

# FEDERAL REGISTER

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Agencies in this issue—

The President  
Agency for International Development  
Agricultural Research Service  
Agriculture Department  
Atomic Energy Commission  
Civil Aeronautics Board  
Consumer and Marketing Service  
Customs Bureau  
Engineers Corps  
Farmers Home Administration  
Federal Aviation Administration  
Federal Communications Commission  
Federal Maritime Commission  
Federal Power Commission  
Federal Reserve System  
Federal Trade Commission  
Fish and Wildlife Service  
Food and Drug Administration  
Health, Education, and Welfare  
Department  
Interior Department  
Internal Revenue Service  
Land Management Bureau  
National Highway Safety Bureau  
National Labor Relations Board  
Post Office Department  
Renegotiation Board  
Securities and Exchange Commission  
Veterans Administration

Detailed list of Contents appears inside.



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# Contents

## THE PRESIDENT

### PROCLAMATION

United Nations Day, 1970..... 11217

### EXECUTIVE ORDERS

Amending Executive Order No. 11330 with respect to membership and chairmanship, President's Council on Youth Opportunity ..... 11221  
 Establishing the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations..... 11219

## EXECUTIVE AGENCIES

### AGENCY FOR INTERNATIONAL DEVELOPMENT

#### Notices

Authority delegations:  
 Assistant Administrator for Administration ..... 11272  
 Director, Office of Government Property Resources et al. .... 11272

### AGRICULTURAL RESEARCH SERVICE

#### Rules and Regulations

Hog cholera and other communicable swine diseases; areas quarantined ..... 11230

### AGRICULTURE DEPARTMENT

See also Agricultural Research Service; Consumer and Marketing Service; Farmers Home Administration.

#### Notices

Kansas; designation of areas for emergency loans..... 11273

### ARMY DEPARTMENT

See Engineers Corps.

### ATOMIC ENERGY COMMISSION

#### Notices

Connecticut Light and Power Co., et al.; notice of availability of statement on environmental considerations ..... 11274  
 National Aeronautics and Space Administration; proposed issuance of construction permit and amended facility license..... 11274  
 Nefarin Associates; notice of denial of petition for reconsideration ..... 11275

### CIVIL AERONAUTICS BOARD

#### Notices

Hearings, etc.:  
 Fontana Aviation, Inc..... 11276  
 International Air Transport Association ..... 11276  
 Sterling Airways A/S..... 11277

## CONSUMER AND MARKETING SERVICE

### Rules and Regulations

Domestic dates produced or packed in designated area of California; suspension of certain provisions..... 11226  
 Onions; import regulations..... 11225  
 Shipment limitations:  
 Apricots grown in designated counties in Washington..... 11223  
 Fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon ..... 11223  
 Irish potatoes grown in Colorado..... 11224  
 Valencia oranges grown in Arizona and designated part of California; expenses and rate of assessment ..... 11223

### Proposed Rule Making

Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon except Malheur County; proposed expenses and rate of assessment ..... 11245

## CUSTOMS BUREAU

### Rules and Regulations

General provisions; ports of entry ..... 11231

## DEFENSE DEPARTMENT

See Engineers Corps.

## ENGINEERS CORPS

### Rules and Regulations

McNary Dam Navigation Lock and Approach Channels, Columbia River, Wash.; navigation regulations ..... 11235

## FARMERS HOME ADMINISTRATION

### Rules and Regulations

Rural housing loans and grants; self-help technical assistance... 11226

## FEDERAL AVIATION ADMINISTRATION

### Rules and Regulations

Control areas; designation (2 documents) ..... 11231  
 Federal airway segments; alteration ..... 11231

## FEDERAL COMMUNICATIONS COMMISSION

### Rules and Regulations

Deferral accounting for income tax differentials ..... 11237

### Proposed Rule Making

TV broadcast translator stations; operation on certain channels... 11244

## Notices

Southern Broadcasting Co. (WGHP-TV) and Furniture City Television Co., Inc.; order designating applications for consolidated hearing..... 11277

## FEDERAL MARITIME COMMISSION

### Notices

Agreements filed for approval:  
 Evans Steamship Co., and Retla Steamship Co. .... 11277  
 Foss Alaska Line, Inc., and Mitsui O.S.K. Lines, Ltd. .... 11278  
 Keathing, W. R. Co., Inc., and WTC Air Freight..... 11278  
 Caldwell Shipping Co.; order of revocation ..... 11277  
 Royal Caribbean Cruise Line A/S; application for casualty certificate ..... 11278

## FEDERAL POWER COMMISSION

### Proposed Rule Making

Revisions in uniform system of accounts, and Forms 1-F and 2-A to make income statement more inclusive ..... 11246

### Notices

Hearings, etc.:  
 Colorado Interstate Gas Co. .... 11278  
 Louisiana Land and Exploration Co ..... 11279

## FEDERAL RESERVE SYSTEM

### Notices

Mercantile Bankshares Corp.; order approving action to become bank holding company... 11279  
 Severn Bank and Trust Co.; order approving merger of banks..... 11279

## FEDERAL TRADE COMMISSION

### Proposed Rule Making

Advertising of cyclamate-containing artificial sweeteners as non-prescription drugs..... 11270

## FISH AND WILDLIFE SERVICE

### Rules and Regulations

Arapaho National Wildlife Refuge, Colorado; sport fishing..... 11237

### Proposed Rule Making

Brazoria National Wildlife Refuge, Texas; hunting..... 11244  
 Great Swamp National Wildlife Refuge, New Jersey; big game hunting ..... 11244

## FOOD AND DRUG ADMINISTRATION

### Rules and Regulations

Drugs:  
 Methocarbamol ..... 11232  
 Racephenicol ..... 11232

### Notices

Drugs for human use; drug efficacy study implementation..... 11273

(Continued on next page)

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

See also Food and Drug Administration.

**Notices**

Regional Attorney Office; organization and functions..... 11274

**INTERIOR DEPARTMENT**

See also Fish and Wildlife Service; Land Management Bureau.

**Rules and Regulations**

Surface exploration, mining and reclamation of lands; performance bond..... 11236

**Notices**

Mission Creek Reservation in California; termination of Federal supervision over property and individual members thereof.... 11272

**INTERNAL REVENUE SERVICE****Rules and Regulations**

Income tax; notification of status as a section 501(c)(3) organization..... 11232

**LAND MANAGEMENT BUREAU****Rules and Regulations**

New Mexico; public land orders (2 documents)..... 11237

**Proposed Rule Making**

Timber sale contracts, public lands; disaster relief..... 11244

**NATIONAL HIGHWAY SAFETY BUREAU****Rules and Regulations**

Federal motor vehicles safety standards:  
Fixed collision barrier; definition..... 11242  
New pneumatic tires; passenger cars..... 11241

**Proposed Rule Making**

Consumer information; side door strength..... 11245

**NATIONAL LABOR RELATIONS BOARD****Proposed Rule Making**

Jurisdictional standards applicable to private colleges and universities..... 11270

**POST OFFICE DEPARTMENT****Notices**

International mail; miscellaneous amendments..... 11272

**RENEGOTIATION BOARD****Rules and Regulations**

Depreciation after involuntary conversion..... 11234

**SECURITIES AND EXCHANGE COMMISSION****Notices***Hearings, etc.:*

National Fuel Gas Co., et al.... 11280  
Windsor Fund, Inc. (5 documents)..... 11281-11283

**STATE DEPARTMENT**

See Agency for International Development.

**TRANSPORTATION DEPARTMENT**

See Federal Aviation Administration; National Highway Safety Bureau.

**TREASURY DEPARTMENT**

See Customs Bureau; Internal Revenue Service.

**VETERANS ADMINISTRATION****Rules and Regulations**

Restrictions; proprietary schools. 11236

## 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, 1970, and specifies how they are affected.

**3 CFR****PROCLAMATION:**

3996..... 11217

**EXECUTIVE ORDERS:**

6583 (revoked in part by PLO 4862)..... 11237  
11330 (amended by EO 11547).... 11221  
11546..... 11219  
11547..... 11221

**7 CFR**

908..... 11223  
922..... 11223  
924..... 11223  
948..... 11224  
980..... 11225  
987..... 11226  
1822..... 11226

**PROPOSED RULES:**

947..... 11245

**9 CFR**

76..... 11230

**14 CFR**

71 (3 documents)..... 11231

**16 CFR****PROPOSED RULES:**

426..... 11270

**18 CFR****PROPOSED RULES:**

104..... 11246  
105..... 11246  
141..... 11246  
204..... 11246  
205..... 11246  
260..... 11246

**19 CFR**

1..... 11231

**21 CFR**

135b..... 11232  
135e..... 11232  
135g..... 11232

**26 CFR**

13..... 11232

**29 CFR****PROPOSED RULES:**

103..... 11270

**32 CFR**

1499..... 11234

**33 CFR**

207..... 11235

**38 CFR**

21..... 11236

**43 CFR**

23..... 11236

**PUBLIC LAND ORDERS:**

4862..... 11237  
4863..... 11237

**PROPOSED RULES:**

1810..... 11244

**47 CFR**

31..... 11237  
33..... 11237

**PROPOSED RULES:**

74..... 11244

**49 CFR**

571 (2 documents)..... 11241, 11242

**PROPOSED RULES:**

575..... 11245

**50 CFR**

33..... 11237

**PROPOSED RULES:**

32 (2 documents)..... 11244

# Presidential Documents

## Title 3—THE PRESIDENT

### Proclamation 3996

UNITED NATIONS DAY, 1970

By the President of the United States of America

#### A Proclamation

In this year 1970 the United States and all other UN members commemorate the 25th Anniversary of the United Nations, and celebrate its accomplishments on behalf of peace, justice and progress.

We are proud that our country played an important role in the founding of the United Nations at San Francisco in 1945. Ever since the United States has continued to be a strong supporter of the UN. In these 25 years we have worked—and encouraged others to work—through the United Nations to resolve disputes, to preserve or restore the peace, to promote self-determination, to advance the cause of human rights for all races and peoples, and to cooperate for economic and social development. We continue to look to the United Nations as a place where advances can be made toward building a more humane and livable world.

As the world has grown more complex and interdependent, the tasks of the UN have become increasingly difficult. We should appraise candidly the ability of the United Nations to fully achieve the aims of its Charter; examine objectively the strengths and weaknesses of the Organization; and search intensely for practical and realistic ways to improve the effectiveness of its agencies.

If our UN policies are to be effective they must engage the attention of a concerned and informed citizenry. We must strive for the greatest possible participation of our population, including the youth of our country, in determining our future participation in the UN. This 25th Anniversary Year is an appropriate time for the American people and the American Government to jointly reexamine our goals and policies towards the UN and, together, to seek to find creative solutions for the many problems.

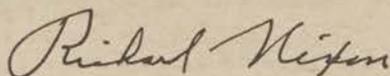
NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim Saturday, October 24, 1970, as United Nations Day and I urge the citizens of this Nation to observe that day by means of community programs which will contribute to a realistic understanding of and support for the United Nations and its associated organizations.

I also call upon officials of the Federal and State Governments and upon local officials to encourage citizens' groups and agencies of communication—press, radio, television, and motion pictures—to engage in appropriate observance of United Nations Day this year in cooperation with the United Nations Association of the United States of America and other interested organizations.

Moreover, in recognition of the Twenty-fifth Anniversary Year of the United Nations, I call upon the citizens of this Nation and its citizens' groups to organize programs that will realistically appraise the potentialities of the UN and focus attention on how best to strengthen it.

## THE PRESIDENT

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of July, in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fifth.

A handwritten signature in cursive script, reading "Richard Nixon".

[F.R. Doc. 70-8989; Filed, July 10, 1970; 2:43 p.m.]

**Executive Order 11546****ESTABLISHING THE PRESIDENT'S COMMISSION FOR THE OBSERVANCE OF THE TWENTY-FIFTH ANNIVERSARY OF THE UNITED NATIONS**

WHEREAS the United Nations this year completes its first twenty-five years of existence; and

WHEREAS support of the United Nations and its principles and purposes as set forth in the Charter has been held by every Administration to be fundamental to United States policy; and

WHEREAS the Twenty-fifth Anniversary of the United Nations is an occasion not only for commemoration but also for a searching reappraisal of the potential of the United Nations to promote international peace and stability in conditions of justice and progress, and the consideration of measures to make it more effective; and

WHEREAS the General Assembly has invited all Member States to take note of the observance of the Twenty-fifth Anniversary and to formulate such plans and programs as seem to them appropriate for promoting its objectives:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

**SECTION 1. *Establishment of Commission.*** (a) There is hereby established the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of not more than forty-five members, as follows: (1) not more than thirty-seven members who shall be appointed by the President from public or private life, (2) four persons who are members of the Senate and are hereafter designated as members of the Commission by the President, and (3) four persons who are members of the House of Representatives and are hereafter designated as members of the Commission by the President. The President shall designate the Chairman and the Vice-Chairman from among the members of the Commission.

(c) No member of the Commission shall receive compensation from the United States by reason of service as a member of the Commission, but such members may be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized by law.

**SEC. 2. *Functions of the Commission.*** (a) In consultation with the Secretary of State, the Commission shall identify matters of overriding importance to the effectiveness of the United Nations and of United States participation therein; suggest new initiatives which would be particularly appropriate in this Anniversary year; study available opinion and background on these questions, both official and public; and prepare for the President recommendations to assist him in his determination of United States policy toward the United Nations. The Commission's initial recommendations to the President on these subjects shall be submitted in an interim report by September 15, 1970.

(b) The Commission shall, under the leadership of the Secretary of State, consult as appropriate with United States Government agencies and bodies, and with private organizations, to promote the effective observance in the United States of the Twenty-fifth Anniversary of the United Nations.

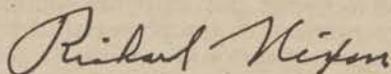
(c) The Commission shall endeavor to convey to the American people a balanced and realistic understanding of the United Nations family of agencies, its activities, their beneficial potential for the United States and the rest of the world, and the prospects for progressive realization of this potential.

(d) Taking into account the actions taken at the Twenty-fifth General Assembly the Commission shall prepare a final report on its conclusions and recommendations and submit it to the President not later than April 30, 1971. The Commission shall terminate on the date of the submission of its final report.

## THE PRESIDENT

SEC. 3. *Assistance and Cooperation.* (a) The Department of State is hereby designated as the agency which shall provide the Commission with necessary administrative services, staff support, and facilities.

(b) The Commission is authorized to request any agency of the Executive Branch of the Government to furnish the Commission such assistance, information, and advice as may be useful to it for the fulfillment of its functions under this order. Each agency is authorized, to the extent permitted by law and within the limits of available funds, to furnish such assistance, information, and advice to the Commission upon request of the Chairman or Vice Chairman of the Commission.



THE WHITE HOUSE,  
July 9, 1970.

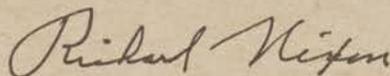
[F.R. Doc. 70-8988; Filed, July 10, 1970; 2:43 p.m.]

## Executive Order 11547

## AMENDING EXECUTIVE ORDER NO. 11330 WITH RESPECT TO MEMBERSHIP AND CHAIRMANSHIP [PRESIDENT'S COUNCIL ON YOUTH OPPORTUNITY]

By virtue of the authority vested in me as President of the United States, Executive Order No. 11330<sup>1</sup> of March 5, 1967, "Providing for the Coordination of Youth Opportunity Programs," is hereby amended by substituting the following for Section 101 (a):

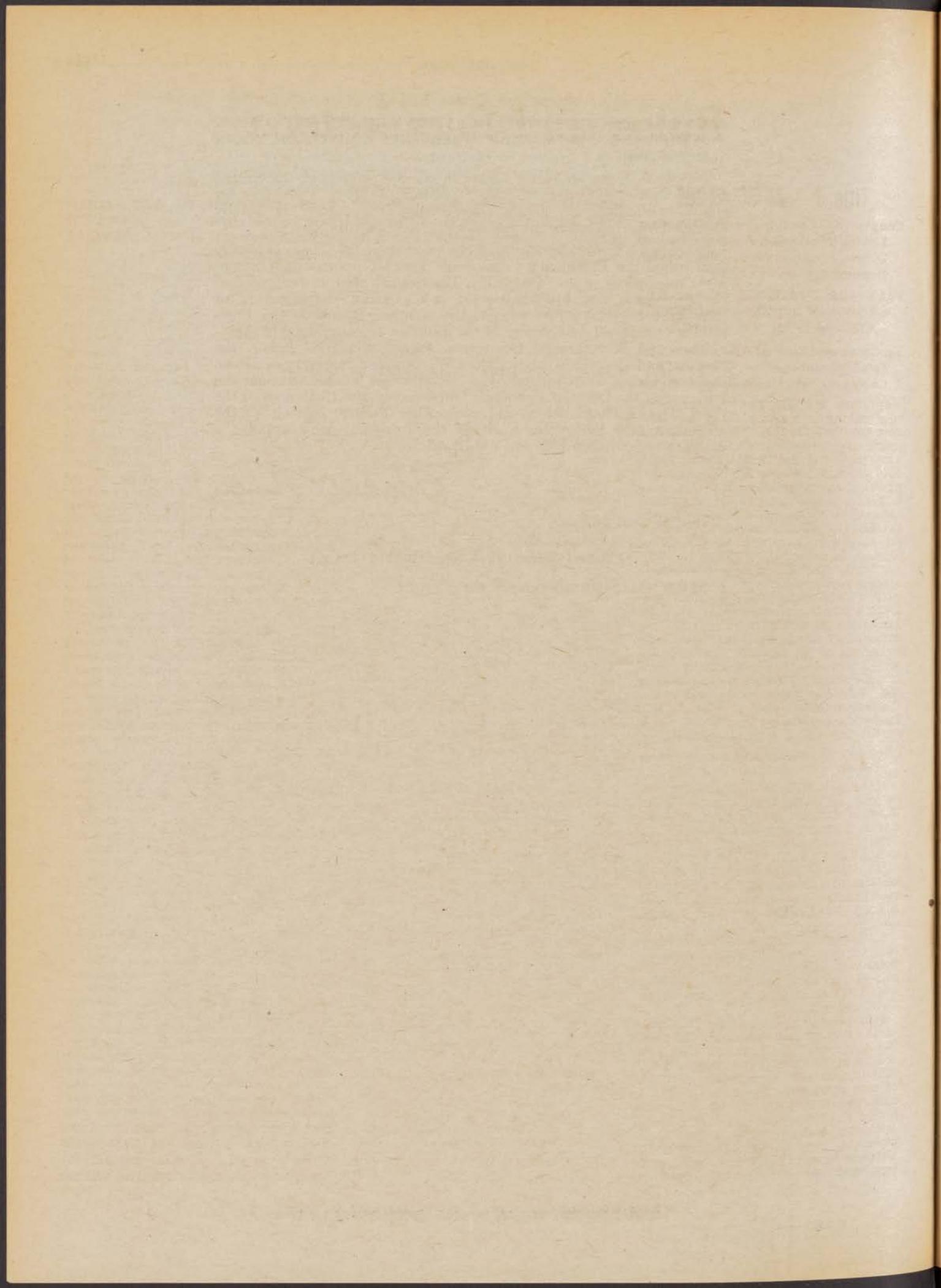
"SECTION 101. Membership and chairmanship. (a) There is hereby established the President's Council on Youth Opportunity (hereinafter referred to as the "Council"). The Council shall be composed of the Vice President, who shall serve as Chairman, the Secretary of State, the Secretary of Defense, the Attorney General, the Postmaster General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Economic Opportunity, the Chairman of the Civil Service Commission, and such other Federal officials as the President may designate. Each of the foregoing may appoint a delegate to represent him in Council affairs."



