly, another minority stockholder showed an increase of $16,000 in liquid assets in a 6-month period. Taconic therefore urges inclusion of the issue.[3]

3. The requested issue will be added. The balance sheets submitted with the amendment are not adequately detailed to afford us a basis for determining whether the Blue Ribbon stockholders have sufficient liquidity to meet their commitments. Form 301 requires the disclosure of all liabilities and a description of the nature of such obligations. Such a description may often be critical in the assessment of the extent of a principal's ability to meet his commitment, see Louis Vander Plate, FCC 68R-390, 14 RR 2d 309, released September 20, 1968. Here, each of the balance sheets contains a statement that it does not include liabilities secured by unlisted assets. However, without details as to the nature and value of the unlisted assets and liabilities, it cannot be determined what, if any, effect such liabilities have on the abilities of the principals to meet their respective commitments. In addition, Blue Ribbon has not explained the dramatic changes in the financial condition of certain of its stockholders as evidenced by the successive balance sheets which have been submitted; in the absence of such explanations, we think that the inclusion of the issue is called for. Although, as both Blue Ribbon and the Bureau point out, the funds to be put up by Blue Ribbon's controlling stockholders would be more than sufficient to meet its estimated construction and first-year operating costs, we note that the ability of the controlling stockholders to meet this obligation has already been called into question. A broader inquiry into Blue Ribbon's ability to finance its proposal is therefore warranted and issue 3 designated herein will be amended accordingly.

Estimated construction and operating costs. 4. Taconic, in support of its second requested issue, asserts that Blue Ribbon's estimate of construction costs and first-year operating expenses is unreasonably low and that the basis for this estimate is not adequately shown. It argues that there is no "rational explanation" for Blue Ribbon's estimate of $35,184 of first-year operating costs, when Taconic itself has projected its own costs at $66,000. Taconic submits an affidavit by Edward H. Peene, a Taconic partner, who is also general manager of a radio station in the Pittsfield area. Peene recites that his estimates were developed from his experience as general

[1] Also consolidated and designated were mutually exclusive applications for Walden and Warwick, N.Y., of which the Walden application is also mutually exclusive with these Pittsfield applications because of prohibited overlap of contours.

[2] Also before the Board are: (a) Broadcast Bureau comments filed October 18, 1968; (b) Opposition, filed October 18, 1968, by Blue Ribbon; and (c) Reply, filed December 6, 1968, by Taconic.

[3] The Bureau, in comments filed before the Blue Ribbon amendment was submitted, supports Taconic's request.

manager. Taconic points out that, based upon Peene's projection, Blue Ribbon's first-year operating expenses, before consideration of salary and personnel costs, will, at the very minimum, approach $21,000. Peene contends that Blue Ribbon's staffing cost will aggregate approximately $42,000, assuming eight employees as Blue Ribbon proposes, at an average of $100 per week. Taconic also assails the accuracy of Blue Ribbon's estimated construction costs. Based on Peene's statement that construction costs (exclusive of special wiring and soundproofing) average $20 per square foot, Taconic claims that Blue Ribbon's allocation of $2,450 for building construction will be barely sufficient to house its transmitter, much less its studio. Also understated, according to Taconic, is Blue Ribbon's estimate of miscellaneous expenses, including professional fees, nontechnical studio furnishings, etc., which Blue Ribbon has fixed at $3,000 (increased to $4,000 by the amendment).

5. In opposition, Blue Ribbon claims that it has $77,000 available to meet construction and first-year operating costs and that it is axiomatic that a one kilowatt station, as proposed, can be built and operated for that amount. Blue Ribbon points out that the major difference between Peene's estimate of first-year costs and Blue Ribbon's estimate turns on the question of staffing costs. Peene assumes eight full-time employees; Blue Ribbon, however, claims that it can use a contract engineer and some part-time personnel because of its proposed nondirectional antenna, and that its general manager (the principal stockholder) and bookkeeper will serve without compensation until revenues are sufficient to permit payment. With respect to construction costs, Blue Ribbon points out that it proposes remote-control operation; that studio space will be obtained under a trade-out arrangement in exchange for advertising time; and that, therefore, the proposal, as amended, only contemplates the construction of transmitter housing, at $1,879 (reduced from $2,450 by the amendment). Blue Ribbon notes that this amount is conceded by Taconic to be sufficient to cover such construction cost. As to the claimed deficiency in miscellaneous costs, Blue Ribbon contends that professional fees are to be deferred and that, in any event, there is an ample "cushion" to cover any unforeseen or underestimated expense.

6. Taconic replies that, even as explained, Blue Ribbon's estimates are unrealistic. Taconic argues that it "strains credulity" to assume that the general manager can forego compensation for any length of time, given his present financial obligations and circumstances; that the low staffing cost estimate is inconsistent with Blue Ribbon's "ambitious program proposal"; and that the staffing cost is at odds with published NAB figures showing average payrolls of $50,300 for markets comparable in size to Pittsfield. Taconic also claims that the construction costs still have been "shoehorned" to fit available funds by overlooking such expenses as site clearance and office furniture and equipment. Similarly, Taconic claims that the deferral of professional fees distorts the true picture and is impermissible under Commission precedent. It concludes that the issue should be added.

7. We do not think that the second requested issue has been shown to be warranted. We cannot require applicants to project costs and expenses with computer-like precision, and we are here impressed by the fact that both the Blue Ribbon and Peene estimates of Blue Ribbon's costs and expenses were prepared by experienced broadcasters, and except for adequately explained differences, are remarkably close. Thus, regarding first-year expenses, Peene projects salary requirements at approximately $18,000 higher than Blue Ribbon's estimate, but Blue Ribbon explains that, because of the nature of its proposal, its staffing demands will not be as extensive as Peene prospects.[4] The explanation appears eminently reasonable.[5] Another difference between the two estimates relates to music license fees but, as Blue Ribbon points out, these fees depend on the adjusted gross income of the station; similarly, property taxes will depend upon the amount of land owned, and Taconic has not shown that Blue Ribbon's estimate is without factual basis. The few remaining differences, which are not great, are explained by differences in operation between Blue Ribbon's proposed station and the station with which Peene is connected.[6] As to construction costs, Blue Ribbon has shown that it has allocated more than enough money to construct its transmitter housing, and Taconic has not shown that the $4,000 for "other items" will not be sufficient to cover such other additional expenses (site clearance, foundation, wiring) which, may or may not be incurred.[7] In sum, based upon the information before us, we find no substantial question as to whether the Blue Ribbon estimates of construction costs and first-year expenses are unreasonably low, and, therefore, the issue has not been shown to be warranted.

Legal qualifications. 8. The last two issues requested by Taconic derive from the fact that Herbert Levin, Blue Ribbon's principal stockholder, president and general manager, formerly lived and was employed in Providence, R.I. Taconic claims that he now resides, and is employed by a radio station in Florida, but that this change has not been reported to the Commission. Taconic contends that these circumstances raise questions as to whether Levin has entered contractual employment commitments having impact on the Blue Ribbon proposal, and whether there has been a violation of Rule 1.65. Blue Ribbon, in opposition, submits an affidavit by Levin stating that he was transferred to Florida by his employer as a part of a promotion, that the employer knows of the Blue Ribbon application, and that he is under no obligation to remain with his present employer. An affidavit by Blue Ribbon's counsel is submitted stating that counsel was promptly informed of the change in circumstances, and claiming that the change is not "substantial" so as to warrant reporting under Rule 1.65. In reply, Taconic contends that the Levin's residence and employment arrangements may have significant effects on Blue Ribbon's ability to survey the program needs of the community since Levin is the only principal with broadcasting experience. Noting that Levin and his wife own 64 percent of Blue Ribbon's stock and are, respectively, president-treasurer and assistant treasurer, Taconic argues that their residence will also be of decisional importance in the consideration of such comparative factors as integration of ownership and management.

9. The Review Board stated in Sumiton Broadcasting Co., Inc., 14 FCC 2d 208, 13 RR 2d 1086 (1968) that in certain circumstances changes of employment might be of decisional significance, hence reportable under Rule 1.65, but we find nothing in the facts presented to conclude that such circumstances exist here. The move to Florida, in the Board's view, does not, of itself, detract from Blue Ribbon's representation in its application that Levin will serve as full-time general manager when and if the application is granted, and Levin's uncontroverted affidavit that he is under no obligation to remain in Florida affirmatively establishes that such representation can be fulfilled. Thus, Taconic's assertion about the significance of the move in terms of the comparative factors of the proceeding is mere speculation. Similarly, we see no necessary connection between Levin's present residence and Blue Ribbon's representation that it will continue to survey the program needs of the community. In short, the mere fact that Levin has moved, and that this move was not reported to the Commission, is not

[4] We are not shown that the proposal cannot be fully effectuated using part-time and contract personnel as proposed. In addition, as Blue Ribbon notes, the general manager and bookkeeper will be compensated only as income is generated. While Blue Ribbon does not rely on first-year revenue to finance the station, it is axiomatic that some income will be produced and that, therefore, these persons will not be entirely without a source of income during the first year.

[5] The NAB figures, while indicative of generally prevailing salary requirements, do not, of themselves, establish a benchmark with regard to the requirements of a particular station in its first year of operation.

[6] For example, Blue Ribbon explains the difference between Peene's estimate of $2,179 for electricity and its estimate of $1,500 by noting that it takes far less electricity to operate a 1-kilowatt station, as it proposes, than the 5-kilowatt station upon which Peene based his estimate.

[7] The deferral of the professional fees does not warrant the addition of an issue. The Commission has expressed disapproval of the "deferral of substantial fixed charges" (A–C Broadcasters, 10 FCC 2d 256, 11 RR 2d 359 (1967)) because of the distortive effect such deferral has on the projection of costs and expenses. The deferral of professional fees, a not uncommon practice among applicants, does not seriously distort the projections here, cf. Radio Nevada, FCC 68R–496, paragraph 11.

of itself sufficient to warrant the inclusion of the requested issues.