THE WHITE HOUSE,  
July 10, 1970.

[F.R. Doc. 70-9023; Filed, July 13, 1970; 9:22 a.m.]

<sup>1</sup> 32 F.R. 3871; 3 CFR 1967 Comp., p. 258.



# Rules and Regulations

## Title 7—AGRICULTURE

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

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Expenses and Rate of Assessment and Establishment of a Reserve and Carryover of Unexpended Funds

On June 23, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10226) regarding proposed expenses and the related rate of assessment for the period November 1, 1969, through October 31, 1970, and approval of the establishment of a reserve and carryover of unexpended funds from the period November 1, 1968, through October 31, 1969, pursuant to the marketing agreement as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Valencia Orange Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

#### § 908.209 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period November 1, 1969, through October 31, 1970, will amount to \$250,120.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 908.41, is fixed at \$0.013 per carton of Valencia oranges.

(c) *Reserve.* Unexpended funds in excess of expenses incurred during the fiscal year ended October 31, 1969, are carried over as a reserve in accordance with § 908.42 of said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable oranges handled during the aforesaid period, (2) shipments of Valencia oranges are currently in progress, and (3) such period began on

November 1, 1969, and said rate of assessment will automatically apply to all such oranges beginning with such date.

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

Dated: July 9, 1970.

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

[F.R. Doc. 70-8956; Filed, July 13, 1970;  
8:50 a.m.]

[Apricot Reg. 10, Amdt. 1]

### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

#### Limitation of Shipments

*Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, 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 Washington Apricot Marketing 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 apricots, in the manner herein 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 rulemaking 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 apricots grown in designated counties in Washington.

*Order.* In § 922.310 (Apricot Reg. 10; 35 F.R. 8916), the provisions of paragraph (b) are amended by deleting the reference to "Shade 4" and inserting "Shade 3" in lieu thereof.

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

Dated, July 9, 1970, to become effective July 9, 1970.

PAUL A. NICHOLSON,  
Deputy Director, Fruit and Veg-  
etable Division, Consumer and  
Marketing Service.

[F.R. Doc. 70-8957; Filed, July 13, 1970;  
8:50 a.m.]

[Prune Reg. 8]

### PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.

#### Limitation of Shipments

On June 27, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10524) that consideration was being given to the following proposal, as hereinafter set forth, which would limit the handling of prunes by establishing minimum grades and sizes, pursuant to § 924.52 *Issuance of regulations*, which were recommended by the Washington-Oregon Fresh Prune Marketing Committee, established pursuant to the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to the marketing agreement and order), and other available information, it is hereby found and determined that § 924.309 Prune Regulation 8, as hereinafter set forth, is in accordance with the provisions of the said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date of July 15, 1970, was published in the FEDERAL REGISTER on June 27, 1970 (35 F.R. 10524), and no objection to this regulation or such effective date was received; (2) the recommendation and supporting information for regulation during the period specified herein were submitted to the Department after an open meeting of the Washington-Oregon Fresh Prune Marketing Committee on June 3, 1970, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has been disseminated among handlers of such prunes; (5) compliance with this regulation will not

require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; (6) shipments of the current crop of such prunes are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all shipments of such prunes in order to effectuate the declared policy of the act.

(2) The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of prunes from the production area are expected to begin on or about July 15, 1970. The grade and size requirements provided herein are necessary to prevent the handling, on and after July 15, 1970, of any prunes which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to producers pursuant to the declared policy of the act. Individual shipments, not exceeding 500 pounds, of prunes of the Stanley or Merton varieties of prunes, subject to necessary safeguards, are excepted from these requirements because the production of these varieties is relatively small and those few which are produced are primarily consumed locally or are sold for home use and not for resale. Individual shipments, not exceeding 150 pounds, of any variety other than Stanley or Merton varieties of prunes sold for home use and not for resale, subject to necessary safeguards, are excepted from these requirements in that the quantity of prunes so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impractical to regulate the handling of such shipments due to the nearness of the source of supply.

#### § 924.309 Prune Regulation 8.

(a) Order: Prune Regulation 7 (34 F.R. 12326) is hereby terminated on July 15, 1970.

(b) During the period July 15, 1970, through July 31, 1971, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) Minimum grade: Such prunes grade at least U.S. No. 1: *Provided*, That any prunes having not less than two-thirds ( $\frac{2}{3}$ ) of the surface with purplish color may be shipped if they otherwise grade at least U.S. No. 1;

(2) Minimum size: Such prunes measure not less than  $1\frac{1}{4}$  inches in diameter: *Provided*, That not more than 10 percent, by count, of such prunes may fail to meet such diameter requirement; and

(3) Notwithstanding any other provision of this section, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of prunes, or 150 pounds net weight of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements

may be handled without regard to the restrictions of this paragraph, of § 924.41 (Assessments), and of § 924.55 (Inspection and certification):

(i) The shipment consists of prunes sold for home use and not for resale, and  
(ii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The term "U.S. No. 1" shall have the same meaning as when used in the U.S. Standards for Fresh Plums and Prunes (§§ 51.1520-51.1538 of this title); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (May 1954) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 1965); and, except as otherwise specified, all other terms shall have the same meaning as when used in marketing agreement and order.

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

Dated: July 10, 1970.

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

[F.R. Doc. 70-9019; Filed, July 13, 1970; 8:50 a.m.]

[948.363; Area 3]

## PART 948—IRISH POTATOES GROWN IN COLORADO

### Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in Colorado, Area No. 3, was published in the FEDERAL REGISTER June 27, 1970 (35 F.R. 10525). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). Interested persons were afforded an opportunity to file written data, views, or arguments pertaining thereto not later than 10 days after publication. None was filed.

*Findings.* After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice which was recommended by the Colorado Area No. 3 Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

The recommendations of the committee reflect its appraisal of the composition of the 1970 crop and of the marketing prospects for this season. Shipments of new crop potatoes from the production area are expected to begin about mid-July. The requirements provided herein are necessary to prevent potatoes of lower quality, undesirable sizes, and immature potatoes from being distributed in fresh

market channels, so as to improve returns to producers for the preferred qualities and sizes pursuant to the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) information regarding the provisions of this regulation, which are similar to those which were in effect during the previous marketing season, has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by such effective date.

#### § 948.363 Limitation of shipments.

During the period July 15, 1970, through June 30, 1971, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c) through (g) of this section.

(a) *Grade and size requirements.*—(1) *Round varieties.* U.S. No. 1, or better grade, 2 inches minimum diameter; or U.S. No. 2, or better grade up to but not including U.S. No. 1 grade and not less than  $1\frac{1}{8}$  inches minimum diameter.

(2) *Long varieties.* U.S. No. 1, or better grade, 2 inches minimum diameter or 4 ounces minimum weight; or U.S. No. 2, or better grade up to but not including U.S. No. 1 grade and not less than  $1\frac{1}{8}$  inches minimum diameter or 4 ounces minimum weight.

(3) *All varieties.* Size B, if U.S. No. 1, or better grade.

(b) *Maturity (skinning) requirements.* All varieties: For U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned."

(c) *Special purpose shipments.* (1) The quality and maturity requirements of paragraphs (a) and (b) of this section and the inspection and assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;  
(ii) Charity;  
(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(3) The quality and maturity requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of certified seed potatoes (§ 948.6) but such shipments shall be subject to assessments.

(d) *Safeguards.* Each handler making shipments of potatoes for charity, prepeeling, canning, or freezing pursuant to paragraph (c) of this section shall,

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver on the use of such potatoes, and

(3) Bill each shipment directly to the applicable buyer or receiver.

(e) *Shipment by motor vehicle.* No handler may transport or cause the transportation of any shipment of potatoes by motor vehicle for which an inspection certificate is required unless each such shipment is accompanied by, and made available for examination at any time upon request, a copy of the inspection certificate applicable thereto or such other document as the committee may specify.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned" and "slightly skinned," shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540—51.1556 of this title), including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (U.S. Standards for Grades of Peeled Potatoes, §§ 52.2421—52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing."

(h) *Applicability to imports.* Pursuant to section 608e-1 of the act and § 980.1, "Import Regulations" (§ 980.1 of this chapter), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1970, through May 31, 1971, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section, namely U.S. No. 2 or better grade, 1 1/8 inches minimum diameter and not more than "moderately skinned."

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

Dated July 10, 1970, to become effective July 15, 1970.

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

[F.R. Doc. 70-9020; Filed, July 13, 1970;  
8:50 a.m.]

**PART 980—VEGETABLES; IMPORT REGULATIONS**

**Onions**

Pursuant to the requirements of section 608e-1 of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the following regulation shall apply to onions imported into the United States.

*Findings.* (a) It is hereby found that this regulation complies with the requirements applicable to onions produced in the United States and effective under Marketing Order No. 958, as amended (7 CFR Part 958), regulating the handling of onions grown in the Idaho-Eastern Oregon production area. This regulation is subject to amendment with adequate notice as the domestic regulation is changed.

(b) It is hereby further found that good cause exists for not postponing the effective date of this regulation beyond the time specified (5 U.S.C. 553) in that (1) the requirements established by this regulation are mandatory under section 8e-1 of the act; (2) this regulation will not require any preparation by those affected which cannot be completed by the effective date; and (3) notice hereof in excess of 3 days, the minimum prescribed by the act, is given and such notice is determined to be reasonable.

**§ 980.109 Onion import regulation.**

Except as otherwise provided, during the period July 18 through August 31, 1970, no person may import onions of the yellow or white varieties unless such onions are inspected and meet the requirements of this section.

(a) *Quality requirement.* At least "moderately cured."

(b) *Minimum quantity.* Any importation which in the aggregate does not exceed 100 pounds in any day, may be imported without regard to the provisions of this section.

(c) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on onions under the Plant Quarantine Act of 1912.

(d) *Designation of governmental inspection service.* The Federal or the Federal-State Inspection Service, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality and maturity of onions that are imported into the United States under the provisions of section 8e-1 of the act.

(e) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the onions meet the United States import requirements for onions under section 8e-1 (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specific lot is required on all imports of onions.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (Part 51 of this title). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers of onions should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the onions will be imported.

Ports	Office	Advance notice
All Texas points..	W. T. McNabb, Post Office Box 310, Austin, Tex. 78767 (Phone—512-385-5385)	1 day.
All Arizona points.	B. O. Morgan, Post Office Box 1614, Nogales, Ariz. 85621 (Phone—602-287-2902)	Do.
All California points.	D. P. Thompson, 294 Wholesale Terminal Bldg., 784 South Central Ave., Los Angeles, Calif. 90021 (Phone—213-622-8756)	3 days.
All Hawaii points.	Stevenson Ching, 1428 South King St., Honolulu, Hawaii 96814 (Phone—941-3071)	1 day.
New York City..	Edward J. Beller, Room 28a Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7669-7668)	Do.
New Orleans.....	Pascal J. Lamarca, 5927 Federal Office Bldg., 701 Loyola Ave., New Orleans, La., 70113 (Phone—504-527-6741-6742)	Do.
All other points..	D. S. Matheson, Fruit and Vegetable Division, Consumer and Marketing Service, Washington, D.C. 20250 (Phone—202-388-5870)	3 days.

(4) Inspection certificates shall cover only the quantity of onions that is being imported at a particular port of entry by a particular importer.

(5) In the event the required inspection is performed prior to the arrival of the onions at the port of entry, the inspection certificate that is issued must show that the inspection was performed at the time of loading such onions for direct transportation to the United States; and if transportation is by water, the certificate must show that the inspection was performed at the time of loading onto the vessel.

(6) Each inspection certificates issued with respect to any onions to be imported

into the United States shall set forth, among other things:

(i) The date and place of inspection;  
(ii) The name of the shipper, or applicant;

(iii) The commodity inspected;  
(iv) The quantity of the commodity covered by the certificate;

(v) The principal identifying marks on the containers;

(vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(vii) The following statement, if the facts warrant: Meets U.S. Import requirements under section 8e-1 of the Agricultural Marketing Agreement Act.

(f) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of onions for the purpose of making it eligible for importation.

(g) *Definitions.* For the purpose of this section, "Onions" means all varieties of *Allium cepa* marketed dry, except dehydrated, canned and frozen onions, onion sets, green onions, and pickling onions. The term "moderately cured" means the onions are mature and are definitely fairly well cured but they need not be completely dry. "Importation" means release from custody of the United States Bureau of Customs.

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

Dated, July 9, 1970, to become effective July 18, 1970.

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

[F.R. Doc. 70-8955; Filed, July 13, 1970; 8:50 a.m.]

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

##### Representation on Date Administrative Committee Suspension of Certain Provisions

This action suspends certain provisions of § 987.22(b) of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California (hereinafter referred to collectively as the "order"), and of § 987.122(b) of Subpart—Administrative Rules and Regulations thereunder. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Section 987.22 provides for various groups of the California date industry to be represented (currently by seven members) on the Date Administrative Committee which administers the order. Section 987.122(b) specifies that four members of the Committee shall represent the group comprised of cooperative marketing associations, of which there is

presently only one. The last sentence of § 987.22(b) and the last sentence of § 987.122(b) require that at least one of the four members shall be an employee of a cooperative marketing association and serve as a handler member, and the remainder of the members for the group shall be producer or grower members of such association. Of the Committee membership selected to serve during the term of office beginning May 15, 1970, two of the aforesaid four members and their respective alternates were employees to serve as handler members.

According to the cooperative marketing association, it recently leased its date handling facilities to an independent handler and no longer employs the two members (or their alternates) who were serving as the group's handler representatives on the Committee. Upon such termination of employment, the two members and their alternates became disqualified, pursuant to § 987.25, to serve further on the Committee in such capacity. These positions are now vacant and according to the association it has no qualified employees to be nominated and selected to serve on the Committee to fill any of such handler vacancies. By virtue of the provisions of §§ 987.22(b) and 987.122(b) at least one of the vacancies must be filled by an employee of such association. As a consequence, representation of the group on the Committee by four members is now prevented.

In view of the foregoing, it is hereby found that the specified provisions of §§ 987.22(b) and 987.122(b), respectively, obstruct the nomination and selection of a member and his alternate to represent the group comprising cooperative marketing associations, and thereby section 8c (7) (C) of the act (7 U.S.C. 608c (7) (C)), and thus do not now tend to effectuate the declared policy of the act and should be suspended.

Therefore, the following provisions are hereby suspended:

(a) The last sentence of § 987.22(b).  
(b) The last sentence of § 987.122(b) of Subpart—Administrative Rules and Regulations (§§ 987.100 to 987.174).

It is further found that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice and engage in public rule making and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action involves the representation on the Committee of the group comprised of one cooperative marketing association and relieves restrictions as to the nomination and selection of persons to fill existing vacancies to provide full representation for such group; (2) the suspension herein provided should become effective promptly so such vacancies on the Committee can be filled; (3) it is necessary that the Committee be at full membership for meetings to be held soon to consider the development of the marketing policy for the ensuing crop year, and possible order amendments; and (4) in view of the foregoing, giving preliminary notice and engaging in public rule mak-

ing, and postponing the effective time of this action would serve no useful purpose and unduly delay filling the vacancies on the Committee.

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

Dated, July 8, 1970, to become effective upon publication in the FEDERAL REGISTER.

RICHARD E. LYNG,  
Assistant Secretary.

[F.R. Doc. 70-8918; Filed, July 13, 1970; 8:47 a.m.]

#### Chapter XVIII—Farmers Home Administration, Department of Agriculture

##### SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 444.10]

#### PART 1822—RURAL HOUSING LOANS AND GRANTS

##### Subpart I—Self-Help Technical Assistance

Part 1822, Title 7, Code of Federal Regulations is amended by adding a new Subpart I, reading as follows:

##### Subpart I—Self-Help Technical Assistance

Sec.	
1822.321	General.
1822.322	Objective.
1822.323	Definitions.
1822.324	Eligibility requirements.
1822.325	Purposes.
1822.326	Conditions under which an agreement may be made.
1822.327	Limitations.
1822.328	Special conditions and requirements.
1822.329	Processing applications and completing loan dockets.
1822.330	Agreement approval.
1822.331	Actions subsequent to approval of an agreement.
1822.332	Agreement closing.
1822.333	Extending agreements.
1822.334	Subsequent agreements.

**AUTHORITY:** The provisions of this Subpart I issued under sec. 510, 63 Stat. 437, sec. 523, 82 Stat. 553; 42 U.S.C. 1480, 1490C; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650.

##### § 1822.321 General.

(This subpart is modified by Subpart E of Part 1890 of this chapter.) This subpart sets forth the policies and procedures and delegates authority applicable to providing Technical Assistance (TA) funds to finance programs of technical and supervisory assistance for self-help housing as authorized under section 523 of the Housing Act of 1949.

##### § 1822.322 Objective.

The basic objective of the TA program is to provide qualified organizations with the financial assistance necessary to pay part or all of the cost of developing, administering, or coordinating effective programs of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts in rural areas.

§ 1822.323 Definitions.

As used in this subpart:

(a) "Technical assistance" (TA) means the organizing and supervising of groups of low-income families in the building of their own homes and includes such functions as:

- (1) Recruiting families who are interested in sharing labor in the construction of each other's home;
- (2) Assisting at meetings of the families at which the self-help program and subjects related to home ownership, such as taxes and insurance, are explained and discussed and preconstruction training is given;
- (3) Helping families locate suitable building sites;
- (4) Assisting families in selecting house plans for homes which will meet their needs and will be within their ability to repay;
- (5) Assisting families in obtaining cost estimates for construction materials and any subcontracting that will be required;
- (6) Providing assistance in the preparation of loan applications;
- (7) Providing technical supervision and training for families while they construct their homes;
- (8) Assisting families in solving other home problems.

(b) "Organization" means:

- (1) A State or political subdivision or public nonprofit corporation authorized to receive and administer TA funds; or
- (2) A private nonprofit corporation that is owned and controlled by private persons or interests and is organized and operated for purposes other than making gains or profits for the corporation and is legally precluded from distributing any gains or profits to its members.

(c) "Rural areas" means open country or places of 5,500 persons or less which are not part of or associated with urban areas and are further defined in § 1822.3 (c).

(d) "Applicant" means an organization which applies for or receives TA funds under an agreement.

(e) "Agreement" means the agreement between Farmers Home Administration (FHA) and the applicant which sets forth the terms and conditions under which TA funds will be made available.

(f) "Agreement period" means the period of time covered by an agreement.

(g) "TA funds" means financial assistance provided by FHA pursuant to an agreement.

(h) "Mutual self-help" means the method of organizing families into groups, usually 6 to 10 families, for the purpose of acquiring adequate but modest housing. These families will complete the construction work on their homes by exchanging their labor. The mutual self-help method refers only to new construction unless an exception is obtained from the national office in accordance with § 1822.328(a).

(i) "Participating family" means a low-income family which agrees to build its home by the mutual self-help method. Participating families may obtain the necessary home financing for their con-

struction work from FHA or from other sources.

(j) "Sponsoring organization" means an existing organization that is willing and able to assist an applicant in applying for an agreement and in carrying out its responsibilities under the agreement. Examples of sponsoring organizations are local rural electric cooperatives and institutions of higher education.

§ 1822.324 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an agreement the applicant must:

(1) Be an organization as defined in § 1822.323 (b).

(2) Have the financial, legal, administrative, and actual capacity to assume and carry out the responsibilities imposed by the agreement. To meet this requirement of actual capacity it must either:

(i) Have necessary background and experience with proven ability to perform responsibly in the field of self-help or other business management or administrative ventures; or

(ii) Be sponsored by an organization which has such background experience and ability and which states in writing that it will provide, without charge, the help the applicant will need to carry out its responsibilities.

(3) Legally obligate itself to administer TA funds, provide an adequate accounting of the expenditure of such funds, and comply with all other FHA requirements in accordance with the agreement and FHA regulations.

(4) If the organization is a private nonprofit corporation it should also:

(i) Be a corporation organized for the primary purpose of assisting low- and moderate-income families to obtain adequate housing.

(ii) Have local representation among its membership.

(iii) Plan to adopt, if it is being newly organized, articles of incorporation and bylaws that generally conform to model articles and bylaws provided by the State director which will be consistent with State law and with changes appropriate to the purposes and powers of an eligible applicant under this subpart.

(iv) Have a board of directors which generally will consist of not more than five members. The number of directors should not exceed five if the directors are to be paid for attending meetings.

(v) Show if engaged in other activities it expects to continue; that it will have sufficient funds to assure continued operation for at least the period of the agreement.

(b) *Authorized representative of applicant.* The FHA will deal only with authorized representatives of the applicant. The authorized representatives must be members of the applicant-organization and have no pecuniary interest in the award of the engineering, architectural or construction contracts, purchase of the necessary equipment or the purchase or development of the land.

§ 1822.325 Purposes.

TA funds may be used only for the following purposes:

(a) Hiring personnel specifically as authorized in the agreement.

(b) Payment of necessary reasonable office expenses such as office rental, office utilities, and office equipment rental.

(c) Purchase of office supplies such as stationery, paper and pencils.

(d) Payment of necessary reasonable administrative costs such as workmen's compensation, liability insurance, employers share of social security, travel and training.

(e) Purchase of power tools such as power saw, electric drill, and sabre saw which are needed but not readily available to participating families on a rental basis at reasonable cost.

(f) Payment of any fee for training or for technical and consultant services not readily available without cost to the participating families.

(1) Ordinarily, the FHA will furnish needed guidance for the development of a TA proposal and an agreement docket. The State director may, however, with the prior approval of the national office, authorize the use of TA funds to enable an applicant to pay a qualified consulting organization or foundation, operating on a nonprofit basis, charges for necessary services, for development of such a proposal and docket, provided the State director determines that:

(i) Either the applicant, even with the available FHA guidance, cannot meet all the requirements for a sound TA proposal without the services, or; the services would permit significant financial savings to the government, either directly or by lightening the workload involved in processing applications, and,

(ii) The charges are reasonable in amount, considering: the amount of TA funds covered by the agreement, and; the cost of similar services in the same or similar rural areas.

§ 1822.326 Conditions under which an agreement may be made.

An agreement may be approved for an eligible applicant only when all the following conditions are present:

(a) A need clearly exists in the area for self-help housing and the need is likely to continue over a period of several years.

(b) Evidence is available that the applicant has or can hire qualified personnel to carry out its responsibilities under the agreement.

(c) Funds for the proposed TA project are not authorized from other sources.

§ 1822.327 Limitations.

(a) *Maximum amount.* An initial agreement may provide for TA funds not to exceed \$100,000. An agreement should be developed on the basis of reasonable costs per house. As a general guide the cost should average not more than about \$1,200 per house completed; although initially the costs may be higher because of the problems that new organizations may encounter during the early

stages of operation. The cost in any case should be significantly less than the savings to the borrower. For example, if an applicant is requesting a \$60,000 agreement for a 2-year period, the budget for the proposal and the work schedules should be developed on the assumption that at least 50 houses will be completed during this period.

(b) *Agreement period.* An agreement will cover a period not to exceed 2 years from its date.

(c) *Advances.* Funds will be advanced under an agreement to cover needs for a 1-month period. Each additional advance will also be made for a 1-month period in accordance with § 1822.331(d).

(d) *Prohibited use of funds.* An applicant may use TA funds only for the purposes stated in § 1822.325. Among the purposes for which TA funds will not be used are the following:

(1) Hiring personnel to perform any of the construction work for participating families in the self-help projects.

(2) Buying real estate or building materials or other property of any kind for participating families.

(3) Paying any debts, expenses or costs other than those set out in § 1822.325 which should be the responsibility of the participating families in the self-help projects.

(e) *Obligations incurred before execution of agreement.* An applicant must not obligate itself for any debts prior to execution of the agreement. If nevertheless, the applicant incurs debts of the type listed in § 1822.325(f), and the requirements of § 1822.325(f) are met, loan funds may be used to pay these costs.

#### § 1822.328 Special conditions and requirements.

(a) *Type of construction.* An applicant's proposal will be based only on the need to build new houses by the mutual self-help method. Applicants may, after they begin working in an area, find that a need exists for a mutual self-help project to enable low-income homeowners to make repairs on their home. These repairs may be either minor or extensive in nature. With prior approval of the national office, an applicant may be permitted to organize a mutual self-help project for purposes other than new construction, provided the following conditions can be met:

(1) The self-help group must be composed entirely of families needing to repair their homes and the repair work must be reasonably comparable in the amount of labor exchange that is required.

(2) Participating families must have the time and ability to complete the type of work required in the project.

(3) Participating families must assure the applicant that they will follow through to the conclusion of the project.

(b) *Staffing of applicant—(1) Initial staff.* The initial staff will consist of the director. He will be the initial employee responsible for hiring the balance of the staff, contacting and organizing families into groups, and coordinating all activities necessary in promoting self-help housing. The director will perform the

work of director and coordinator-trainer until the volume of work justifies hiring a coordinator-trainer. The other staff members may be hired as the need for their position arises.

(2) *Typical staff.* (i) One director.

(ii) One to two coordinator-trainers who will work with participating families during the planning and development stages and will provide any necessary assistance throughout the construction period.

(iii) One secretary-bookkeeper who initially may be hired on a part-time basis.

(iv) One to three construction supervisors who will provide guidance and instructions to participating families during the construction of their homes. A construction supervisor initially will work with groups of 6 to 10 families; however, after gaining experience he may be able to work with groups of 10 to 20 participating families. The construction supervisor must be available when the families are able to work on their houses, and may initially be hired on an hourly basis.

(c) *Area to be served.* An application for TA funds must specify the area to be served under the proposed agreement. Generally, the area should not include more than the area of a single county.

(d) *Supervision.* FHA will provide applicants with supervision necessary to achieve the objectives of the agreement and to protect the interests of the Government.

(e) *Authorizing resolution.* An authorizing resolution will be adopted by the applicant's board of directors which will show the amount of TA funds requested and will authorize the appropriate officers of the applicant to make application and to execute the form entitled, "Self-Help Technical Assistance Agreement," available at all FHA offices, and Form FHA 400-4, "Nondiscrimination Agreement." The applicant's board of directors and officers should read and fully understand the "Self-Help Technical Assistance Agreement," and the "Nondiscrimination Agreement" in order to be aware of their responsibilities. A certified copy of the authorizing resolution will be included in the agreement docket before the agreement is approved.

(f) *Nondiscrimination.* The applicant will be bound by the non-discrimination and equal employment opportunity covenants contained in the "Self-Help Technical Assistance Agreement," and will execute Form FHA 400-4 which will become a part of the agreement docket.

(g) *Compliance with local codes and regulations.* Applicants must insure that the planning and development of self-help housing will conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, sanitation, and zoning.

(h) *Financial reports.* Applicants receiving TA funds will be required to submit to the FHA county office:

(1) By the 15th of each month a complete financial report in form prescribed or approved by FHA, containing a record of disbursements made during the

preceding month with such information as the date, amount, purpose, and recipient.

(2) Quarterly, by the 15th of the month following the end of the quarter, a narrative report outlining in detail the progress made toward achieving the objectives described in the agreement. This report will contain such information as the names of personnel hired, the number of families contacted, the number who have indicated a willingness to be a participating family, the number of mutual self-help groups organized, progress on any construction started, and any problems that have been encountered.

(i) *Use and accountability for TA funds.* All TA funds will be deposited in a depository bank which is a member of the Federal Deposit Insurance Corporation. Checks must be signed by at least two authorized officials of the applicant who have been properly bonded in accordance with paragraph (j) of this section. No expenditures will be made for items or amounts not authorized in or pursuant to the agreement. When necessary to assure proper use of TA funds, the State director may require them to be deposited in a supervised bank account. Collateral for such deposits will be pledged when the supervised bank account exceeds \$20,000.

(j) *Bonding.* The applicant with an agreement will provide fidelity bond coverage for its officers and employees entrusted with the receipt, custody, and disbursement of its funds, and the custody of any other negotiable or readily salable personal property. The amount of the bond will be at least equal to the maximum amount of such funds and property that the applicant will have in its possession or control at any time, including funds in bank accounts. If permitted by State law, the United States will be named coobligee in the bond. Form FHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

#### § 1822.329 Processing applications and completing loan dockets.

(a) *Application.* The application will be in the form of a letter to the county supervisor including or attaching the following information:

(1) Name and address of the applicant.

(2) Complete information about the applicant's previous experience and capacity to carry out the objectives of the agreement.

(3) Evidence of the need for self-help housing in the area, including information concerning:

(i) The housing conditions of low-income families in the area.

(ii) The reasons why families cannot obtain adequate housing without self-help assistance.

(iii) The names and addresses of families who have been personally contacted by the applicant and are interested in participating in a self-help housing project.

(iv) The prospective participating families ability to qualify for financial

assistance from FHA or some other source.

(4) Information concerning qualifications and experience of any prospective employees.

(5) Name, address, and official position of applicant's representative(s) authorized to act for the applicant and work with the county supervisor.

(6) A copy of, or an accurate citation to, the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's articles of incorporation and bylaws; the names and addresses of the applicant's members, directors, and officers; and if another organization is a member of the applicant organization, its name, address, and principal business.

(7) A current, dated, signed financial statement showing the amounts and specific nature of assets and liabilities, together with information on the repayment schedule and status of any debt owed by the applicant. If the applicant is a new organization which is being sponsored by another organization, the same type of financial statement should also be provided by the applicant's sponsor.

(b) *Proposal.* The applicant should provide, in narrative form, a detailed proposal including information about the amount of assistance requested, the proposed staff needed, the availability of personnel to fill these positions, the number of self-help units that can be built in the agreement period, the estimated date the applicant plans to begin operations, a proposed monthly progress schedule, a detailed budget based upon the needs outlined in the proposal for the agreement period, a proposed monthly schedule of the funds that will be needed, and recommended personnel procedures, using the outline concerning personnel procedures and mileage and per diem policies available at all FHA offices as a guide. The complete proposal should be dated and signed by an authorized official of the applicant.

(c) *Sample forms.* Sample forms that may be used by applicants in maintaining personnel records are available at all FHA offices. If the forms are adopted for use they should be included in the loan docket.

(d) *Agreement.* The form, "Self-Help Technical Assistance Agreement," will be prepared for each applicant.

(e) *Agreement docket items.* The agreement docket will consist of the following prepared and executed forms or documents as appropriate:

- FHA 440-3 Record of Actions.
- FHA 440-1 Payment Authorization. Application letter and attachments.
- FHA 400-4 Nondiscrimination Agreement. Certified copy of authorizing resolution.
- Agreement.
- Proposal.
- Any personnel forms adopted from sample forms provided by FHA.

(f) *County supervisor's review.* The application and other docket materials will be reviewed by the county supervisor.

(1) If at any time it appears that the applicant is not eligible or could not

carry out the agreement, the docket, the comments and recommendations of the county supervisor, and any additional material he has available about the applicant and the proposal will be forwarded to the State director for advice concerning further processing.

(2) If it appears that the applicant is eligible and could carry out the agreement, the docket will be completed. The county supervisor will prepare comments on the need for self-help housing in the area, the applicant's capacity to carry out the agreement, and his evaluation and verification of the applicant's financial statement. These comments and the docket will be submitted to the State office for review.

(g) *State office action.* (1) If the docket is submitted to the State director before it is completed, he will review the application to determine whether the applicant meets the eligibility requirements and whether the applicant's proposal appears feasible.

(i) The State director will review the applicant's articles of incorporation and bylaws and if they conform to approved model forms for the State as provided in § 1822.324(a)(4)(iii), the State director need not obtain a preliminary opinion of eligibility from the Office of the General Counsel (OGC). In all other cases, the State director will, and in any case, may submit the docket with any comments or questions he may have to OGC for a preliminary opinion as to whether the applicant is eligible and the proposals meet the requirements of State law and this subpart and for advice on any other aspects of the docket.

(ii) When the State director, with the advice of the OGC, is unable to determine eligibility or qualifications, he may submit the incomplete docket to the national office for a special review. The partial docket will contain a memorandum from the OGC setting forth the results of its review and as many of the completed docket entries as possible. The State director will identify in his transmittal memorandum to the national office the specific problem, and will recommend a possible solution. Any information concerning the applicant and the proposal which would be helpful to the national office in reaching a decision should also be included.

(iii) The State director will authorize the county supervisor to complete the agreement docket if it is determined that the applicant is eligible and the proposal appears feasible.

(2) When a complete docket is submitted to the State director he will review the complete docket, and when he determines that the applicant is eligible, he will submit the complete docket to the national office with his recommendation and a copy of his proposed memorandum of approval. The comments of the OGC, if required by or made pursuant to subparagraph (1)(i) of this paragraph, will be included.

§ 1822.330 Agreement approval.

(a) *Authority.* The State director is authorized, with the prior consent of the national office, to approve or disapprove

agreements in accordance with this subpart. The State director may, with prior approval of the national office, redelegate this authority to other State staff officials and when that is done references in paragraph (b) of this section to the State director will be understood to include officials having such delegated authority.

(b) *Agreement approval action—(1) Responsibilities of agreement approval official.* The State director is responsible for reviewing the docket to determine the proposed agreement's compliance with established policies and all pertinent regulations. In making this review, he will determine that:

- (i) The applicant is eligible.
- (ii) The funds are requested for authorized purposes.
- (iii) The proposal is sound.
- (iv) All pre-approval requirements have been met.

(2) *Approval or disapproval of an agreement.* (i) When the agreement is approved, the State director will:

(a) Prepare and distribute Form FHA 440-37, "Notice of Approval (Financial Assistance)."

(b) Prepare and distribute Form FHA 440-3. Indicate on Form FHA 440-3, and all copies, any conditions that must be met at or before the time the agreement is closed, including the amount of fidelity bond coverage and any other special requirements. If more space is needed, Form FHA 440-3 will be supplemented by a memorandum.

(c) Sign the original of Form FHA 440-1, and insert his title in the space provided.

(ii) Disapproval: If an agreement cannot be approved, it will be handled in accordance with § 1822.93(b)(2).

§ 1822.331 Actions subsequent to approval of an agreement.

(a) *Increase or decrease in the amount of the agreement.* If it becomes necessary for the amount of TA funds provided for in the agreement to be increased or decreased prior to closing, the county supervisor will request that all distributed docket forms be returned to the county office. The agreement docket will be revised accordingly and reprocessed.

(b) *Cancellation of an approved agreement.* An approved agreement may be canceled before closing as follows:

(1) The county supervisor will prepare Form FHA 440-10, "Notification of Loan or Grant Cancellation," in an original and two copies, or three copies if the TA check has been received in the county office from the regional disbursing office. The form will be revised by changing the word "loan" to "agreement" wherever the word appears. Form FHA 440-10 will be sent to the State Director with the reasons for requesting cancellation. If the State director approves the request for cancellation, he will forward the original of the form to the finance office. After making appropriate adjustments on the records, a copy of Form FHA 440-10 will be returned to the county office. If the TA check is received in the county office, the county supervisor will return it to the U.S. Treasury, Regional Disbursing Office, Kansas City,

Missouri, with a copy of Form FHA 440-10.

(2) All interested parties, including the national office will be notified of the cancellation.

(c) *Requesting initial TA check.* (1) The initial TA check will cover the applicant's needs for the first month. For a partial month the initial TA check will cover the needs for the partial month and the next whole month. For example, if an initial check will be delivered on February 10, it will cover the applicant's needs for the balance of February and the full month of March.

(2) To request the initial TA check, the county supervisor will check the block for issuance of the check on a copy of Form FHA 440-3, sign the form, insert the date and forward it to the finance office, St. Louis, Mo.

(d) *Requesting additional TA checks.* (1) Additional advances may be made each month provided:

(i) Satisfactory monthly financial and quarterly progress reports have been submitted to FHA as outlined in § 1822.328 (h); and,

(ii) These reports verify that the applicant has fully complied with the agreement.

(a) If the county supervisor questions the applicant's compliance, he will immediately request the advice of the State director.

(b) If the State director determines that the applicant has failed to comply with the terms of his agreement, he will, with the advice of OGC if desirable, determine appropriate corrective action to be taken.

(2) If the applicant's reports are satisfactory, the county supervisor will order the check in the following manner:

(i) The county supervisor and the applicant will at this time determine the amount of funds necessary for the next month and complete a conformed copy of Form FHA 440-3, accordingly. The form should be signed by the county supervisor and the check requested so that delivery can be made on the first day of the following month.

(ii) The county supervisor will forward the signed copy of Form FHA 440-3 to the finance office.

(3) To illustrate the timing of additional advances, if an applicant's initial advance covered part of February and all of March the additional advance should cover the month of April. The additional advance check would be delivered on April 1. The next additional advance would be delivered on May 1. The applicant will receive operating funds for each month on the first day of the month, and the county supervisor and the applicant will agree on the time required to order the check in compliance with the above instructions.

(e) *Running record.* A running record will be maintained in the applicant's case file indicating the amount of each advance, date requested, and date delivered.

(f) *Depositing the TA check.* The initial TA check and all additional advances

will be deposited by the applicant in accordance with § 1822.328(i).

#### § 1822.332 Agreement closing.

An agreement will be considered closed on the date the agreement is executed by the applicant and the government, and the initial advance check is delivered to the applicant. The agreement should be executed and the check delivered on the same date. County supervisors and assistant county supervisors are authorized to execute the "Self-Help Technical Assistance Agreement" on behalf of the government. Officials of the applicant should execute the agreement on behalf of the applicant as authorized in the authorizing resolution.