10. *Accordingly, it is ordered,* That the petition to enlarge issues, filed August 26, 1968, by Taconic Broadcasters is granted to the extent hereinafter indicated, and is denied in all other respects; and that Issue 3 in this proceeding, as specified in the designation order, is amended to read, in full, as follows: To determine, with respect to the application of Blue Ribbon Broadcasting Co., Inc., whether each of the stockholders has the necessary net available current assets to meet his or her commitment to such applicant; and to determine, on the basis of the foregoing, whether the applicant is financially qualified.

Adopted: January 14, 1969.

Released: January 16, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-735; Filed, Jan. 17, 1969; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

PORT OF SEATTLE AND AMERICAN MAIL LINE, LTD.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202, or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. T. P. McCutchan, Manager, Property Management Department, Port of Seattle, Post Office Box 1209, Seattle, Wash. 98111.

Agreement No. T-2050-2 between the Port of Seattle and the American Mail Line, Ltd., modifies the basic agreement which provides for the lease of portions of Pier 28 and Pier 29 and certain adjoining lands and buildings. The purpose of the modification is to increase the area leased for office space and make other minor changes as set forth in the amendment.

Dated: January 15, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-720; Filed, Jan. 17, 1969; 8:49 a.m.]

[3] Review Board Member Nelson not participating.

FEDERAL RESERVE SYSTEM

AMERICAN BANK AND TRUST CO.

Order Approving Consolidation of Banks

In the matter of the application of American Bank and Trust Co. for approval of consolidation with Woodruff State Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by American Bank and Trust Co., Lansing, Mich., a State member bank of the Federal Reserve System, for the Board's prior approval of the consolidation of that bank and Woodruff State Bank, De Witt, Mich., under the charter and title of American Bank and Trust Co. As an incident to the consolidation, the sole office of Woodruff State Bank would become a branch of the resulting bank. Notice of the proposed consolidation, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed consolidation.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved: *Provided,* That said consolidation shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

Dated at Washington, D.C. this 9th day of January 1969.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-682; Filed, Jan. 17, 1969; 8:46 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

[2] Voting for this action: Vice Chairman Robertson, and Governors Mitchell, Daane, Maisel, Brimmer and Sherrill. Absent and not voting: Chairman Martin.

BANK OF WOOD COUNTY CO.

Order Denying Application for Approval of Merger of Banks

In the matter of the application of The Bank of Wood County Co. for approval of merger with The Hardy Banking Co.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by The Bank of Wood County Co., Bowling Green, Ohio, a State member bank of the Federal Reserve System, for the Board's prior approval of the merger into that bank of The Hardy Banking Co., North Baltimore, Ohio, under the charter and title of The Bank of Wood County Co. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed merger:

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is denied.

Dated at Washington, D.C., this 13th day of January 1969.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-685; Filed, Jan. 17, 1969; 8:46 a.m.]

FIRST AT ORLANDO CORP.

Order Approving Application Under Bank Holding Company Act

In the matter of the application of First at Orlando Corp., Orlando, Fla., for approval of acquisition of 80 percent or more of the voting shares of Central Brevard National Bank at Cocoa, Cocoa, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First at Orlando Corp., Orlando, Fla., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Central Brevard National Bank at Cocoa, Cocoa, Fla.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Cleveland.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer and Sherrill. Voting against this action: Governor Maisel. Absent and not voting: Chairman Martin.

the Currency and requested his views and recommendation. The Acting Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 14, 1968 (33 F.R. 13049), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such time shall be extended by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

Dated at Washington, D.C., this 6th day of January 1969.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-683; Filed, Jan. 17, 1969; 8:46 a.m.]

SEDAN STATE BANK

Order Approving Merger of Banks

In the matter of the application of The Sedan State Bank for approval of merger with The Peru State Bank.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by The Sedan State Bank, Sedan, Kans., a State member bank of the Federal Reserve System, for the Board's prior approval of the merger into that bank of The Peru State Bank, Peru, Kans., under the charter and title of The Sedan State Bank. The sole office of The Peru State Bank would be discontinued as a result of the merger. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed merger:

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved; *Provided*, That said merger shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

Dated at Washington, D.C., this 9th day of January 1969.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-684; Filed, Jan. 17, 1969; 8:46 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Martin and Governors Robertson, Mitchell, Maisel, and Sherrill. Absent and not voting: Governors Daane and Brimmer.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Martin.

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 85]

PORTION, AMAGANSETT LIFEBOAT STATION, EAST HAMPTON, N.Y.

Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By letter from the General Services Administration, New York Regional Office, dated December 16, 1968, the property known as a portion of the Amagansett Lifeboat Station, East Hampton, N.Y., consisting of approximately 35.84 acres and improvements, and more particularly described in said letter, has been transferred to the Department of the Interior.

2. The above described property was transferred for wildlife purposes in accordance with the provisions of section 1 of said Public Law 537 (16 U.S.C. 667b).

Dated: January 13, 1969.

CURTIS A. ROOS,
Assistant Commissioner for Real Property Disposal.

[F.R. Doc. 69-711; Filed, Jan. 17, 1969; 8:48 a.m.]

NATIONAL COMMISSION ON PRODUCT SAFETY

[Public Law 90-146; 81 Stat. 466]

HOUSEHOLD PRODUCTS PRESENTING HEALTH AND SAFETY RISK

Notice of Hearing

Notice is hereby given that pursuant to section 3(a) of Public Law 90-146 the National Commission on Product Safety will hold public hearings at 9:30 a.m., on February 18, 19, 20 (reserve room), 1969 in Room 1202, New Senate Office Building, Washington, D.C.

The subject of the hearings will be—Adequacy of Industry Self-Regulation and Testing in Assuring Safety of Household Products. The subject will include consideration of the following:

A. Voluntary self-regulation by industry.

(i) Safety responsibilities, quality control and standards of individual companies; hazards due to obsolescence,

(ii) Adequacy of standards-making activities of trade associations and regional and national standards organizations, the "consensus method" of adopting standards, level of standards relating to specific products, representation of consumers in the standards-making process,

(iii) Certification programs by industry to evidence compliance with safety standards, acceptance by companies of voluntary standards,

(iv) Antitrust implications of voluntary standards-making and certification programs,

(v) Comparison of industry and government standards-making procedures.

B. Laboratory testing.

(i) Equipment, staff, competency, and sources of revenue,

(ii) Independence of policy-making and technical functions; reporting of test results in terms of consumer safety; ability to cause modification of submitted products for safety,

(iii) Use, and public understanding and acceptance of seals of approval or certifications,

(iv) Submission of products by companies and the effect of failure to meet standards,

(v) Current and future role of government in product testing for safety.

Interested persons are invited to attend and participate by the submission of written statements. Such statements should be furnished to the Commission at its office, 1016 16th Street NW., Washington, D.C. 20036, not later than February 10, 1969. Such statements will be made a part of the record of the hearings and will be available for inspection by the public.

Interested persons desiring to offer oral testimony at these hearings should advise the Commission and file written statements setting forth the substance of their proposed testimony by February 10, 1969. The Commission will attempt to grant such requests to the extent time permits.

Persons desiring to furnish oral testimony or to submit statements at subsequent Commission hearings are invited to so advise the Commission in writing, specifying the proposed subject of their testimony and group affiliation if any.

Dated: January 15, 1969.

ARNOLD B. ELKIND,
Chairman.

[F.R. Doc. 69-765; Filed, Jan. 17, 1969; 8:51 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3909]

BSF CO.

Order Suspending Trading

JANUARY 14, 1969.

The capital stock (66⅔ cents par value) and the 5¾ percent convertible subordinated debentures due 1969 of BSF Co. being listed and registered on the American Stock Exchange, and such capital stock being listed and registered on the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934; and all other securities of BSF Co. 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 exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in the said capital stock on such exchanges and in the debentures on the American Stock Exchange, and trading otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 15, 1969, through January 24, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-688; Filed, Jan. 17, 1969; 8:46 a.m.]

[70-4658]

MAINE YANKEE ATOMIC POWER CO. ET AL.

Notice of Filing Regarding Issue and Sale of Common Stock by Public Utility Company and Its Acquisition by Subsidiary Companies of Registered Holding Companies and by Affiliates of Other Public Utility Companies

JANUARY 13, 1969.

Notice is hereby given that an application-declaration and amendments thereto have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") for authorization of the issuance and sale by Maine Yankee Atomic Power Co. ("Maine Yankee"), 9 Green Street, Augusta, Maine 04330, of 400,000 additional shares of its common stock to finance, in part, a proposed nuclear-powered electric generating plant and for approval of the acquisition of such shares of Maine Yankee common stock by the other six companies named above. The application-declaration designates sections 6(b), 9(a), 10, and 12(c) of the Act as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Maine Yankee was incorporated under the laws of Maine on January 3, 1966, to construct, own, and operate a nuclear-powered electric generating plant to supply electric energy to the following eleven New England electric utility companies ("sponsor-companies"), including the six applicant-declarant companies named above. New England Power Co. ("NEPCO"), an exempt holding company, is also a subsidiary company of New England Electric System ("NEES"), a registered holding company. The Connecticut Light and Power Co. ("CL&P"), also an exempt holding company. The Hartford Electric Light Co. ("Hartford"), and Western Massachusetts Electric Co. ("WMECO") are subsidiary companies of Northeast Utilities, a registered holding company. Montaup Electric Co. ("Montaup") is a subsidiary company of Eastern Utilities Associates, a registered holding company. Maine Public Service Co. ("Maine Public Service"), is an affiliate of one or more public utility companies. The other five sponsor-companies are Cambridge Electric Light Co. ("Cambridge"), Central Maine Power Co. ("Central Maine"), Bangor-Hydro Electric Power Co. ("Bangor"), Public Service Company of New Hampshire ("PSNH"), and Central Vermont Public Service Corp. ("Central Vermont"). With the exception of Cambridge, these companies are exempt holding companies. Cambridge is a subsidiary company of an exempt holding company. These five companies propose to acquire their pro rata shares of the additional Maine Yankee common stock, but such acquisitions are not subject to Commission approval under the Act. Approval is also requested for Maine Yankee to retire its outstanding common stock, from time to time, as its senior securities are retired in order to maintain its proposed initial capitalization ratios of 65 percent debt and 35 percent equity.