#### § 1822.333 Extending agreements.

(a) *Extending time of agreement.* The State director may extend the time of an agreement for a period of up to 1 year without national office approval, provided he determines that the extension is justified and that the applicant is likely to complete the goals outlined in the initial proposal during the period of extension. Extension will be accomplished by the State director authorizing the county supervisor to execute on behalf of the government a form, "Amendment to Self-Help Technical Assistance Agreement" copies of which are available at all FHA offices. In paragraph 2, line 2, the word "none" will be inserted in the blank space to indicate that no additional funds are being made available. The county supervisor and the applicant's authorized officials will execute the form at the same time.

(b) *Extending time and funds.* If additional time and funds are needed for an applicant to achieve the goals set out in the initial proposal and the extension is justified, the following actions will be taken:

(1) The State director will submit to the national office the applicant's case file, a copy of the new proposed budget, and a complete justification for the request.

(2) With prior approval of the national office, the State director may approve the request in accordance with the instructions outlined in § 1822.330(b).

(3) Extension checks will be ordered and handled in accordance with the instructions outlined in paragraphs (c), (d), and (e) of § 1822.331.

(4) The "Amendment to Self-Help Technical Assistance Agreement" will be executed by the county supervisor and the applicant's authorized officials. An amendment to an agreement will be considered closed in accordance with § 1822.332.

#### § 1822.334 Subsequent agreements.

A subsequent agreement is an agreement made with an applicant that has previously received an agreement and is submitting a new proposal for subsequent TA funds.

(a) The State director may approve subsequent agreements without prior approval of the national office, providing the following conditions exist:

(1) The State director determines that the applicant has fully complied with the terms of the initial agreement and has made satisfactory progress towards achieving its goals.

(2) A continuing need clearly exists in the local area for self-help housing.

(3) A program of technical assistance is necessary to help low-income families in the area to obtain adequate housing by the self-help method.

(4) The State director has examined the applicant's new proposal and determined that the approval conditions outlined in § 1822.330(b)(1) can also be met.

(b) When the subsequent agreement is approved, the State director will distribute the forms in accordance with § 1822.330(b)(2).

(c) For subsequent agreements, the form, "Amendment to Self-Help Technical Assistance Agreement" will be used. The period of the subsequent agreement may not be more than 2 years.

(d) Subsequent agreement checks will be delivered in the same manner as additional advances under § 1822.331 (c) and (d).

Dated: July 8, 1970.

JAMES V. SMITH,  
Administrator,

Farmers Home Administration.

[F.R. Doc. 70-8959; Filed, July 13, 1970;  
8:50 a.m.]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Agricultural Research Service, Department of Agriculture

#### SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

#### PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

##### Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e) (14) relating to the State of Virginia, subdivision (i) relating to Greensville County is deleted.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

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

This amendment excludes a portion of Greenville County, Va., from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded area.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 8th day of July 1970.

GEORGE W. IRVING, Jr.,  
Administrator,  
Agricultural Research Service.

[F.R. Doc. 70-8917; Filed, July 13, 1970;  
8:47 a.m.]

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-SO-122]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Federal Airway Segments

On April 23, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 6510) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of VOR Federal airway Nos. 11, 198, and 240.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Comments were received from the Air Transport Association of America (ATA) and the Hesler-Noble Air Service, Inc., Laurel, Miss. The ATA concurred in the proposed airway alterations. The comment submitted by Hesler-Noble Air Service, Inc., opposed any change to the existing designation of V-11 between Laurel and Mobile, Ala. However, the comment did not state a specific reason for opposition to the proposed action concerning V-11.

The alteration to V-11 does not change the alignment of the main airway segment between Laurel and Mobile, but

raises the floor of the airway from 1,200 feet above the surface to 9,500 feet MSL for the portion between Greene County, Miss., and the Richton Intersection. To offset the raising of the airway floor between Greene County and the Richton Intersection, an east alternate segment to V-11 with a floor at 1,200 feet above the surface was proposed between Mobile and Laurel via the Yarbo Intersection.

These actions provide judicious assignment of the airspace to provide off-airway airspace to accommodate the pilot training mission conducted by Keesler Air Force Base, and provide optimum utilization of the airspace to facilitate the movement of Instrument Flight Rules air traffic that would operate between Laurel and Mobile.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., September 17, 1970, as hereinafter set forth.

1. Section 71.123 (35 F.R. 2009) is amended as follows:

a. In V-11 "Laurel, Miss.;" is deleted and "28 miles 95 MSL, Laurel, Miss., including an east alternate from Mobile to Laurel via INT Mobile 356° and Laurel 109° radials;" is substituted therefor.

b. In V-198 all between "Tibby, La.;" and "Brookley;" is deleted and "Harvey, La., 70 miles, 32 miles 25 MSL," is substituted therefor.

c. V-240 is amended to read:  
V-240 From New Orleans, La., via INT New Orleans 085° and Harvey, La., 065° radials; INT Brookley, Ala., 246° and Mobile, Ala., 224° radials; to Mobile.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 7, 1970.

H. B. HELSTROM,  
Chief, Airspace and Air  
Traffic Rules Division.

[F.R. Doc. 70-8950; Filed, July 13, 1970;  
8:49 a.m.]

[Airspace Docket No. 70-WA-10]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Designation of Control Area

On June 5, 1970, F.R. Doc. No. 70-7045 was published in the FEDERAL REGISTER (35 F.R. 8738) which amends Part 71 of the Federal Aviation Regulations, effective 0901 G.m.t. July 23, 1970, by designating the Washington, D.C., terminal control area. Subsequent to the publication of the document, it was determined that the aviation community should be given additional time to become familiar with the airspace configuration and flight procedures that apply within the Washington terminal control area, and action is taken herein to delay the effective date.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, F.R. Doc. No. 70-7045 is amended, effective upon publication in the FEDERAL REGISTER, by changing the effective time to read "effective 0901 G.m.t. August 20, 1970."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 9, 1970.

H. B. HELSTROM,  
Chief, Airspace and Air  
Traffic Rules Division.

[F.R. Doc. 70-8951; Filed, July 13, 1970;  
8:49 a.m.]

[Airspace Docket No. 69-WA-33]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Designation of Control Area

On June 9, 1970, F.R. Doc. No. 70-7110 was published in the FEDERAL REGISTER (35 F.R. 8880) which amends Part 71 of the Federal Aviation Regulations, effective 0901 G.m.t. July 23, 1970, by designating the Chicago, Ill., terminal control area. Subsequent to the publication of the document, it was determined that the aviation community should be given additional time to become familiar with the airspace configuration and flight procedures that apply within the Chicago terminal control area, and action is taken herein to delay the effective date.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, F.R. Doc. No. 70-7110 is amended, effective upon publication in the FEDERAL REGISTER, by changing the effective time to read "effective 0901 G.m.t. August 20, 1970."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 9, 1970.

H. B. HELSTROM,  
Chief, Airspace and Air  
Traffic Rules Division.

[F.R. Doc. 70-8952; Filed, July 13, 1970;  
8:49 a.m.]

## Title 19—CUSTOMS DUTIES

### Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-157]

#### PART 1—GENERAL PROVISIONS

##### Ports of Entry

JULY 2, 1970.

In order to provide improved Customs service in Puerto Rico, it is considered

desirable to extend the present port limits of the port of entry, Humacao, P.R. Therefore, notice is hereby given that under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623 (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), the port limits of Humacao, P.R. (Region IV), are hereby extended to include all the area within the boundaries of the municipios of Humacao and Yabucoa, P.R., effective 30 days after publication in the FEDERAL REGISTER.

To reflect this change, § 1.2(c) of the Customs Regulations is amended by inserting the words "(including the territory described in T.D. 70-157)" immediately following the name of the port of entry Humacao in the column headed "Ports of Entry."

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

[SEAL] EUGENE T. ROSSIDES,  
Assistant Secretary of the Treasury.

[F.R. Doc. 70-8929; Filed, July 13, 1970;  
8:47 a.m.]

## Title 21—FOOD AND DRUGS

### Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

#### SUBCHAPTER C—DRUGS

#### PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

##### Methocarbamol

The Commissioner of Food and Drugs has evaluated the new animal drug application (38-838V) filed by A. H. Robins Co., Research Laboratories, 1211 Sherwood Avenue, Richmond, Va. 23220, proposing the safe and effective use of methocarbamol for treatment of strychnine poisoning in dogs and cats. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 135b:

##### § 135b.17 Methocarbamol injection.

(a) *Chemical name.* 2-Hydroxy-3-(O-methoxyphenoxy) propyl carbamate.

(b) *Specifications.* Methocarbamol injection contains per milliliter: 100 milligrams of methocarbamol, 0.1 percent of sodium bisulfate U.S.P., 50 percent of polyethylene glycol 300, and water for

injection q.s. Its pH is 5.2-5.6. It is sterile and pyrogen-free.

(c) *Sponsor.* A. H. Robins Co., Research Laboratories, 1211 Sherwood Avenue, Richmond, Va. 23220.

(d) *Conditions of use.* It is used or intended for use as an intravenous injection in cats and dogs for relief of skeletal muscle spasms, convulsions, muscular rigidity, and the resulting respiratory difficulties produced by strychnine in dogs and cats. The initial dose is 25 to 100 milligrams per pound of body weight. Total cumulative dose is not to exceed 150 milligrams per pound of body weight. Restricted to use by or on the order of a licensed veterinarian.

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

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: July 6, 1970.

SAM D. FINE,  
Acting Associate Commissioner  
for Compliance.

[F.R. Doc. 70-8939; Filed, July 13, 1970;  
8:48 a.m.]

#### PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

#### PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

##### Racephenicol

The Commissioner of Food and Drugs has evaluated a new animal drug application (14-806V) filed by Sterwin Chemicals, Inc., Subsidiary of Sterling Drug,

Inc., proposing the safe and effective use of racephenicol for the control of acute and chronic fowl cholera in chickens. The application is approved. The submission regarding use of the drug as an injectable formulation for chickens and turkeys (for which notice of filing was published on October 2, 1963; 28 F.R. 10585) has been withdrawn.

Having evaluated the data before him, the Commissioner concludes that a tolerance is required to assure that edible tissues of chickens treated with racephenicol are safe for human consumption.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135e and 135g are amended by adding a new section to each, as follows:

##### § 135e.53 Racephenicol.

(a) *Chemical name.* (±)-threo-2,2-Dichloro-N[β-hydroxy-α-(hydroxymethyl)-p-(methylsulfonyl)phenethyl]acetamide.

(b) *Approvals.* Premix level 25 grams per pound granted to Sterwin Chemicals, Inc., subsidiary of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016.

(c) *Assay limits.* Finished feed must contain 80-120 percent of the labeled amount of racephenicol.

(d) *Special considerations.* Finished feed should bear an expiration date of 45 days from the date of its manufacture; not for use in pelleted feed.

(e) *Related tolerances.* See § 135g.74 of this chapter.

(f) *Conditions of use.* It is used as follows:

Principal ingredient	Grams per ton	Limitations	Indications for use
1. Racephenicol.....	100 (0.011%)	For chickens; administer for 10 days as sole ration; withdraw 48 hours before slaughter. NOTE: Not to be fed to chickens laying eggs for human consumption; use eggs from treated breeders for hatching purposes only.	For control of chronic fowl cholera.
2. Racephenicol.....	200 (0.022%)	For chickens; administer for 5 days as sole ration followed by 100 grams per ton for 5 days; withdraw 48 hours before slaughter. NOTE: Not to be fed to chickens laying eggs for human consumption; use eggs from treated breeders for hatching purposes only.	For control of acute fowl cholera.

##### § 135g.74 Racephenicol.

A tolerance of 0.01 part per million is established for negligible residues of racephenicol in the edible tissues of chickens.

*Effective date:* This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(1))

Dated: July 6, 1970.

SAM D. FINE,  
Acting Associate Commissioner  
for Compliance.

[F.R. Doc. 70-8940; Filed, July 13, 1970;  
8:48 a.m.]

## Title 26—INTERNAL REVENUE

### Chapter I—Internal Revenue Service, Department of the Treasury

#### SUBCHAPTER A—INCOME TAX

[T.D. 7052]

#### PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

##### Notification of Status as a Section 501(c)(3) Organization

The following regulations relate to the application of section 508 (a), (b), and

(c) of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (68A Stat. 163).

The regulations set forth herein are temporary and are designed to inform taxpayers of the requirements and application of sections 508 (a), (b), and (c), prior to the issuance of final regulations, or the withdrawal or modification of these temporary regulations. In addition, the regulations provide a means for an organization to notify the Internal Revenue Service that it is a private operating foundation (as defined in section 4942(j)(3)). The 90 day periods prescribed by sections 508 (a) and (b) shall not be affected by these temporary regulations.

In order to provide such temporary regulations under section 508 of the Internal Revenue Code of 1954, the following regulations are adopted:

**§ 13.9 Special rules for certain section 501(c)(3) organizations.**

(a) *New organizations must notify the Secretary that they are applying for recognition of section 501(c)(3) status—*

(1) *In general.* Under section 508(a) of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969, except as provided in subparagraph (3) of this paragraph, an organization that is organized after October 9, 1969, will not be treated as an organization described in section 501(c)(3)—

(i) Unless such organization has given the Secretary or his delegate notice in the manner prescribed in subparagraph (2) of this paragraph; or

(ii) For any period before the giving of such notice, unless such notice is given in the manner and within the time prescribed in subparagraph (2) of this paragraph.

See section 508(d)(2)(B) for the effect on the deductibility of charitable contributions during the period an organization is not treated as an organization described in section 501(c)(3).

(2) *Filing of notice.* (i) For purposes of subparagraph (1) of this paragraph, notice must be filed within 1 year from the end of the month in which the organization seeking exemption under section 501(c)(3) was organized, or before the 90th day after final regulations under section 508(a) are filed with the FEDERAL REGISTER, whichever comes later. Such notice is filed by submitting a properly completed and executed Form 1023, Exemption Application. A Form 1023 properly filed prior to the publication of this temporary regulation will satisfy this requirement. Notice should be filed with the district director for the internal revenue district in which is located the principal place of business or principal office of the organization. An extension of time for the filing of such notice may be granted by such district director upon timely request to him by the organization, if it demonstrates that additional time is required.

(ii) Although the information required by Form 1023 must be submitted to satisfy the notice required by this

section, the failure to supply, within the required time, all of the information required to complete such form is not alone sufficient to deny exemption from the date of organization to the date such complete information is submitted by the organization. If the information which is submitted within the required time is incomplete, and the organization supplies the necessary additional information at the request of the Commissioner or his delegate within the additional time period allowed by him, the original notice will be considered timely.

(3) *Exceptions from notice.* Subparagraphs (1) and (2) are inapplicable to the following organizations:

(i) Churches, their integrated auxiliaries, and conventions or associations of churches;

(ii) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than \$5,000;

(iii) Subordinate organizations (other than private foundations) included in an application for an original or supplemental group exemption letter; and

(iv) Any other class of organizations that the Commissioner or his delegate by Revenue Procedure from time to time excludes from the requirement of filing notice under section 508(a).

(4) *Applications of new organizations exempted from filing notice.* Any organization excepted from the requirement of filing notice under section 508(a) will be exempt from taxation under section 501(c)(3) if it meets the requirements of that section, whether or not it files the notice under section 508(a). However, in order to establish its exemption with the Internal Revenue Service and receive a ruling, or determination letter recognizing its exempt status, an organization excepted from the notice requirement by reason of subparagraph (3) of this paragraph should file proof of its exemption in the manner prescribed in § 1.501(a)-1.

(b) *Presumption that old and new organizations are private foundations—*(1) *In general.* Under section 508(b), except as provided in subparagraph (7) of this paragraph, any organization (including an organization in existence on Oct. 9, 1969) which is described in section 501(c)(3), and which does not notify the Secretary or his delegate within the time and in the manner prescribed in subparagraph (2) that it is not a private foundation, will be presumed to be a private foundation.

(2) *Filing of notice.* (i) Except as provided in subparagraph (7) of this paragraph, an organization must file the notice described in section 508(b) within 1 year from the end of the month in which such organization was organized, or before the 90th day after final regulations under section 508(b) are filed with the FEDERAL REGISTER, whichever comes later.

(ii) Any organization filing notice under this paragraph that has received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its ex-

emption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file the notice described in section 508(b) by submitting a properly completed and executed Form 4653, Notification Concerning Foundation Status.

(iii) The financial schedule on Form 4653 need be completed only if the organization is, or thinks it might be, described in section 170(b)(1)(A)(iv) or (vi) or section 509(a)(2).

(iv) Any organization filing notice under this paragraph that has not received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its exemption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file its notice by submitting a properly completed and executed Form 1023 and attaching a statement that it is not a private foundation. A Form 1023 submitted prior to the publication of this temporary regulation will satisfy this requirement if the organization submits an additional statement that it is not a private foundation. Any statement filed under this subdivision shall be accompanied by a written declaration by the principal officer, manager, or authorized trustee that there is a reasonable basis in law and in fact for the statement that the organization so filing is not a private foundation, and that to the best of the knowledge and belief of such officer, manager or trustee, the information submitted is complete and correct.

(v) The notice filed under subdivision (ii) of this subparagraph should be filed with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pa. 19155, Attention: EOMF Group. The notice required by subdivision (iv) of this subparagraph should be filed with the district director for the internal revenue district in which is located the principal place of business or principal office of the organization. An extension of time for the filing of such notice may be granted by the district director for the internal revenue district in which is located the principal place of business or principal office of the organization, upon timely request to him by the organization, if it demonstrates that additional time is required.

(3) *Effect of notice upon the filing organization.* The notice filed under this paragraph may not be relied upon by the organization so filing unless and until the Internal Revenue Service notifies the organization that it is an organization described in paragraph (1), (2), (3), or (4) of section 509(a). For purposes of the preceding sentence, an organization that has filed notice under section 508(b), and has received a ruling that it is an organization described in section 170(b)(1)(A) (other than clauses (vii) and (viii) thereof), will be considered to have been notified by the Internal Revenue Service that it is an organization described in paragraph (1) of section 509(a) if (i) the facts and circumstances forming the basis for the issuance of such ruling have not substantially changed and (ii) the ruling issued under that section has not

been revoked expressly or by a subsequent change of the law or regulations under which the ruling was issued.

(4) *Effect of notice upon grantors or contributors to the filing organization.* Any organization which has properly filed the notice described in section 508 (b) will not be treated as a private foundation for purposes of making any determination under the internal revenue laws with respect to a grantor or contributor thereto, unless the organization is controlled directly or indirectly by such grantor or contributor, if by the 30th day after the day on which such notice is filed the organization has not been notified by the Commissioner or his delegate that the notice filed by such organization has failed to establish that such organization is not a private foundation. See subparagraph (6) of this paragraph for the effect of a notice by the Internal Revenue Service given after such 30th day.

(5) *Statement that old and new organizations are operating foundations.*

(i) Any organization (including an organization in existence on October 9, 1969) which is described in section 501 (c) (3) may submit a statement, in the form and manner provided for notice in subparagraph (2) of this paragraph, that it is an operating foundation (as defined in section 4942(j)(3)) and include in such statement:

(a) necessary supporting information to confirm such determination (including a statement identifying the clause of section 4942(j)(3)(B) that is applicable); and

(b) a written declaration by the principal officer, manager, or authorized trustee that there is a reasonable basis in law and in fact that the organization so filing is an operating foundation, and that to the best of the knowledge and belief of such officer, manager, or trustee, the information submitted is complete and correct.