Maine Yankee's plant, to be located near Wiscasset, Maine, is expected to be in operation in 1972. It is to have an initial capacity of about 800 megawatts and is expected to produce electric energy at a cost which is less than might be expected from a comparable fossil-fuel plant. Power sold by Maine Yankee will be delivered at its plant for transmission over the coordinated New England transmission grid interconnecting the electric systems of all of the sponsor-companies, which will assure that each sponsor-company will receive energy equivalent to its share of the output of the Maine Yankee plant.

Each of the sponsor-companies has entered into a written commitment with Maine Yankee to purchase the percentage, set forth below, of Maine Yankee's common stock, and to purchase from Maine Yankee, for a period of at least 25 years, the same percentage of the total capacity and output of the plant at a price based on Maine Yankee's cost of service, including provision for an appropriate return on its net investment in the plant. The sponsor-companies and their respective applicable percentages of stock and power entitlement are as follows:

	Percent
Central Maine	38
NEPCO	20
CL&P	8
Bangor	7
Maine Public Service	5
PSNH	5
Cambridge	4
Montaup	4
Hartford	4
WMECO	3
Central Vermont	2
Total	100

In accordance with the commitments set forth above, it is proposed that Maine Yankee will issue, from time to time, prior to December 31, 1970, 400,000 additional shares of its common stock, par value $100 per share, and each sponsor-company will acquire its applicable percentage of such shares. The 400,000 shares will be sold for cash, at their aggregate par value of $40 million, as funds may be needed to acquire and prepare the site on which the plant is to be located, and for necessary engineering, design and construction expenditures. An initial issue of 100,000 shares of common stock, authorized in 1968, was sold at its aggregate par value of $10 million to the same sponsor-companies and in the same proportion (Holding Company Act Release No. 16006).

Maine Yankee expects to obtain additional funds for construction by the issuance of bonds and other senior securities, all of which will be the subject of further filings with the Commission by Maine Yankee as a subsidiary company of NEES and of Northeast Utilities. Total construction costs are estimated at $145 million.

The issuance and sale of the common stock have been expressly authorized by the Maine Public Utilities Commission, the State commission of the State in which Maine Yankee is organized and doing business, and the Massachusetts Department of Public Utilities has expressly approved the acquisition by the Massachusetts sponsors of their respective percentages of $15 million of the common stock and an application for an order authorizing the acquisition of the balance of the common stock is now pending before the Massachusetts Department of Public Utilities, and such order when issued will be filed by amendment. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Estimates of fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment.

Notice is further given that any interested person may, not later than January 31, 1969, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which

he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. 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 applicant-declarant companies at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-690; Filed, Jan. 17, 1969; 8:46 a.m.]

[File No. 1-3468]

MOUNTAIN STATES DEVELOPMENT CO.

Order Suspending Trading

JANUARY 14, 1969.

The common stock, 1 cent par value, of Mountain States Development Co. being listed and registered on the Salt Lake Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Mountain States Development Co. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commisison 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 Salt Lake Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 15, 1969, through January 24, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-689; Filed, Jan. 17, 1969; 8:46 a.m.]

[70-4705]

PENNZOIL UNITED, INC.

Notice of Proposed Sale of Utility Assets to Nonassociate Company

JANUARY 14, 1969.

Notice is hereby given that Pennzoil United, Inc. ("Pennzoil United"), 900 Southwest Tower, Houston, Tex. 77002, the successor company to Pennzoil Co. ("Pennzoil"), formerly a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections (11)(b)(1) and 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

On February 7, 1968, pursuant to section 11(b)(1) of the Act, the Commission entered an order (Holding Company Act Release No. 15963) directing Pennzoil and its subsidiary company, United Gas Corp. ("United"), a gas utility company, to dispose or cause the disposition, in an appropriate manner not in contravention of the Act or the rules and regulations thereunder, of their direct and indirect interest in all of the retail gas utility assets owned by United. By order dated February 21, 1968 (Holding Company Act Release No. 15980), the Commission approved an amended plan, as modified ("Plan"), filed by Pennzoil and United pursuant to section 11(e) of the Act. Said Plan provided, among other things, for the consolidation of Pennzoil and United to form a single corporation to be called Pennzoil United, Inc., and that, following the consolidation, Pennzoil United, as corporate successor to Pennzoil and United, would dispose of the retail gas utility assets then held by United. In accordance with the request of Pennzoil and United, the Commission filed an application in the United States District Court for the District of Delaware to enforce and carry out the terms of the Plan, and the Court issued its order on March 23, 1968.

By order dated March 21, 1968 (Holding Company Act Release No. 16014), issued pursuant to section 5(d) of the Act, the Commission ordered, effective upon the date of the consolidation of Pennzoil and United, that Pennzoil has ceased to be a holding company and that the registration of Pennzoil as a holding company shall cease to be in effect, subject, among other things, to the condition that the Commission would retain jurisdiction over Pennzoil United to secure compliance with the aforesaid order of February 7, 1968. The consolidation of Pennzoil and United became effective on April 1, 1968.

The proposed transaction is intended to effect compliance, in part, with the Commission's prior orders. Pennzoil proposes to sell the facilities and properties of its retail gas distribution system serving the City of St. Petersburg, the Town of Penellas Park, Kenneth City, the City of Gulfport, the Town of South Pasadena, Madeira Beach, and other areas in Penellas County, Fla. ("Florida Distribution System") to Florida Gas Co. ("Florida Gas"), a nonassociate company, for a base purchase cash price of $2,700,000 plus (i) an amount equal to the cost to Pennzoil United of materials and supplies used and useful in the Florida Distribution System and (ii) an amount equal to accounts receivable as specified in the proposed purchase agreement.

The properties of the Florida Distribution System consist for the most part of approximately 864 miles of underground mains and service lines, meters, service regulators, transportation equipment, lands, and structures, including service and warehouse buildings. The Florida Distribution System presently serves approximately 17,100 customers, of which 16,000 are residential, 851 are small commercial, 235 are large commercial, and 14 are industrial. As at July 31, 1968, the net plant was carried on the books at cost in the amount of $4,958,272, and, for the 12 months then ended, the properties generated operating revenues of $2,126,137 resulting in operating income of $153,940 before income taxes and interest deductions.

The Florida Distribution System has been operated as a separate division of United, and it is subject to the jurisdiction of the Florida Public Service Commission. The Florida Distribution System purchases its natural gas requirements from Florida Gas Transmission Co., a nonassociate company, under rate schedules filed with the Federal Power Commission.

Pennzoil United publicly invited sealed written proposals for the purchase of the Florida Distribution System and received three proposals in response thereto. Pennzoil United accepted the proposal of Florida Gas and rejected the other two, because of what it terms the contingent and speculative nature thereof, the apparent delay that would be encountered, and because the other two proposals did not meet the requirements set forth in Pennzoil United's invitation to submit proposals.

The declaration states that the net proceeds from the sale of the Florida Distribution System will be added to the general corporate funds of Pennzoil United and will be available to reduce outstanding indebtedness. Fees and expenses expected to be incurred by Pennzoil United are estimated to be less than $22,500, including legal fees of $20,000. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 30, 1969, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any

such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon 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 with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-691; Filed, Jan. 17, 1969; 8:46 a.m.]

[812-2420]

STEADMAN AMERICAN INDUSTRY FUND, INC.

Notice of Filing of Application for Order of Exemption To Permit Purchase of Securities During an Underwriting

JANUARY 14, 1969.

Notice is hereby given that Steadman American Industry Fund, Inc. ("Applicant"), 919 18th Street NW., Washington, D.C. 20006, an open-end, diversified investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 10(f) of the Act for an order of the Commission exempting from the prohibitions of section 10(f) the proposed purchase by the Applicant, at the public offering price of $11.50 per share, of 3,400 shares of the common stock of The Western Company of North America ("Western"). The stock proposed to be purchased by Applicant is part of a total of 435,000 shares of common stock of Western offered to the public pursuant to a registration statement filed with the Commission under the Securities Act of 1933. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Rockwell A. Schnabel, a director of Applicant, is a vice president, and therefore an affiliated person under section 2(a)(3) of the Act, of the firm of Bateman Eichler, Hill Richards, Inc., which is expected to participate as an underwriter to the extent of 8,000 shares in the offering of Western common stock.

Section 10(f) of the Act, as here pertinent, provides that no registered investment company shall purchase any security during the existence of an underwriting or selling syndicate if a director of the registered investment company is an affiliate of a principal underwriter of such security. Section 10(f) provides further that the Commission may exempt a transaction from this prohibition if and to the extent that such exemption is consistent with the protection of investors.

The Applicant represents in support of its application that the proposed purchase is consistent with Applicant's investment objectives and policies, that the underwriting is a firm commitment underwriting, that Applicant will execute the proposed purchase through nonaffiliated members of the underwriting group, and the provisions of Rule 10f-3 of the rules adopted by the Commission under the Act are met in all other respects except that the underwriting discount exceeds 7 percent of the public offering price. Applicant states that the underwriting discount of 86 cents per share is not excessive and is normal for an offering of this nature in view of the relatively small size of the offering and the fact that the securities of the issuer have not previously been held by the public.

Notice is further given that any interested person may, not later than January 29, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-692; Filed, Jan. 17, 1969; 8:47 a.m.]

TEXAS URANIUM CORP.

Order Suspending Trading

JANUARY 13, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Texas Uranium Corp., Salt Lake City, Utah, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 14, 1969, through January 23, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-693; Filed, Jan. 17, 1969; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 762]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 15, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can and will offer, and must consist of retary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3252 (Sub-No. 53 TA), filed January 13, 1969. Applicant: PAUL E. MERRILL, doing business as MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, Maine 04103. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over ir-

regular routes, transporting: *Wet lap pulpwood*, from Berlin, N.H., to Gilman, Vt., for 180 days. Supporting shipper: Brown Co., Kalamazoo, Mich. 49007. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, Maine 04112.