(ii) The statement filed under this subparagraph may not be relied upon by the organization so filing unless and until the Internal Revenue Service notifies the organization that it is an operating foundation described in section 4942(j)(3).

(iii) Any organization which has properly filed the statement described in this subparagraph will be treated as an operating foundation for purposes of making any determination under the internal revenue laws with respect to a grantor or contributor thereto, unless the organization is controlled directly or indirectly by such grantor or contributor, if by the 30th day after the day on which such statement is filed the organization has not been notified by the Commissioner or his delegate that its statement has failed to establish that such organization is an operating foundation. See subparagraph (6) of this paragraph for the effect of a notice by the Internal Revenue Service given after such 30th day.

(6) *Effect of notice by Internal Revenue Service concerning organization's notice or statement.* Subparagraph (4) and subdivision (iii) of subparagraph (5) of this paragraph shall have no effect:

(i) with respect to a grantor or contributor to any organization for any period after the date on which the Internal Revenue Service makes notice to the public (such as by publication in the Internal Revenue Bulletin) that a grantor or contributor to such organization can no longer rely upon the notice or statement submitted by such organization; and

(ii) upon any grant or contribution made to an organization on or after the date on which a grantor or contributor acquired knowledge that the Internal Revenue Service has given notice to such organization that its notice or statement has failed to establish that such organization either is not a private foundation, or is an operating foundation, as the case may be.

(7) *Exceptions from notice.* Subparagraphs (1) and (2) of this paragraph are inapplicable to the following organizations:

(i) Churches, their integrated auxiliaries, and conventions or associations of churches;

(ii) Any organization which is not a private foundation (as defined in section 509(a)) and the gross receipts of which in each taxable year are normally not more than \$5,000; and

(iii) Subordinate organizations (other than private foundations) included in an application for an original or supplemental group exemption letter, provided the parent or supervisory organization submits a notice covering the subordinates.

(8) *Applications of organizations exempted from filing notice.* Any organization that is excepted from the notice requirement of section 508(b) by reason of subparagraph (7) of this paragraph may receive the benefits of subparagraph (4) of this paragraph by filing the notice described in section 508(b).

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

[SEAL] RANDOLPH W. THROWER,  
Commissioner of Internal Revenue.

Approved: July 8, 1970.

JOHN S. NOLAN,  
Acting Assistant Secretary  
of the Treasury.

[F.R. Doc. 70-8895; Filed, July 13, 1970;  
8:45 a.m.]

## Title 32—NATIONAL DEFENSE

### Chapter XIV—Renegotiation Board

#### SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

#### PART 1499—RENEGOTIATION RULINGS AND BULLETINS

#### Depreciation After Involuntary Conversion

Part 1499 is amended by adding a new § 1499.1-40 to read as follows:

§ 1499.1-40 *Renegotiation Ruling No. 40: Accounting methods; allowable depreciation costs for assets replacing those involuntarily converted (interprets act section 103(f); §§ 1452.5(a), 1455.3(b)(2), 1459.1(b)(2) and 1459.5(b)(4) of this chapter).*

(a) Internal Revenue Code Section 1033 permits a taxpayer under certain conditions to elect not to recognize the gain on assets involuntarily converted and replaced. In lieu of recognizing gain, the taxpayer reduces the cost basis of the replacement assets by the amount of the gain, thereby reducing subsequent allowable depreciation expense.

(b) Section 1459.1(b)(2) of this chapter provides that the Board may enter into an agreement with a contractor to adopt a method of accounting other than that used by the contractor for Federal income tax purposes when the method used for tax purposes is manifestly unsuitable for renegotiation.

(c) Unless the contractor whose property is involuntarily converted is permitted to depreciate replacement property on the basis of its full acquisition cost, even though for tax purposes he reduces the basis of the new property by the gain on the involuntarily converted property, he would be unfairly penalized for availing himself of the tax relief provided in such circumstances. For although the gain on the involuntarily converted property is not negotiable (see §§ 1452.5(a), 1455.3(b)(2), and 1459.5(b)(4) of this chapter), to reduce the depreciation base by the amount of an unrecognized gain from an involuntary conversion would be tantamount to including the gain in renegotiable income. Accordingly, the Board will consider favorably a contractor's request for a special accounting agreement to permit the contractor to compute depreciation on the acquisition cost of property replacing involuntarily converted property when the contractor has elected for Federal income tax purposes to reduce the cost basis of the new property by the amount of the gain on the involuntarily converted property.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. sec. 1219)

Dated: July 9, 1970.

LAWRENCE E. HARTWIG,  
Chairman.

[F.R. Doc. 70-8927; Filed, July 13, 1970;  
8:47 a.m.]

## Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers,  
Department of the Army

### PART 207—NAVIGATION REGULATIONS

#### McNary Dam Navigation Lock and Approach Channels, Columbia River, Wash.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.715 governing the use, administration and navigation of the McNary Dam Navigation Lock and Approach Channels, Columbia River, Wash., is hereby amended to redefine the restricted areas and to include other minor changes effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.715 McNary Dam Navigation Lock and Approach Channels, Columbia River, Wash.; use, administration and navigation.

(a) *General.* The lock and its approach channels, and all its appurtenances, shall be in charge of the District Engineer, Corps of Engineers, U.S. Army, in charge of the locality. His representative at McNary Dam shall be the Project Engineer, who shall customarily give orders and instructions to the lockmaster and assistant lockmasters in charge of the lock. Hereinafter, the term "lockmaster" shall be used to designate the project operator in immediate charge of the lock at any given time. The lockmaster is not in continuous attendance at the lock and must be dispatched out of the powerhouse control room to operate the lock for each lockage request. In case of emergency and on all routine work in connection with the operation of the lock, the lockmaster shall have authority to take such steps as may be immediately necessary without waiting for instructions from the Project Engineer.

(b) *Immediate control.* The lockmaster shall be charged with the immediate control and management of the lock, and of the area set aside as the lock area, including the lock approach channels. He shall see that all laws, rules, and regulations for the use of the lock and lock area are duly complied with, to which end he is authorized to give all necessary orders and directions in accordance therewith, both to employees of the Government and to any and every person within the limits of the lock or lock area, whether navigating the lock or not.

(c) *Authority of lockmaster.* No one shall cause any movement of any vessel, boat, or other floating thing in the lock or approaches except by or under the direction of the lockmaster.

(d) *Signals—(1) Radio.* The lock is equipped with two-way radio FM radio operating on frequencies of 156.8 MHz (channel 16) and 156.65 MHz (channel

13). These frequencies are monitored in the powerhouse control room. Vessels equipped with two-way radio desiring a lockage shall call WUJ-40, McNary, at least one-half hour in advance of arrival so that a lockmaster can be dispatched and the lockage made without delay.

NOTE: For vessels not equipped with two-way radio see "Lockage of Small Boats."

(2) *Sound.* When the lock is ready for entrance, notice will be given by one long blast on the navigation lock air horn. Permission to leave the lock will be given by one short blast.

(3) *Visual.* Visual signals are located outside each lock gate and will be used in conjunction with the sound signals. When the green GO sign is on, the lock is ready for entrance and vessels may enter under full control. When the red STOP sign is on, the lock cannot be made ready immediately and the vessel shall stand clear.

(e) *Permissible dimensions of boats.* Single tows aggregating 675 feet or less in length and 84 feet or less in width will be permitted to lock through without disassembly. The elevation of the upstream lock sill is 320 feet m.s.l., and the depth over the sill will be no less than 15 feet during normal operation of the McNary Pool. The elevation of the downstream lock sill is 236 m.s.l., and the depth over the sill will be no less than 21 feet during normal operation of the John Day Pool. Gauges are located on the south wall of the lock adjacent to each miter gate and at the end of the approach channel immediately downstream of the downstream miter gate. The gauges indicate the depth of water over the downstream miter gate sill. A boat must not attempt to enter the lock if its beam and length are greater than above indicated, or if its draft exceeds the depth indicated by the gauges, with due allowance for clearance.

(f) *Precedence at lock.* Ordinarily the boat arriving before all others at the lock will be locked through first; however, depending upon whether the lock is full or empty, this precedence may be modified at the discretion of the lockmaster if boats are approaching from the opposite direction and are within reasonable distance of the lock at the time of the approach by the first boat. When several boats are to pass, precedence shall be given as follows:

First: Boats and craft owned by the United States and engaged upon river and harbor improvement work.

Second: Rafts.

Third: Freight and towboats.

Fourth: Passenger boats.

Fifth: Small vessels and pleasure craft.

(g) *Loss of turn.* Boats that fail to enter the lock with reasonable promptness, after being authorized to do so, shall lose their turn.

(h) *Multiple lockage.* The lockmaster shall decide whether one or more vessels may be locked through at the same time.

(i) *Speed.* Vessels shall not be raced or crowded alongside another in the approach channels. When entering the lock, speed shall be reduced to a mini-

mum consistent with safe navigation. As a general rule, when a number of vessels are entering the lock, the following vessel shall remain at least 200 feet astern of the vessel ahead.

(j) *Lockage of small boats—(1) General.* The lockage of pleasure boats, skiffs, fishing boats, and other small craft will be coordinated with the lockage of commercial craft. If no commercial craft are scheduled to be locked through within a reasonable time not to exceed 1 hour after the arrival of the small craft at the lock, separate lockage will be made for such small craft.

(2) *Signals.* Signal stations which are connected to an annunciator in the powerhouse control room are located on the upstream and downstream guide walls to provide facilities for small boats to notify the lockmaster that they desire a passage through the lock. The upstream station is located near the upstream end of the north guide wall. The downstream station is located on the north guide wall about 300 feet below the miter gate. There is also an intercom between the signal stations and the powerhouse control room over which the control room will acknowledge the request for a lockage. When the lock is ready for entrance, the lockmaster will notify the small boat by one long blast of the horn. Permission to leave the lock will be given by one short blast of the horn. NOTE: Wait at the signal station until the lockmaster signals to enter.

(k) *Mooring in lock.* All boats, rafts, and other craft when in the locks shall be moored by head and spring lines and such other lines as may be necessary to the fastenings provided for that purpose; and the lines shall not be let go until the signal is given for the vessel to leave the lock. NOTE: Do not moor to stationary bits or ladders.

(l) *Mooring in approaches prohibited.* The mooring or anchoring of boats or other craft in the approaches to the lock where such mooring will interfere with navigation of the lock is prohibited. Rafts to be passed through the lock shall be moored in such a manner as not to interfere with the navigation of the lock or its approaches, and, if the raft is to be divided into sections for locking, the sections shall be brought into the lock as directed by the lockmaster. After passing through the lock, the sections shall be reassembled at such a distance from the entrance as not to obstruct or interfere with navigation of the lock and approaches.

(m) *Waiting for lockage.* Boats and tows waiting for lockage downstream of the dam may wait alongside the moorage wall provided that the 250-foot wide channel between the moorage wall and downstream guard wall is not restricted to less than 150-foot width at any point by such moorage. Vessels waiting for lockage upstream of the dam may wait in the area between a line 200 feet north of the upstream guard wall and the Washington shore; or they may tie to the upstream guard wall at points at least 800 feet upstream of the upstream lock gate.

(n) *Delay in lock.* Boats or barges must not obstruct navigation by unnecessary delay in entering or leaving the lock.

(o) *Damage to lock or other structures.* The regulations contained in this section shall not affect the liability of the owners and operators of vessels for any damage by their operations to the lock or other structures. They must use great care not to strike any part of the lock, any gate or appurtenance thereto, or machinery for operating gates, or the walls protecting the banks of the approach channels. All boats with metal nosings or projecting irons, or rough surfaces that would be liable to damage the gates or lock walls, will not be permitted to enter the lock unless provided with suitable buffers and fenders.

(p) *Tows.* Persons in charge of a vessel towing a second vessel or barge by lines, shall take the second vessel or barge alongside at a distance of at least 300 feet from the lock gate which the vessel is approaching and keep it alongside until at least 300 feet clear of the gate at the end from which it is passing.

(q) *Crew to move craft.* The masters in charge of tows and the persons in charge of rafts and other craft must provide a sufficient number of men to move barges, rafts and other craft into and out of the lock easily and promptly.

(r) *Handling valves, gates, bridges, and machinery.* No person, unless authorized by the lockmaster shall open or close any bridge, gate, valve, or operate any machinery in connection with the lock, but the lockmaster may call for assistance from the master of any boat using the lock, should such aid be necessary, and when rendering such assistance the men so employed shall be strictly under the orders of the lockmaster. Masters of boats refusing to give such assistance when it is requested of them may be denied the use of the lock by the lockmaster.

(s) *Landing of freight.* No one shall land freight or baggage on or over the walls of the lock so as in any way to delay or interfere with navigation or the operations of the lock; and freight and baggage consigned to McNary Project shall be landed only at such places as are designated by the lockmaster or his assistants.

(t) *Refuse in lock.* No material of any kind shall be thrown or discharged into the lock, and no material of any kind shall be deposited in the lock area.

(u) *Statistics.* On each passage through the lock, masters or pursers of vessels shall make to the lockmaster such written statement of passengers, freight, and registered tonnage and other information as are indicated on forms furnished such masters or pursers by the lockmaster.

(v) *Persistent violation of regulations.* If the owner or master of any boat persistently violates these regulations after the due notice of the same, the boat or master may be refused lockage by the lockmaster at the time of the violation or subsequent thereto if deemed necessary in the opinion of the lockmaster to

protect the Government property and works in the vicinity of the lock.

(w) *Restricted areas.* (1) All the waters described in subparagraphs (2) and (3) of this paragraph are restricted to all boats except those of the U.S. Coast Guard and Corps of Engineers.

(2) All of the waters downstream of the dam which are bounded on the east by the dam, on the north by the guard wall, on the south by the shore of the river, and on the west by a line extending from the downstream end of the guard wall to a tetrahedron on the south shore. The riverside face of the tetrahedron is painted with red and white squares.

(3) All water within a distance of about 1,000 yards above the dam lying south of the guard wall and bounded by a line commencing at the upstream end of the guard wall and running in a direction 093°30' True for a distance of 495 yards, thence 175°15' True for 707 yards, thence 179°00' True for 441 yards, thence 235°00' True for 585 yards, and thence 263°00' True for 146 yards to the head of the fishladder.

[Reg., July 1, 1970, ENGOW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

RICHARD B. BELNAP,  
Special Advisor to TAG.

[F.R. Doc. 70-8937; Filed, July 13, 1970; 8:48 a.m.]

## Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### Chapter I—Veterans Administration

#### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

##### Subpart D—Administration of Educational Benefits; 38 U.S.C. Chs. 34, 35, and 36

###### RESTRICTIONS; PROPRIETARY SCHOOLS

In § 21.4202, paragraph (c) is amended to read as follows:

§ 21.4202 Overcharges; restrictions on enrollments.

(c) *Restrictions—proprietary schools.* (1) Enrollment under chapter 34 will not be approved for any veteran, not already enrolled, in any nonaccredited course below the college level offered by a proprietary school other than a job training establishment during any period when more than 85 percent of the students enrolled in the course are having all or any part of their tuition, fees, or other charges paid to or for them by the school or the Veterans Administration under chapters 31, 34, or 35. (38 U.S.C. 1673 (d))

(2) Enrollment will not be approved for any veteran or eligible person under the provisions of chapter 34 or 35, respectively, in any proprietary school of which the veteran or eligible person is

an official authorized to sign certificates of enrollment or monthly certificates of attendance.

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective date of approval.

Approved: July 8, 1970.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,  
Acting Deputy Administrator.

[F.R. Doc. 70-8930; Filed, July 13, 1970; 8:48 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

### Subtitle A—Office of the Secretary of the Interior

[Circular No. 2274]

#### PART 23—SURFACE EXPLORATION, MINING AND RECLAMATION OF LANDS

##### Modification of Requirement for Performance Bond

On page 2994 of the FEDERAL REGISTER of February 13, 1970, there was published a notice of proposed rule making amending § 23.9 of Title 43, Code of Federal Regulations.

The purpose of the amendment is to eliminate the requirement for performance bonds in connection with surface exploration or mining activities from Federal, State, or other governmental agencies. However, contractors of such agencies will be required to furnish a performance bond, payable to the United States, to cover the cost of any reclamation requirements of the permit, lease or contract.

Interested persons were given 30 days within which to submit comments, suggestions or objections with respect to the proposed amendment.

Several comments were received. They supported the proposed amendment. One suggestion was made that a provision be added to make it clear that an amendment to a performance bond will be acceptable in lieu of an additional or separate bond. This suggestion has been incorporated in the regulation.

Another suggestion was to not require performance bonds from Federal, State or governmental agencies' contractors. Since the purpose of such bond is to secure performance of land reclamation requirements and does not concern project default as such, this suggestion has not been adopted.

The proposed amendment is hereby adopted effective upon publication in the FEDERAL REGISTER with the following amendments:

1. In paragraph (d) of § 23.9, the words "payable to the United States" are added to the last sentence between the words "bond" and "which."

2. A sentence is added to § 23.9(d) to read: "If, for some other purpose, the

contractor furnishes a performance bond, an amendment to that bond which meets the requirements of paragraph (a) will be acceptable in lieu of an additional or separate bond."

FRED J. RUSSELL,  
*Acting Secretary of the Interior.*

JULY 7, 1970.

A new paragraph (d) is added to § 23.9:  
**§ 23.9 Performance bond.**

(d) Performance bonds will not be required of Federal, State, or other governmental agencies. Where the exploration or mining is actually performed for such Federal, State, or governmental agencies by a contractor who would have to post a bond under the terms of paragraph (a) of this section if he were the operator, such agencies shall require the contractor to furnish a bond payable to the United States which meets the requirements of paragraph (a) of this section. If, for some other purpose, the contractor furnishes a performance bond, an amendment to that bond which meets the requirements of paragraph (a) of this section will be acceptable in lieu of an additional or separate bond.

[F.R. Doc. 70-8941; Filed, July 13, 1970; 8:48 a.m.]

**Chapter II—Bureau of Land Management, Department of the Interior**

**APPENDIX—PUBLIC LAND ORDERS**

[Public Land Order 4862]

[New Mexico 10703]

**NEW MEXICO**

**Partial Revocation of Executive Order No. 6583**

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Executive Order No. 6583 of February 3, 1934, withdrawing lands to enable the State of New Mexico to make exchange selections as provided by the Act of June 15, 1926, 44 Stat. 746-748, is hereby revoked so far as it affects the following described land:

NEW MEXICO PRINCIPAL MERIDIAN

T. 15 S., R. 8 W.,  
Sec. 20, W $\frac{1}{2}$ SW $\frac{1}{4}$ .

The area described contains 80 acres in Sierra County.

The land is located approximately 4 miles north of the village of Kingston in the west-central portion of Sierra County, adjacent to the east boundary of the Gila National Forest. The terrain is rough and mountainous. Dunn Canyon traverses the southwest corner of the area in a northwest to southeast direction. Vegetal cover consists of fair to poor cover of mixed grasses, scattered scrub juniper, cedar, cholla, yucca, and ocotillo cacti, with scattered scrub pine and oak trees in the drainage area.