No. MC 10875 (Sub-No. 29 TA), filed January 10, 1969. Applicant: BRANCH MOTOR EXPRESS CO., 114 Fifth Avenue, New York, N.Y. 10011. Applicant's representative: G. G. Heller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum scrap*, from Lancaster, Pa., to New York, N.Y., for 150 days. Supporting shipper: Aluminum Co. of America (ALCOA), 1501 Alcoa Building, Pittsburgh, Pa. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 109677 (Sub-No. 36 TA), filed January 3, 1969. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, N.Y. 12828. Applicant's representative: J. Fred Relyea, Fort Edward Express Co., Inc., Fort Edward, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, in bulk, in tank vehicles*, from Rensselaer, N.Y., to the following points in Vermont: Barre, Barton, Bridport, Bristol, Burlington, Colchester, Enosburg Falls, Essex Junction, Ferrisburg, Grand Isle, Huntington, Jericho, Jericho Center, Milton, Monkton, Montpelier, Morrisville, Newport, North Ferrisburg, North Hero, North Hill, Orwell, St. Albans, Shoreham, Stowe, Swanton, and Troy, for 150 days. Supporting shipper: American Oil Co., Chicago, Ill. 60680, Paul R. Gary, Manager of Highway Traffic. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 110525 (Sub-No. 892 TA), filed January 13, 1969. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Edwin H. van Deusen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl lacquer*, in bulk, in tank vehicles, from Carrollton, Ky., to Delaware, Ohio, for 150 days. Supporting shipper: American Can Co., 100 Park Avenue, New York, N.Y. 10017. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 113362 (Sub-No. 155 TA), filed January 3, 1969. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, packinghouse products* (except hides and commodities in bulk), as set forth in sections A and C, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Rod Barnes Packing Co., Huron, S. Dak., to points in Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, for 150 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, Minn. 55912. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 116254 (Sub-No. 89 TA), filed January 13, 1969. Applicant: CHEMHAULERS, INC., Post Office Drawer M, Martin Avenue, Sheffield, Ala. 35660. Applicant's representative: L. Winston Biggs (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin solvents*, in bulk, from Decatur, Ala., to Texas City, Tex., for 120 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 83166. Send protests to: B. R. McKenzie, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 117344 (Sub-No. 190 TA), filed January 10, 1969. Applicant: THE MAXWELL CO. (a corporation), 10380 Evendale Drive, Post Office Box 15010, Cincinnati, Ohio 45215. Applicant's representative: John C. Spencer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives*, in bulk, in tank vehicles, from Delaware, Ohio, to Adrian and Monroe, Mich., for 180 days. Supporting shipper: The Borden Chemical Co., 400 Park Avenue, Delaware, Ohio 43015. Send protests to: Emil P. Schwab, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1010 Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 126372 (Sub-No. 5 TA), filed January 13, 1969. Applicant: SUREFINE TRANSPORTATION COMPANY, 1925 East Vernon Avenue, Los Angeles, Calif. 90058. Applicant's representative: Irving C. Fein (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture, furnishings, appliances, equipment and fixtures*, uncrated; *accessories, appurtenances, fittings and parts incidental to the above commodities*, crated and uncrated, when transported with such shipments of furniture, furnishings, appliances, equipment and fixtures, between points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Texas, for 180 days. Supporting shippers: There are approximately 41 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert G. Harrison, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 129708 (Sub-No. 2 TA), filed January 6, 1969. Applicant: McRAY TRUCK LINE, INC., Bloomfield Road, Springfield, Ky. 40069. Applicant's representative: George M. Catlett, Suite 703–706, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Livestock feeders, wire fencing, gates, signs and nails, supplies used in the installation of fencing, gates and signs, wire, wire products and strapping materials* from the site of the plants of Mid-States Steel and Wire Co., Inc., at Crawfordsville, Ind.; Jacksonville, Fla.; Greenville, Miss.; and Dublin, Ga.; and the site of the plant of Wickwire Bros., Inc., at Cortland, N.Y.; to points in Alabama, Arkansas, District of Columbia, Florida, Georgia, Indiana, Illinois, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, New Jersey, New York, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia; and, (2) *materials, equipment and supplies used in the manufacture of livestock feeders, wire fencing, gates, signs, nails, wire, products, strapping materials and for the installation thereof* from points in Alabama, Arkansas, District of Columbia, Florida, Georgia, Indiana, Illinois, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, New Jersey, New York, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, to the site of the plants of Mid-States Steel and Wire Co., Inc., at Crawfordsville, Ind.; Greenville, Miss.; Dublin, Ga.; and Jacksonville, Fla.; and the site of the plant of Wickwire Bros., Inc., at Cortland, N.Y., for 180 days. Supporting shippers: John R. Servies, Vice President and General Manager, Wickwire Brothers, Inc., Post Office Box 112, Cortland, N.Y. 13045; Charles A. Sommer, Office Manager Mid-States Steel & Wire Co., Inc., Mid-South Branch, Post Office Box 87, Greenville, Miss. 38701, and Douglas A. Deacon, Traffic Manager, Mid-States Steel and Wire Company, 510 South Oak Street, Crawfordsville, Ind. 47933. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 133234 (Sub-No. 1 TA), filed January 7, 1969. Applicant: A & E TRUCKING OF NEW YORK, INC., 3540 South Lawrence Street, Philadelphia, Pa. 19148. Applicant's representative: Alfred N. Lowenstein, 123 South Broad Street, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, in vehicles equipped with mechanical refrigeration, from Philadelphia, Pa., Jer-