2. At 10 a.m. on August 10, 1970, the land shall be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the require-

ments of applicable law. All valid applications received at or prior to 10 a.m. on August 10, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land has been and continues to be open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws for metalliferous minerals. It will be open to location for nonmetalliferous minerals at 10 a.m. on August 10, 1970.

Inquiries concerning the land shall be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, N. Mex.

HARRISON LOESCH,  
*Assistant Secretary of the Interior.*

JULY 6, 1970.

[F.R. Doc. 70-8942; Filed, July 13, 1970; 8:49 a.m.]

[Public Land Order 4863]

[New Mexico 11252]

**NEW MEXICO**

**Withdrawal for Navajo Indian Irrigation Project**

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. section 416 (1964), it is ordered as follows:

Subject to valid existing rights, the following described public land, which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Navajo Indian Irrigation Project:

NEW MEXICO PRINCIPAL MERIDIAN

T. 29 N., R. 9 W.,  
Sec. 36, SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

The area described aggregates 40 acres in San Juan County.

The rights to all oil and gas, and other hydrocarbon substances, helium and carbon dioxide belong to the State of New Mexico.

HARRISON LOESCH,  
*Assistant Secretary of the Interior.*

JULY 6, 1970.

[F.R. Doc. 70-8943; Filed, July 13, 1970; 8:49 a.m.]

**Title 50—WILDLIFE AND FISHERIES**

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

**SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM**

**PART 33—SPORT FISHING**

**Arapaho National Wildlife Refuge, Colo.**

Pursuant to the authority vested in the Secretary of the Interior by the Migra-

tory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), 50 CFR 33 is herewith amended by the addition of Arapaho National Wildlife Refuge, Colo., to the list of areas open to sport fishing as legislatively permitted.

Notice and public procedure on this amendment are deemed contrary to the public interest because of the proximity of the sport fishing season in the State of Colorado. Since this amendment benefits the public by relieving existing sport fishing restrictions on the Arapaho National Wildlife Refuge, it shall become effective upon publication in the FEDERAL REGISTER.

1. Section 33.4 is amended by the following addition:

**§ 33.4 List of open areas; sport fishing.**

\* \* \* \* \*  
COLORADO  
Arapaho National Wildlife Refuge,

\* \* \* \* \*  
ABRAM V. TUNISON,  
*Acting Director, Bureau of Sport Fisheries and Wildlife.*

JULY 7, 1970.

[F.R. Doc. 70-8904; Filed, July 13, 1970; 8:45 a.m.]

**Title 47—TELECOMMUNICATION**

**Chapter I—Federal Communications Commission**

[Docket No. 18828; FCC 70-715]

**PART 31—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B TELEPHONE COMPANIES**

**PART 33—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C TELEPHONE COMPANIES**

**Deferral Accounting for Income Tax Differentials**

*Report and order.* In the matter of amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, and Part 33, Uniform System of Accounts for Class C Telephone Companies, of the Commission's rules to provide for deferral accounting for income tax differentials occasioned by the use of accelerated depreciation for income tax purposes; also to make related changes in Annual Report Form M and to provide for interim reporting on Monthly Report Form 901.

1. The Commission adopted a notice of proposed rule making in the above entitled matter on April 1, 1970, which was published in the FEDERAL REGISTER on April 8, 1970 (35 F.R. 5706), in accordance with section 4(a) of the Administrative Procedure Act. The notice presented for comment on or before May 8, 1970, and for reply comment on or before May 18, 1970, a proposal to amend the Commission's accounting rules to permit normalization accounting

with respect to income tax differentials occasioned by the use of accelerated depreciation for income tax purposes.

2. On February 27, 1970, prior to the issuance of the notice of proposed rule making in this matter, the Chief of the Common Carrier Bureau, pursuant to § 0.303(f) of the Commission's rules, issued an order waiving the applicable sections of Part 31 so as to permit the normalization accounting that was proposed in the notice of proposed rule making. The waiver order permits normalization accounting retroactive to January 1, 1970, and until such time as an order prescribing permanent accounting procedures becomes effective.

3. At the request of the Public Service Commission of Wisconsin (Wisconsin) the time for filing initial comments was extended to May 28, 1970, and the date for filing reply comments to June 8, 1970.

4. Timely comments were filed by the American Telephone and Telegraph Co. (A.T. & T.) on behalf of itself and its associated Bell System operating companies, Arthur Andersen & Co. (Arthur Andersen), the Public Utilities Commission of the State of California and the People of the State of California (California), GT&E Service Corp. (GT&E), Lee Telephone Company (Lee), city and county of San Francisco (San Francisco), the United States Independent Telephone Association (USITA), the United Telephone System (United), and Wisconsin. Reply comments were filed by A.T. & T. A filing dated June 5, 1970, was submitted by the Attorney General of the State of California (Attorney General—California). Based on the contents of the filing, it is considered to be an initial comment rather than a reply comment and is accordingly being treated as a late filing of initial comments.

5. None of the comments which were filed indicate any objection to the Commission amending the rules so as to permit normalization accounting. Wisconsin urges, however, that the proposed rules should be modified so as to provide for recognition of the Wisconsin method of normalization accounting. Also, three other parties that filed comments favor a relaxation of the record-keeping requirements that were proposed and two timely comments and a late filing object to the issuance in this rule making proceeding of a statement of policy providing for normalization of the tax differentials for rate-making purposes. The initial comments, together with reply comments and the Commission's opinion with respect thereto, are discussed in the following paragraphs.

6. A.T. & T. and GT&E favor adoption of the accounting that was proposed in the notice of proposed rule making. Arthur Andersen also favors the proposed accounting and lists a number of advantages of such accounting. Arthur Andersen also suggests that the Commission indicate specifically in its order in this docket that it will be the Commission's policy, where it has rate making jurisdiction, to allow the provision for deferred income taxes in the cost of service for rate-making purposes.

7. California and San Francisco indicate no objection to the adoption of the accounting as proposed but state that this rule making proceeding does not provide an adequate basis for determining significant rate-making policies such as this Commission's statement in the notice of proposed rule making as to its future policy of using normalization to determine the cost of furnishing telephone service for rate-making purposes. Their comments indicate their belief that an issue such as the treatment to be accorded to accelerated depreciation in a rate-making determination should be decided in the context of a rate case and propose that a full public hearing should be held for this purpose. The late comments of the Attorney General—California were generally to the same effect. California states that the Federal Power Commission (FPC) recognizes that an accounting proceeding is not an appropriate vehicle for rate-making determination. (Alabama Power Co., 24 FPC 278, 34 PUR 3d 385, 396 (1960).) However, as pointed out by A.T. & T. in its reply comments, FPC, in its Order No. 404, Statement of Policy, issued May 15, 1970 in connection with normalization for income taxes of public utilities, licensees and pipeline companies states as follows: " \* \* \* Such normalization will also be permitted for rate making purposes to the extent rates are subject to the Commission's rate making authority \* \* \* ." FPC further states " \* \* \* Since the statement issued herein concerns a matter of general policy, compliance with the provisions of 5 U.S.C. 553, relating to notice and hearing is unnecessary and it may be made effective on issuance \* \* \* ." In its reply comments, A.T. & T. notes also that in its June 3, 1970 Opinion and Order Granting Permission to use Liberalized Depreciation with Normalization for Accounting and Rate Purposes, FPC reviewed its prior treatment of accelerated depreciation and enlarged its May 15 Statement of Policy to permit Texas Gas to abandon flow through with respect to pre-1970 property and post-1969 nonexpansion property and to adopt liberalized depreciation with normalization with respect to such property. In its reply comments, A.T. & T. states further that it does not believe California's objections to be well taken as generally expressed statements by a Commission of an intent to make accounting and rate-making treatment consistent can be found in notices of proposed rule making as well as in Statements of Policy. (See, e.g., notice of proposed rule making, re Accounting Treatment for Expenditures for Research and Development, FPC Docket No. R-381 (Jan. 27, 1970), 18 CFR Parts 101, 201; notice of proposed rule making, re Accounting Treatment for Land Held for Future Use and for Sales, FPC Docket No. R-379 (Jan. 22, 1970), 18 CFR Parts 101, 104, 105, 201, 204, 205.)

8. It is our understanding of section 441, Public Utility Property, of the Tax Reform Act of 1969 that it provides that a telephone company which was not using accelerated depreciation for Fed-

eral income tax purposes prior to 1970 may not adopt such a procedure thereafter unless the public utility normalizes the tax differentials in its accounts and also in determining its cost of service for rate-making purposes. In view of this dual provision in the tax law, it is our view that it would be inappropriate to prescribe the accounting to be followed and not at the same time indicate our intention to permit normalization in future rate determinations, when the prescribed accounting cannot be used unless assurance is given that normalization will be recognized for rate-making purposes. Furthermore, it is our view that there is no more appropriate or timely vehicle in which to express such a general intent as to our future policy with respect to future rate-making treatment than in this proceeding.

9. As indicated in the notice of proposed rule making, the Commission believes that it is preferable for both the telephone companies and the rate payers that all companies should be permitted to use accelerated depreciation for income tax purposes with normalization accounting rather than for the companies to be required to continue to use straight-line depreciation for income tax purposes. Even though there is no reduction in the income tax expense that is recorded in a company's accounts when it uses accelerated depreciation for income tax purposes and normalizes its accounts, there will be a deferral to future years of payment of that portion of income tax expenses represented by the tax effect of the excess of accelerated tax depreciation expense over straight-line tax depreciation expense during the early years of the service life of depreciable plant. California and San Francisco do not dispute the statements to this effect made in the notice of proposed rule making.

10. The comments of California, San Francisco, and Attorney General—California infer that this Commission, after hearing, could require a company to normalize income tax differentials for accounting purposes and yet require flow-through treatment for ratemaking purposes. We question whether we have this power in view of the express language of the Tax Reform Act of 1969. We are of the view, however, that it is in the public interest to make known our ratemaking intentions with respect to this matter. We, therefore, adopt the policy, in general, of using normalization to determine the cost of furnishing telephone service for ratemaking purposes. However, we will not permit a company to earn a return on the amount of the cost-free capital represented by the reserve for deferred taxes. This policy is, of course, subject to the requirement that we will consider any evidentiary showing to the contrary in a particular rate case. We are of the opinion that such a policy will provide impetus to the use by telephone companies of accelerated depreciation to the benefit, as noted above, of both the companies and the ratepayers.

11. Lee expresses concern that the record-keeping requirements proposed in § 31.3-32(d), will require separate records to be maintained to identify each retirement by year of installation in order to make proper adjustments of the tax differentials related thereto as retirements are made. That section, as proposed, provides that companies having an investment in account 100.1, "Telephone plant in service," of more than \$40 million shall maintain their records for account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," by vintage year separately for each class or subclass of eligible depreciable plant for which an accelerated method of depreciation has been used for income tax purposes. However, except for retirements of telephone plant sold, it is not proposed to require that an adjustment shall be made separately to account 176 each time a retirement of plant is made. The proposed procedure provides that the balance in account 176 with respect to each vintage class or subclass of plant shall be amortized separately and the amount applicable to the current year shall be determined on an equitable basis, which amortization will approximate each year the tax effect of the difference between income tax depreciation and the amount of straight-line depreciation that would have been charged for tax purposes in that year had accelerated depreciation not been used. This procedure is intended to furnish assurance that the entire amount of income tax deferrals with respect to each year of installation for each class of plant will be amortized by the time that all of the related plant is retired. Indicated, rather than actual, mortality data may be used in determining plant retirements for the purposes of amortizing the deferred tax amounts.

12. USITA and United interpose no objection to the proposed accounting but suggest a modification of the requirement that account 176 should show individual balances with respect to each vintage year separately for each class or subclass of depreciable telephone plant for which an accelerated method of depreciation has been used for income tax purposes. In lieu thereof they suggest we require that records be maintained by class or subclass of plant only if component depreciation rates are used for income tax purposes. United indicates that the United Telephone System companies do not compute separate depreciation rates for each class or subclass of plant for income tax purposes but use a composite rate for all plants for the purpose of computing their income tax depreciation and for the accounting which they have been performing with respect to normalization of the tax differentials. United maintains that it is unable to see what benefits flow to telephone companies, to their customers, to the FCC or its staff, or to the Internal Revenue Service from such additional record keeping requirements. United indicates that such requirements would be burdensome to the companies in the United System in that they could no longer use

a composite depreciation rate for tax purposes, as permitted by IRS, but would be required to maintain 20 to 30 additional subaccounts for each year's installations of plants.

13. The Commission's accounting rules now require that telephone companies having an investment in telephone plant in service in excess of \$40 million shall establish and maintain their continuing property records in greater detail than those with an investment of \$40 million or less. Separate depreciation rates are generally developed and used for the plant in each primary plant account or subaccount thereof. We do not agree with the contention of United that if we require the deferred tax reserve to be established and maintained on the basis proposed that this will result in the companies having to change their depreciation computations for income tax purposes. We are of this view because all that we are requiring of a company is that it allocate the total amount of the deferred income tax for all depreciable plant to each of several classes and subclasses of plant on a vintage basis for record-keeping purposes. We believe that it is desirable to establish and maintain the deferred tax reserve on a basis consistent with the plant classifications used for book depreciation accounting purposes rather than on the basis of those used for Federal income tax purposes. This procedure will enable a regulatory body to determine whether the deferred tax amounts are appropriately spread over the life of the related plant. We recognize that this will require additional records to be established and maintained by the companies. It is our opinion, however, that the added burden is not unreasonable for those companies with an investment in plant of over \$40 million. The requests of USITA and United are, therefore, denied.

14. Wisconsin objects to the proposed accounting set forth in the notice of proposed rule making on the grounds that it does not permit use of the Wisconsin method of normalization with respect to tax differentials occasioned by the use of accelerated depreciation for income tax purposes. Wisconsin states that under the Wisconsin method the amount of depreciation expense recorded in the accounts consists of the straight-line depreciation expense plus the reduction in Federal income taxes occasioned by the use of accelerated depreciation for Federal income tax purposes. Thus, normalization is accomplished through use of the depreciation expense and the depreciation reserve accounts under this method. Wisconsin points out that the Commission's proposed accounting in the notice of proposed rule making would not permit the use of Wisconsin's method of accounting. Wisconsin further states that the notice suggests that the Wisconsin procedure could be followed by reflecting the income and balance sheet deferred tax accounts or subaccounts as subaccounts of the depreciation expense and reserve accounts respectively in the reports to the Wisconsin Com-

mission. In its comments, Wisconsin lists a number of alleged advantages of the use of its method as contrasted with the method of normalization accounting we are prescribing herein.

15. In its reply to the Wisconsin comments, A.T. & T. states " \* \* \* Inasmuch as A.T. & T. files reports with the Commission which reflect the consolidated operations of all of the Bell System companies, we believe that these reports should reflect information on a consistent basis for A.T. & T. and each of its subsidiary companies. Therefore, we believe that the Bell System companies should follow the accounting outlined in the Commission's notice of proposed rule making adopted April 1, 1970. The Wisconsin Company would be willing to furnish the information desired by the Wisconsin Public Service Commission in separate reports."

16. We are not persuaded by Wisconsin's comments that alternate methods of accounting for normalization with respect to the use of accelerated depreciation for income tax purposes should be provided for in our rules. There is only one telephone company in the State of Wisconsin that is now required to file reports with this Commission. This company, Wisconsin Telephone Co., is a part of the Bell System. A.T. & T. states in its reply comments that the Wisconsin Company will furnish appropriate data to Wisconsin in separate reports. In view of this we see no necessity at this time to provide recognition in our accounting rules for use of the Wisconsin method.

17. As proposed in the notice of proposed rule making, Annual Report Form M for telephone companies is being amended herein effective for the report year 1970 by including in Schedule 10, Balance Sheet, a new line reading "176 Accumulated deferred income taxes—Accelerated tax depreciation" and including in Schedule 11, Income and Retained Earnings Statement, two new lines reading "308 Operating Federal income taxes deferred—Accelerated tax depreciation" and "309 Income credits resulting from prior deferrals of Federal income taxes."

18. The notice of proposed rule making notes that Monthly Report Form 901 would not be formally amended for 1970 but would be appropriately amended for 1971. Form 901 is being amended herein, effective for the report for January 1971, by adding two new lines reading "Oper. Fed. tax deferrals—Net (308, 309)" and "Accum. deferred income taxes—Accel. depr. (176)." Telephone companies filing Form 901 are hereby requested to continue interlining appropriate data for the remaining months of 1970.

19. Accordingly, it is ordered, That, under authority contained in sections 4(i) and 220 of the Communications Act of 1934, as amended, Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, and Part 33, Uniform System of Accounts for Class C Telephone Companies, of the Commission's rules are amended as set forth below effective January 1, 1971: *Provided, however,* That any company may

make such amendments retroactive to January 1, 1970;

20. *It is further ordered*, That, under authority contained in sections 4(i) and 219 of the Communications Act of 1934, as amended, Annual Report Form M for telephone companies is amended, effective with the report for 1970, and Monthly Report 901 for telephone companies is amended, effective with the report for January 1971, as set forth below; and

21. *It is further ordered*, That this proceeding is hereby terminated.

(Secs. 4, 219, 48 Stat., as amended 1066, 1077; 47 U.S.C. 154, 219)

Adopted: July 1, 1970.

Released: July 8, 1970.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>1</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

I. Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended as follows:

1. New § 31.176 is added as follows:

§ 31.176 Accumulated deferred income taxes; accelerated tax depreciation.

(a) This account shall include the balance of income tax expense that has been deferred to later periods as a result of the use of the normalized method of accounting for tax differentials arising from the use of accelerated depreciation for income tax purposes. (See § 31.3-32.)

(b) This account shall be credited with the amounts charged to accounts 307, "Other operating taxes," 308, "Operating Federal income taxes deferred—Accelerated tax depreciation," 326, "Federal income taxes—Nonoperating," and 327, "Other nonoperating taxes," in accordance with the provisions of § 31.3-32.

(c) This account shall be charged with the amounts credited to accounts 307, 309, "Income credits resulting from prior deferrals of Federal income taxes," 326 and 327 in accordance with the provisions of § 31.3-32.

(d) Adjustments shall be made between this account and account 307, account 309, account 326 or account 327, as appropriate, upon the sale of any property with respect to which amounts are included herein.

(e) Subdivisions of this account and records supporting such subdivisions shall be maintained in accordance with the provisions of § 31.3-32.

2. New § 31.3-32 is added as follows:

§ 31.3-32 Normalization accounting for tax differentials resulting from the use of accelerated depreciation for income tax purposes.

(a) Any company that uses accelerated depreciation for income tax purposes shall normalize the tax differentials occasioned thereby as indicated hereinafter: *Provided, however*, That in lieu of the accounting prescribed herein, any company may treat the reduction in current

income taxes payable resulting from the use of accelerated depreciation for tax purposes as a reduction in current income tax expense to the extent that it is eligible under law and elects to continue to follow flow-through accounting.

(b) With respect to each vintage class or subclass of eligible depreciable telephone plant (except as provided in paragraph (d) of this section) that is recognized for depreciation accounting purposes, or the amount in account 103, "Miscellaneous physical property," for which the use of accelerated depreciation for income tax purposes results in a greater amount of tax depreciation in the current year than under straight line depreciation, the tax differential occasioned by such use shall be accounted for in the manner indicated hereinafter. A tax differential with respect to State and local income taxes relating to eligible depreciable telephone plant shall be charged to account 307, "Other operating taxes"; a tax differential with respect to Federal income taxes relating to eligible depreciable telephone plant shall be charged to account 308, "Operating Federal income taxes deferred—Accelerated tax depreciation"; a tax differential with respect to Federal income taxes on eligible nonoperating depreciable property shall be charged to account 326, "Federal income taxes—Nonoperating"; and a tax differential with respect to State and local income taxes relating to eligible nonoperating depreciable property shall be charged to account 327, "Other nonoperating taxes." The appropriate subaccount of account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," shall be credited with the amounts charged to each of the foregoing accounts in accordance with the provisions of paragraph (d) of the section.

(c) With respect to each vintage class or subclass of eligible depreciable plant or the amount in account 103 for which the use of accelerated depreciation for income tax purposes results in a lesser amount of tax depreciation in the current year than under straight line depreciation, the tax differential resulting from such use that is determined on an equitable basis as being applicable to the current year, shall be charged to the appropriate subdivision of account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," and credited to account 307, "Other operating taxes," account 309, "Income credits resulting from prior deferrals of Federal income taxes," account 326, "Federal income taxes—Nonoperating," or account 327, "Other nonoperating taxes," as appropriate: *Provided, however*, That, in lieu of continuing to amortize the balance in account 176 in the manner indicated above until the retirement of all plant of a vintage class or subclass, any company may submit for the consideration and approval of the Commission a plan of straight-line amortization for relatively small balances remaining in account 176.

(d) Account 176 shall be maintained so as to show separately (i) deferred operating income taxes, further subdivided as between Federal income taxes and State and local income taxes, and

(ii) deferred nonoperating income taxes. The records underlying entries to and the balances in account 176 shall be kept so as to show the deferred tax amounts by vintage year separately for each class or subclass of eligible depreciable telephone plant for which an accelerated method of depreciation has been used for income tax purposes, except that any company that had a balance of \$40 million or less in account 100:1, "Telephone plant in service," as at the end of the previous year may use as its vintage class all or any portion of the eligible depreciable telephone plant added in a single year.

(e) Debit and credit tax differentials with respect to Federal income taxes relating to eligible depreciable telephone plant shall not be netted but shall be charged and credited, in all instances, to the accounts indicated herein.

3. In § 31.306, Note A is amended to read as follows:

§ 31.306 Federal income taxes—Operating.

\* \* \* \* \*  
NOTE A: No entries shall be made in this account to reflect interperiod allocation of taxes except as provided in Case 28. (See, however, § 31.3-32 with respect to interperiod allocation of income taxes in connection with the use of an accelerated method of depreciation for Federal income tax purposes.)  
\* \* \* \* \*

4. Section 31.307 is amended by adding new paragraphs (c) and (d) reading as follows:

§ 31.307 Other operating taxes.

\* \* \* \* \*  
(c) This account shall be charged also and account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," shall be credited, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period resulting from the deferral of income taxes occasioned by the use of accelerated depreciation for State and local income tax purposes with respect to eligible depreciable telephone plant.

(d) This account shall be credited and account 176 shall be charged, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period resulting from the deferral in prior years of income taxes occasioned by the use of accelerated depreciation for State and local income tax purposes with respect to eligible depreciable telephone plant.

5. New § 31.308 is added as follows:

§ 31.308 Operating Federal income taxes deferred; accelerated tax depreciation.

This account shall be charged and account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," shall be credited, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period resulting

<sup>1</sup> Commissioners Cox and Johnson concurring in the result.

from the deferral of income taxes occasioned by the use of accelerated depreciation for Federal income tax purposes with respect to eligible depreciable telephone plant.

6. New § 31.309 is added as follows:

**§ 31.309 Income credits resulting from prior deferrals of Federal income taxes.**

This account shall be credited and account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," shall be charged, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period resulting from the deferral in prior years of income taxes occasioned by the use of accelerated depreciation for Federal income tax purposes with respect to eligible depreciable telephone plant.

7. Section 31.326 is amended by redesignating the present text as paragraph (a) and adding new paragraphs (b) and (c) to read as follows:

**§ 31.326 Federal income taxes—Nonoperating.**

(a) This account shall include the amounts of Federal income taxes and the reductions in such income taxes that are applicable to items included in accounts 312, 313, 314, 315, 316, 323, and 327.

(b) This account shall be charged also and account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," shall be credited, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period resulting from the deferral of income taxes occasioned by the use of accelerated depreciation for Federal income tax purposes with respect to eligible nonoperating depreciable property.

(c) This account shall be credited and account 176 shall be charged, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period resulting from the deferral in prior years of income taxes occasioned by the use of accelerated depreciation for Federal income tax purposes with respect to eligible nonoperating depreciable property.

8. Section 31.327 is amended by adding new paragraphs (c) and (d) to read as follows:

**§ 31.327 Other nonoperating taxes.**

(c) This account shall be charged also and account 176, "Accumulated deferred income taxes—Accelerated tax depreciation," shall be credited, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period resulting from the deferral of income taxes occasioned by the use of accelerated depreciation for State and local income tax purposes with respect to eligible nonoperating depreciable property.

(d) This account shall be credited and account 176 shall be charged, in accordance with the provisions of § 31.3-32, with the amounts of income tax differentials applicable to the current period

resulting from the deferral in prior years of income taxes occasioned by the use of accelerated depreciation for State and local income tax purposes with respect to eligible nonoperating depreciable property.

II. Part 33, Uniform System of Accounts for Class C Telephone Companies, is amended as follows:

1. In § 33.2590 paragraph (a) is amended to read as follows:

**§ 33.2590 Other deferred credits.**

(a) This account shall include the amounts of all deferred credits, not provided for elsewhere, that cannot be entirely cleared or disposed of until additional information has been received or amounts that are being held for credit to other accounts in the future, including investment credits and deferred income taxes occasioned by the use of accelerated depreciation for income tax purposes.

2. In § 33.5500 the present text is redesignated as paragraph (a), new paragraphs (b) and (c) are added and the note is amended. The section, as amended, reads as follows:

**§ 33.5500 Income taxes.**

(a) This account shall include the amounts of Federal, State, and local government taxes on net income applicable to telephone operations, including additional assessments of such taxes. Taxes accrued through this account prior to their payment shall be credited to account 2400, "Accrued liabilities."

(b) This account shall be charged and account 2590, "Other deferred credits," shall be credited with the amounts of income tax differentials applicable to the current period that are occasioned by the use of accelerated depreciation for Federal, State, and local income tax purposes with respect to eligible depreciable telephone plant.

(c) This account shall be credited and account 2590 shall be charged with the amounts of income tax differentials applicable to the current period resulting from the deferral in prior years of income taxes occasioned by the use of accelerated depreciation for Federal, State, and local income tax purposes with respect to eligible depreciable telephone plant.

NOTE: Income taxes and income tax differentials that are not applicable to telephone operations shall be included in account 7000, "Miscellaneous taxes."

3. Case 13 of Appendix A is redesignated as Case 13-R-1 and the Answer is amended to read as follows:

Case 13-R-1 (Cancels Case 13)

JANUARY 1, 1970.

Answer: No. Account 5500, "Income taxes," should include provision for actual taxes only except for taxes deferred with respect to the use of accelerated depreciation for income tax purposes with respect to eligible telephone plant. Account 5500 should not be increased by the amount which would have been paid had the refunding transaction

not occurred. In other words, there was an actual saving in taxes, and this saving should be reflected in the income statement because it is a fact.

III. Annual Report Form M for telephone companies is amended as follows:

1. Schedule 10, "Balance Sheet," is amended by adding at the appropriate place therein a new line reading "176 Accumulated deferred income taxes—Accelerated tax depreciation."

2. Schedule 11, "Income and Retained Earnings Statement," is amended by adding at the appropriate place therein two new lines reading "308 Operating Federal income taxes deferred—Accelerated tax depreciation" and "309 Income credits resulting from prior deferrals of Federal income taxes."

IV. Monthly Report 901 for telephone companies is amended by including at the appropriate places therein two new lines reading "Oper. Fed. tax deferrals—Net (308, 309)" and "Accum. deferred income taxes—Accel. depr. (176)."

[F.R. Doc. 70-8945; Filed, July 13, 1970; 8:49 a.m.]

**Title 49—TRANSPORTATION**

**Chapter V—National Highway Safety Bureau, Department of Transportation**

**SUBCHAPTER A—MOTOR VEHICLE SAFETY REGULATIONS**

[Docket No. 69-12; Notice No. 2]

**PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

**New Pneumatic Tires—Passenger Cars**

A proposal to amend Part 571 (formerly Part 371), Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars" was published on July 11, 1969 (34 F.R. 11501), as a notice of proposed rule making to delete the exemption for deep-tread, winter-type tires contained in the high-speed requirements. Interested persons were invited to submit comments to this notice.

Federal Motor Vehicle Safety Standard No. 109 (49 CFR 571.21), as amended (33 F.R. 19711), specifies tire dimensions and laboratory test requirements for bead unseating resistance, strength, endurance and high-speed performance; defines tire load ratings; and specifies labeling requirements for new pneumatic tires for use on passenger cars manufactured after 1948.

Paragraph S5.5.4 of Standard No. 109 specifies that for the high-speed performance aspects of the standard, tires are to be tested at 75 m.p.h. for 30 minutes, 80 m.p.h. for 30 minutes, and (except for deep-tread, winter-type tires) 85 m.p.h. for 30 minutes.

Because, in actual practice, deep-tread, winter-type tires are often required to perform at the same rate of speed as other type passenger car tires it was considered in the public interest to amend S5.5.4 to require the same level

of high-speed performance of deep-tread, winter-type tires as other type tires are required to meet.

Several comments, including comments from one association representing new tire manufacturing companies, stated that the deep-tread, winter-type tires had groove depths deeper than conventionally treaded tires and that shoulder temperatures of the tires on the laboratory test wheel operating at 80 m.p.h. are comparable to actual highway speeds in excess of 100 m.p.h. These commentators also indicated that to comply with the proposed amendment, the tread depths and lug configurations for the deep-tread, winter-type tires would have to be redesigned. However, research conducted for the Bureau has indicated that all deep-tread, winter-type tires when properly designed and constructed will conform to the present high-speed requirements for conventionally treaded passenger car tires. In addition, test wheel data submitted show that although the temperature of the crown of the tire of deep-tread, winter-type tires may run higher during the high-speed wheel test the difference in shoulder temperature appears insignificant.

Since deep-tread, winter-type tires must often perform at the same motor vehicle speeds and driving conditions as conventionally treaded tires, it is in the public interest that they meet the same minimum performance levels.

In consideration of the above, Federal Motor Vehicle Safety Standard No. 109 paragraph S5.5.4 is amended as follows.

S5.5.4. Without readjusting inflation pressure, test at 75 m.p.h. for 30 minutes, 80 m.p.h. for 30 minutes, and 85 m.p.h. for 30 minutes.

This amendment becomes effective January 1, 1971.

(Secs. 103, 119, and 201, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, and 1421; delegation of authority contained in § 1.51, Part 1, Regulations of the Office of the Secretary, 35 F.R. 4955)

Issued on July 8, 1970.

DOUGLAS W. TOMS,  
Director,

National Highway Safety Bureau.

[F.R. Doc. 70-8897; Filed, July 13, 1970;  
8:45 a.m.]

## PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

### Definition of Fixed Collision Barrier

On December 24, 1969, a proposal to amend § 571.3, *Definitions*, of Title 49, Code of Federal Regulations, by adding a definition for "Fixed collision barrier" was published in the FEDERAL REGISTER (34 F.R. 20212). The proposed definition was intended to replace present references in the motor vehicle safety standards to SAE Recommended Practice J850, "Barrier Collision Tests," and to be used in future standards containing performance requirements tested by impacting a vehicle into a stationary barrier.

The intent of the definition is to establish a firm basis upon which performance characteristics of a vehicle may be measured and the requirements of the standards enforced. Such a definition allows manufacturers to have flexibility in constructing barriers and testing their vehicles, since the focus is on the vehicle requirements rather than on the test equipment.

The core of the definition is that the barrier absorb "no significant portion of the vehicle's kinetic energy". It should be remembered that this is not intended to be a description of an actual test barrier. It is a device used in various standards to establish required quantitative performance levels of a vehicle in a crash situation, and means simply that the vehicle must meet the requirement no matter how small an amount of energy is absorbed by the barrier.

So viewed, the comment that the use of the word "significant" injects an element of subjectivity into the definition is without merit. The question whether an amount of energy absorbed by a barrier is significant is to be answered by comparing it with the extent to which the vehicle exceeds the performance requirement. A vehicle that exceeds the requirements by 50 percent, for example, when impacted into a barrier that absorbs less than 1 percent of its kinetic energy, will probably meet the requirements in any case. Conversely, if a vehicle exceeds the requirements by an amount on the order of only 1 percent when tested, energy absorption of the same order will cast doubt on the validity of the test or the conformity of the vehicle. Thus, it would be inconsistent with the purposes of the definition to follow the suggestion that was made of allowing a specified percentage of energy absorption such as 1 percent. Furthermore, it would be necessary for the Bureau to test vehicles against a barrier that absorbed at least 1 percent of the energy in each case, in order to conclusively establish nonconformity. Since the precise amount of energy absorbed in an impact are virtually impossible to establish, this would be a serious hindrance to enforcement of the standards.

It was suggested that the definition allow a plywood facing material to be used on a barrier. It is not necessary, however, to make such a specification, since no construction method whatever is prescribed, and manufacturers may use such facings or other materials as they see fit. Their responsibility is simply to insure that their vehicles will meet the performance requirements when they are impacted into a barrier whose energy absorption approaches zero.

One comment requested that the first paragraph be changed to make it clear that the dimensions of the barrier need not be such as to prevent the passage of parts of the vehicle that become separated during impact. Presumably the passage of separated parts mentioned by the commenter would not affect the measured performance (steering wheel displacement, windshield retention, etc.). If it would not affect the performance,

then the vehicle would perform in the same way when it impacted an "infinitely large" barrier, and such a provision would be unnecessary. If it would affect performance, then the provision would be inappropriate, since the point of the definition is to eliminate ambiguity by requiring the vehicle to meet the requirements upon impact with a barrier large enough to intercept the entire vehicle. The suggestion has therefore not been adopted.

A comment questioned the phrase "level vehicle attitude" in the second paragraph of the proposal. The intent of this paragraph was not to impose requirements as to vehicle attitude on a horizontal surface, but to specify a horizontal approach surface large enough to allow complete damping of transient transverse or vertical vehicle motion. The paragraph has accordingly been reworded to specify that the approach surface be large enough for the vehicle to "attain a stable attitude" during the approach.

The third paragraph has been editorially reworded for clarification without change in its substance or intent.

In consideration of the above, the following amendments are made to Part 571 of Title 49, Code of Federal Regulations

Section 571.3 is amended by inserting at the proper alphabetical location the following definition:

### § 571.3 Definitions.

(b) \* \* \*  
"Fixed collision barrier" means a flat, vertical, unyielding surface with the following characteristics:

(1) The surface is sufficiently large that when struck by a tested vehicle, no portion of the vehicle projects or passes beyond the surface.

(2) The approach is a horizontal surface that is large enough for the vehicle to attain a stable attitude during its approach to the barrier, and that does not restrict vehicle motion during impact.

(3) When struck by a vehicle, the surface and its supporting structure absorb no significant portion of the vehicle's kinetic energy, so that a performance requirement described in terms of impact with a fixed collision barrier must be met no matter how small an amount of energy is absorbed by the barrier."

Section S3.3.1(b) of Standard 201, *Occupant Protection in Interior Impact*, section S4 of Standard 301, *Fuel Tanks, Fuel Tank Filler Pipes, and Fuel Tank Connections*, and section S4 of Standard 212, *Windshield Mounting*, are revised to read as follows:

"Impact the vehicle perpendicularly into a fixed collision barrier at a forward longitudinal velocity of 30 miles per hour."

Section S4.1 of Standard 204, *Steering Control Rearward Displacement*, is revised to read as follows:

"Except as provided in S4.2, the upper end of the steering column and shaft shall not be displaced horizontally rearward parallel to the longitudinal axis of the vehicle relative to an undisturbed point on the vehicle more than 5 inches, determined by dynamic measurement, when the vehicle is imported perpendicularly into a fixed collision barrier at a forward longitudinal velocity of 30 miles per hour."

*Effective date.* This amendment has been found necessary to provide guidance to manufacturers and eliminate ambi-

guities from the standards, both the four directly affected and others proposed for issuance in the future, including the one on Occupant Crash Protection (35 F.R. 7187, May 7, 1970). It should require few if any changes in test procedures by manufacturers who have been following the SAE barrier test procedures referenced in the standards. For these reasons, there is good cause for finding that an earlier effective date than 180 days after issuance of this amendment is in the public interest. The amendment is therefore effective September 1, 1970.

This amendment is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegation of authority by the Secretary of Transportation to the Director of the National Highway Safety Bureau, 49 CFR 1.51.

Issued on July 8, 1970.

DOUGLAS W. TOMS,  
*Director,*

*National Highway Safety Bureau.*

[F.R. Doc. 70-8898; Filed, July 13, 1970;  
8:45 a.m.]

# Proposed Rule Making

## FEDERAL COMMUNICATIONS COMMISSION

[ 47 CFR Part 74 ]

[ Docket No. 18861 ]

### TELEVISION BROADCAST TRANSLATOR STATIONS

#### Order Extending Time for Comments and Reply Comments

In the matter of amendment of Part 74, Subpart G, Rules and Regulations (Television Broadcast Translator Stations) to permit translator operation on Channels 14-69, in lieu of Channels 70-83.

1. On May 20, 1970, the Commission adopted as part of its actions in the "land mobile" decisions, a notice of proposed rule making concerning operation by television translators on UHF Channels 14-69 (FCC 70-520, released May 21, 1970). The dates for comments and reply comments were specified as July 10 and July 24, 1970.

2. On July 2, 1970, American Broadcasting Co., Inc. (ABC) filed a motion for extension of time, asking that, because of vacation schedules and pressing engineering matters in other areas, the time for filing comments and replies herein be extended 3 weeks, or to July 31, and August 14, 1970, respectively.

3. It appears that good cause exists for the extension and that it will not materially delay the resolution of this matter. Accordingly, it is ordered, That the time for filing comments and reply comments in this proceeding is extended, to and including July 31, and August 14, 1970, respectively.

4. Authority for this action is found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's Rules.

Adopted: July 7, 1970.

Released: July 8, 1970.

[SEAL]

GEORGE S. SMITH,  
Chief, Broadcast Bureau.

[F.R. Doc. 70-8947; Filed, July 13, 1970;  
8:49 a.m.]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ 43 CFR Part 1810 ]

### DISASTER RELIEF

#### Timber Sale Contracts, Public Lands

The purpose of this amendment is to provide procedures for obtaining relief from damage caused by major disaster

to roads or other development facilities built under timber sale contracts in accordance with section 3(a)(b) of the Disaster Relief Act of 1969 (83 Stat. 125).