sey City, and Newark, N.J., and New York, N.Y., to points in the States of Maine, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Florida, Georgia, Tennessee, West Virginia, Kentucky, Alabama, Louisiana, Ohio, Wisconsin, Michigan, Illinois, Indiana; Restriction to shipments having a prior for-hire movement by water from points in another country, for 180 days. Supporting shippers: There are approximately (9) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 133250 (Sub-No. 1 TA) (Correction), filed December 30, 1968, published in the FEDERAL REGISTER issue of January 10, 1969, and republished as corrected, this issue. Applicant: UNITED AGRICULTURAL TRANSPORTATION ASSOCIATION OF AMERICA MARKETING CO-OP, Post Office Box 541, Lynwood, Calif. 90262. Applicant's representative: Laurence A. Short, 1824 R Street NW., Washington, D.C. 20009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, restricted to traffic moving on government bills of lading, except the following: (1) Household goods as defined by the Interstate Commerce Commission, (2) commodities in bulk, (3) articles of unusual value, (4) commodities requiring special equipment, (5) classes A and B explosives, (a) between points in California, Oregon, Washington, Utah, Arizona, and Nevada on the one hand and points in Texas, Iowa, Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, New Jersey, Virginia, Kentucky, Tennessee, and Georgia on the other, and (b) between points in California on the one hand and points in Washington, on the other; for 180 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. Send protests to: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012. NOTE: The purpose of this republication is to reflect the correct name of Applicant's representative as Laurence A. Short, in lieu of William Lippman as shown in the previous publication.

No. MC 133252 (Sub-No. 1 TA) (Correction), filed December 30, 1968, published in the FEDERAL REGISTER, issue of January 10, 1969, and republished as corrected, this issue. Applicant: MIDWEST GROWERS COOPERATIVE CORP., 7236 East Slausen Avenue, Los Angeles, Calif. 90022. Applicant's representative: Laurence A. Short, 1824 R Street NW., Washington, D.C. 20009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* restricted to traffic moving on Government bills of lading, except the following: (1) Household goods as defined by the Interstate Commerce Commission, (2) commodities in bulk, (3) articles of unusual value, (4) commodities requiring special equipment, (5) classes A and B explosives, between points in Arizona, California, Nevada, Oregon, Utah, and Washington, on the one hand, and points in Georgia, Illinois, Indiana, Kentucky, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia, on the other; for 180 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. Send protests to: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012. NOTE: The purpose of this republication is to reflect the correct name of Applicant's representative as Laurence A. Short, in lieu of William Lippman as shown in the previous publication.

No. MC 133363 TA (Amendment), filed December 27, 1968, published in the FEDERAL REGISTER issue of January 8, 1969, and republished as amended, this issue. Applicant: WILLIAM T. HARRIS AND THEATRIS HARRIS, a Partnership, doing business as HARRIS BROS. CO., B Street (below Erie Avenue), Philadelphia, Pa. 19134. Applicant's representative: Morris J. Levin, Suite 917, 910 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refrigeration equipment, and parts and replacements for such equipment*, (1) between Philadelphia, Pa., and the docks at New York, N.Y., Baltimore, Md., and Bayonne, Edgewater, Hoboken and Port Newark, N.J., and (2) between Philadelphia, Pa., on the one hand, and, on the other, Garwood and Kearney, N.J., and New York, N.Y.; for 180 days. Supporting shipper: Fogel Refrigerator Co., 5400 Eadom Street, Philadelphia, Pa. 19137. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, 900 U.S. Custom House, Second and Chestnut Streets, Philadelphia, Pa. 19106. NOTE: The purpose of this republication is to redescribe the authority sought.

No. MC 133381 TA, January 8, 1969. Applicant: SIDNEY R. DREXLER, Route 2, Box 249, St. Charles, Ill. 60174. Applicant's representative: Robert T. Lawley, Routman and Lawley, 306–308 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses*, other than ordinary between points in Illinois, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii, for 180 days. Supporting shippers: (1) Robert Ellingson, Wayne Huntstable, Wayne, Ill.; (2) Clarence C. McIntyre, Lamplite Stables, Wayne, Ill.; (3) Roberta Folonie, Merry Meadows Farms, Wayne, Ill.; (4) Fred Bretto, Bretto's Auction Service, Route No. 1, Box 307, Elgin, Ill. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn, Chicago, Ill. 60604.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69–722; Filed, Jan. 17, 1969; 8:49 a.m.]

[Notice 278–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 15, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), 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–71012. By order of January 9, 1969, the Transfer Board approved the transfer to F. W. Groves Trucking Co., a corporation, Leland, N.C., of certificates No. MC–119787 (Sub-No. 1) and No. MC–119787 (Sub-No. 4) issued December 23, 1960 and December 20, 1961, respectively, to Fred Wilson Groves, Leland, N.C., authorizing the transportation of: Treated poles, pilings, and other wooden products and prestressed concrete products from Wilmington, N.C., to points in South Carolina; untreated wood products from points in South Carolina to Wilmington, N.C. Oliver Carter, 16 North Fifth Street, Wilmington, N.C. 28401, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69–723; Filed, Jan. 17, 1969; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January

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