It is the policy of this Department, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Subpart 1815 is amended as follows:

1. A new § 1815.0-3 is added:

#### § 1815.0-3 Authority.

(a) Disaster Relief Act of 1966 (80 Stat. 1316).

(b) Disaster Relief Act of 1969 (83 Stat. 125).

2. A new § 1815.2 is added:

#### § 1815.2 Timber sale contracts—Disaster Relief Act of 1969.

##### § 1815.2-1 Relief granted.

(a) Where an existing timber sale contract does not provide relief to the timber purchaser from major physical change which is not due to negligence of the purchaser prior to approval of construction of any section of specified road or other specified development facility and, as a result of a major disaster a major physical change results in additional construction work, the United States will bear a share of the increased construction costs. The United States' share will be determined by the authorized officer as follows:

(1) For sales of less than 1 million board feet, costs over \$1,000;

(2) For sales of from 1 to 3 million board feet, costs over the sum of \$1 per thousand board feet;

(3) For sales of over 3 million board feet, costs over \$3,000.

(b) Where the authorized officer determines that the damages caused by such major physical change are so great that restoration, reconstruction, or construction is not practical under this cost-sharing arrangement, he may cancel the timber sale contract notwithstanding the provisions therein.

##### § 1815.2-2 Disasters to which Act applies.

Relief granted under the Act applies to major disasters, as determined by the President pursuant to the Act of September 30, 1950, which occurred after June 30, 1967, and on or before December 31, 1970.

##### § 1815.2-3 Applications.

Applications for relief granted by section 3 of the Disaster Relief Act of 1969

must be filed in accordance with § 1815.1-2 of this subpart.

WALTER J. HICKEL,  
Secretary of the Interior.

JULY 8, 1970.

[F.R. Doc. 70-8944; Filed, July 13, 1970;  
8:49 a.m.]

### Fish and Wildlife Service

[ 50 CFR Part 32 ]

### HUNTING

#### Brazoria National Wildlife Refuge, Tex.

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), it is proposed to amend 50 CFR 32 by the addition of Brazoria National Wildlife Refuge, Tex., to the list of areas open to the hunting of migratory game birds as legislatively permitted.

It has been determined that regulated hunting of migratory game birds may be permitted as designated on the Brazoria National Wildlife Refuge without detriment to the objectives for which the area was established.

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

1. Section 32.11 is amended by the following addition:

#### § 32.11 List of open areas; migratory game birds.

\* \* \* \* \*

TEXAS

Brazoria National Wildlife Refuge.

ABRAM V. TUNISON,  
Acting Director, Bureau of  
Sport Fisheries and Wildlife.

JULY 7, 1970.

[F.R. Doc. 70-8906; Filed, July 13, 1970;  
8:46 a.m.]

[ 50 CFR Part 32 ]

### BIG GAME HUNTING

#### Great Swamp National Wildlife Refuge, N.J.

Notice is hereby given that pursuant to the authority vested in the Secretary

of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), it is proposed to amend 50 CFR 32 by the addition of Great Swamp National Wildlife Refuge, N.J., to the list of areas open to the hunting of big game as legislatively permitted.

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

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

1. Section 32.31 is amended by the following addition:

§ 32.31 List of open areas; big game.

NEW JERSEY

Great Swamp National Wildlife Refuge.

ABRAM V. TUNISON,  
Acting Director, Bureau of,  
Sport Fisheries and Wildlife.

JULY 7, 1970.

[F.R. Doc. 70-8905; Filed, July 13, 1970;  
8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[ 7 CFR Part 947 ]

IRISH POTATOES GROWN IN CALIFORNIA AND OREGON

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of proposed expenses and a proposed rate of assessment as hereinafter set forth which were recommended by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114, as amended, and Order No. 947, as amended (7 CFR Part 947).

This marketing order program regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon, except Malheur County, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same in quadruplicate with the Hearing

Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposals are as follows:

§ 947.323 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1970, and ending June 30, 1971, by the Oregon-California Potato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to \$32,760.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be four-tenths of one cent (\$0.004) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1971, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

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

Dated: July 9, 1970.

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

[F.R. Doc. 70-8958; Filed, July 13, 1970;  
8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

[ 49 CFR Part 575 ]

[Docket No. 28-3; Notice 4]

CONSUMER INFORMATION: SIDE DOOR STRENGTH

Notice of Proposed Rule Making

Notices of proposed consumer information requirements on the subject of side door strength were published on December 11, 1968 (33 F.R. 18382) and January 21, 1970 (35 F.R. 813). A notice of a proposed motor vehicle safety standard on the same subject was issued on April 23, 1970 (35 F.R. 6512). In light of comments that have been received and other considerations, it has been determined that further changes should be made before issuing the consumer information requirement. This notice of proposed rulemaking is issued to allow comments on the changes that are presently under consideration. The changes

noted below refer to the notice of January 21, 1970.

The application section exempted manufacturers of 500 or fewer vehicles annually. It is proposed that this exemption be omitted. The test can be performed with standard automotive laboratory equipment, and does not require the destruction of a completed vehicle. The potential public benefit appears, therefore, to outweigh the cost even to the small manufacturer.

The comments showed considerable differences of opinion concerning the value and validity of the weight correction, an additive term of (1/4) (3000-W), in the January 21 proposal. The additive term would bias the results in favor of lighter vehicles. The reason for inserting it was that lighter vehicles need less force to move them sideways in the direction of movement of the striking vehicle, hence theoretically will suffer less intrusion with a given door strength than a heavier vehicle. Recent studies show, however, that occupants of lighter vehicles involved in collisions generally suffer a higher proportion of serious injuries and fatalities than persons in heavier vehicles, although the precise effect of vehicle weight in side collisions is not yet known. It does not appear appropriate, therefore, to include a weight correction term that favors lighter vehicles. It is accordingly proposed that the weight correction be omitted from the consumer information requirement.

The January 21 consumer information notice made no reference to the position of the windows or the door locking system. The notice of a proposed standard of April 23 stated that the windows should be placed in the uppermost position, but also did not mention the locking system. It appears that both the windows and the door locks may affect the results obtained in some cases. In order to achieve consistency of results and enforceability, it is proposed that the test procedures specify that the side windows be in the uppermost position and that all doors be locked.

In order to eliminate possible distortion of results by excessively slow application of the test load, it is proposed that the procedures specify that the load application over the 12-inch distance be completed within 80 seconds. This is consistent with the proposed standard of April 23, which specified that the 18-inch application be completed within 120 seconds.

Comments are invited on the changes described above in the proposed consumer information requirement. Comments should refer to the docket and notice numbers and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street S.W., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received by the close of business on September 9, 1970, will be considered, and will be available for examination at the above address both before and after the closing date.

This notice of proposed rulemaking is issued under the authority of sections 112 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1407) and the delegation of authority by the Secretary of Transportation to the Director of the National Highway Safety Bureau, 49 CFR 1.51.

Issued on July 8, 1970.

DOUGLAS W. TOMS,  
Director,

National Highway Safety Bureau.

[F.R. Doc. 70-8896; Filed, July 13, 1970;  
8:45 a.m.]

## FEDERAL POWER COMMISSION

[18 CFR Parts 104, 105, 141, 204,  
205, 260]

[Docket No. R-390]

### UNIFORM SYSTEMS OF ACCOUNTS AND FORMS 1-F AND 2-A

#### Notice of Proposed Rule Making

JULY 8, 1970.

Pursuant to 5 U.S.C. 553, the Administrative Procedure Act, the Commission gives notice it proposes to amend, effective for the reporting year 1970:

A. Certain accounts in the Uniform System of Accounts for Class C Public Utilities and Licensees, prescribed by Part 104, Chapter 1, Title 18, CFR.

B. Certain accounts in the Uniform System of Accounts for Class D Public Utilities and Licensees, prescribed by Part 105, Chapter 1, Title 18, CFR.

C. Certain schedules of FPC Form No. 1-F, Annual Report for Public Utilities and Licensees, Classes C and D, prescribed by § 141.2, Chapter 1, Title 18, CFR.

D. Certain accounts in the Uniform System of Accounts for Class C Natural Gas Companies, prescribed by Part 204, Chapter 1, Title 18, CFR.

E. Certain accounts in the Uniform System of Accounts for Class D Natural Gas Companies, prescribed by Part 205, Chapter 1, Title 18, CFR.

F. Certain schedules in FPC Form No. 2-A, Annual Report for Natural Gas Companies, Classes C and D, prescribed by section 260.2, Chapter 1, Title 18, CFR.

These modifications of the Uniform Systems of Accounts are proposed to extend to Class C and Class D Public Utilities and Licensees and Class C and Class D Natural Gas Companies the same accounting and reporting concepts ordered by the Commission in Orders 389 and 389-A (34 F.R. 17434, October 29, 1969, 35 F.R. 879, Jan. 22, 1970). In addition, certain other revisions are being proposed as more specifically set forth below which will create a consistency in accounting for all classes of utilities.

Basically, the Commission proposes to modify its Uniform Systems of Accounts and Annual Report Forms to require all

items of revenue and expense, with few exceptions, to be included in the current income statement. The changes are, in general, consistent with those recommended by the Accounting Principles Board of the American Institute of Certified Public Accountants in Opinion 9, Reporting the Results of Operations, issued in December 1966. It is anticipated that the adoption of what is commonly referred to as the "all inclusive income statement" concept will strengthen the meaningfulness of the income statement.

In accordance with the concept ordered by the Commission in Order 389 and 389-A, Account 432, Interest Charged to Construction—Credit is proposed to be relocated under the Other Income and Deductions of the income statement, rather than under the Interest Charges section. In this connection, it appears that in certain cases misconceptions have arisen with respect to the relocation by the Commission of Account 432—Interest Charged to Construction—when the Commission adopted its Order No. 389 on October 9, 1969. Although not originally proposed as a change in the Commission's notice of proposed rulemaking, the Commission was urged to relocate Account 432. The Commission took action with respect to such requests, commenting in Order No. 389 that:

In accordance with a comment by other respondents, Account 432 will be relocated under the Other Income and Deductions section of the income statement, rather than under the Interest Charges section, in order to negate any unintended implication that entries to this account serve as an offset to interest charges. Although this item is not included within the rulemaking proceeding, we are adopting this modification since it does not reflect a substantive change and comports with our prime objective of achieving a more realistic and revealing income statement. \* \* \*

Since the adoption of Order No. 389, there have been comments with respect to the relocation of Account 432, certain of which cause the Commission to believe that there may be a relatively widespread misconception of the exact nature of the Commission's action with respect to Account 432.

Order No. 389 did not make any change in the text or in the number of the account designated in the Commission's Uniform System of Accounts as Interest Charged to Construction. The Commission's action in its Order No. 389 was confined to two specific changes. The first was a change in that part of the chart of accounts headed "Interest Charges" on page 62 (Electric) and page 64 (Gas) of the Uniform System of Accounts, such change being confined to (i) the relocation of the unnumbered caption "Total Interest Charges"—from a position in the table of contents following Account 432 to a position immediately preceding the account and (ii) the insertion of a new unnumbered heading immediately following Account 432 entitled "Income Before Extraordinary Items." A second change with respect to this item in Order No. 389 was to change the Statement of Income for the year, schedule page 114, of PFC Form No. 1 so that in-

terest charged to construction in that schedule would be classified as an item under the heading "Other Income." The Commission is and was aware that Account 432 has, since the Commission's Uniform System of Accounts was originally adopted in 1937, been classified under the general heading "Interest Charges" as was the case during the same period in the Uniform System of Accounts adopted by the National Association of Railroad and Utility Commissioners.

The Commission did not intend, in promulgating Order No. 389, to effect in any way, or to suggest the desirability of any change in the manner in which State and other authorities administering legal investment statutes used or applied interest during construction in calculating earnings coverages and other tests. The Commission assumed, rather, that such authorities would continue to interpret their requirements as they had in the past without regard to the Commission's action in changing the location of this item in the annual reports required by the Commission.

It was for this reason that the Commission adopted Order No. 389 in the form in which it was issued on October 9, 1969. The Commission was of the opinion, however, in promulgating Order No. 389, that the relocation of the interest charged to construction account in its required form of Statement of Income for the Year (included as a part of Form FPC No. 1) to that section of the income statement where Other Income items were accumulated, was more in keeping with the concept that interest during construction is essentially an allowance<sup>1</sup> as compensation for the use of funds employed in construction.<sup>2</sup> It is clear, as suggested in Order No. 389, that the crediting of an amount as interest during construction in the income account does not in fact serve directly to reduce to any extent interest charges for which a reporting utility is responsible. The item is, rather, an amount which in the Commission's view, is and always has been additional earnings which in fact serve directly to reduce to any extent interest charges for which a reporting

<sup>1</sup> It may well be that the Title of Account 432 would be changed from "Interest Charged to Construction—Cr." to "Allowance for Construction Funds." Interested persons should comment on the desirability or lack of desirability of such change in the Uniform Systems of Accounts Classes C and D and in the Uniform Systems of Accounts for Classes A and B Public Utilities and Licensees and Natural Gas Companies.

<sup>2</sup> See South Carolina Generating Company, Docket No. E-6585, 19 FPC 855, 862 (1958); J. R. Barnes, *The Economics of Public Utility Regulation* (F. S. Crofts and Co. 1947 ed) pp. 449-450; Foster and Rodey, *Public Utility Accounting* (Prentice Hall, 1951 ed) pp. 273-274; in Graham, Dodd & Cottle, *Security Analysis Account Principles and Techniques* (1962), it is stated (p. 294):

"\* \* \* Rather than treat interest charged to construction as a credit among gross income deductions, as is called for by the accounting regulations, we believe that \* \* \* it should be treated as additional earnings and added to gross income. \* \* \*"

utility is responsible. The item is, rather, an amount which in the Commission's view, is and always has been additional earnings which in fact enhance the book value of the utility's assets and the book value of its capital shares.

The Commission contemplates the inclusion in future years of an additional appendix to its annual statistics for Class A and Class B Public Utilities and Licensees in which will be included calculations on a uniform basis of interest coverages of reporting utilities. The relocation of the interest charged to construction item in the Form FPC No. 1 was intended to provide for a reporting requirement which is consistent with the essential characteristics of the item<sup>3</sup> while, at the same time, providing a basis whereby State and other agencies which administer legal investment and other laws would be in a position, if they so desire, to continue practices previously employed in calculating interest coverages required under such statutes.

The Commission has in this notice of proposed rulemaking proposed action for Class C and D Public Utilities and Licensees similar to that effected in Order No. 389 with the view that, by so doing, the Commission can afford interested persons an opportunity to comment on the desirability or lack of desirability of action of the type proposed. If, as a result of comments received, the Commission deems it desirable to take in this rulemaking procedure action different than that taken in Order No. 389 with respect to this item, the Commission would then, after appropriate notice, propose the making of a similar change in the Uniform System of Accounts for Class A and Class B Public Utilities and Licensees.

The principal proposed changes to the Uniform Systems of Accounts are:

A. The elimination of the "Miscellaneous Debits to Surplus" and "Miscellaneous Credits to Surplus" accounts, and the addition of five new accounts entitled: "Gain on Disposition of Property," "Loss on Disposition of Property," "Extraordinary Income," "Extraordinary Deductions," and "Adjustments to Retained Earnings."

B. The modification of certain accounts so that all income taxes will be recorded in Account 409, Income Taxes, rather than being dispersed among several accounts as is presently the case. Also, the modification will require maintaining income tax accounts in such a manner to allow identification of the taxes as related to utility operating income, other income and deductions and extraordinary items.

C. Prescription of three new accounts (Account 255, Accumulated deferred in-

vestment tax credits; 411.3, Investment tax credit adjustments; and 420, Investment tax credits) for Class C and Class D Natural Gas Companies only.

D. Modification of deferred tax accounts to allow identification of the taxes as related to utility operation income and other income and deductions.

The major recommended changes to Annual Report Forms Nos. 1-F and 2-A,<sup>4</sup> as set forth below, include:

A. In the Income Statement:

(1) The addition of a new section "Extraordinary Items."

(2) The reporting of both income and deferred taxes above and below the line.

(3) The addition of accounts "Gain on Disposition of Property," "Loss on Disposition of Property," "Extraordinary Income," and "Extraordinary Deductions."

(4) The relocation of Account 432, Interest Charged to Construction—Credit, from the Interest Charges section to the Other Income and Deductions section.

(5) The addition of two notes: One note requires disclosure to be made of the difference, in dollar amounts, between taxes payable when using liberalized depreciation and taxes payable under straight line depreciation. The other note requires a concise explanation of any changes in accounting methods during the year which had an effect on net income.

B. In the Earned Surplus Statement: Revision of the statement title to read "Statement of Retained Earnings for the Year," and inclusion of a requirement for reporting any adjustments to retained earnings. Also, the schedule format and instructions have been altered to follow the all inclusive income statement concept now prescribed for Class A and Class B utilities.

C. In the General Information section: The addition of reporting telephone numbers for persons to be contacted concerning the report. This will greatly alleviate time and effort when attempting to contact these parties.

D. In the Investment Tax Credits Generated and Utilized schedule in Annual Report Form No. 1-F: A clarification of instruction number 1 to make reporting of investment tax credits consistent for all classes of utilities. There will be no added reporting burden.

The proposed amendments to the Commission's Uniform System of Accounts under the Federal Power Act and to FPC Form No. 1-F would be issued under the authority granted the Federal Power Commission by the Federal Power Act, particularly sections 301, 304, and 309 (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825c, 825h).

The proposed amendments to the Commission's Uniform System of Accounts under the Natural Gas Act and to FPC Form No. 2-A would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 8, 10, and 16 (52

Stat. 825, 826, 830 (1938); 15 U.S.C. 717g, 717i, 717o).

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than August 14, 1970, data, views, comments, or suggestions, in writing, concerning the proposed revised report forms and regulations. An original and 14 conformed copies should be filed with the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report forms under the provisions of the Federal Reports Act of 1942 may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Standards, Bureau of the Budget, Washington, D.C. 20503. Submissions to the Commission should indicate the name, address, and telephone number of the person to whom correspondence in regard to the proposal should be addressed, and whether the person filing them requests a conference at the Federal Power Commission to discuss the proposed revisions in the report forms and regulations. The Commission will consider all such written submissions before acting on the matters herein proposed.

A. The following are proposed amendments and revisions to the Uniform System of Accounts for Class C Public Utilities and Licensees in Part 104, Chapter 1, Title 18 of the Code of Federal Regulations:

1. In the Definitions section of Part 104, immediately following definition "27. Replacing or replacement," add a new definition "28. Retained earnings," and beginning with definition "28. Retirement units," renumber remaining definitions 28 through 33 as 29 through 34. New definition 28 will read:

#### Definitions

28. "Retained Earnings" (formerly earned surplus) means the accumulated net income of the utility less distribution to stockholders and transfers to other capital accounts.

2. Amend the General Instructions section of Part 104 as follows:

(a) In instruction "2. Records," amend the title of account 426 in paragraph E by deleting the word "Other" and substituting the word "Miscellaneous" therefor, so that as amended this account title will read account "426, Miscellaneous Income Deductions."

(b) In instruction "3. Numbering System," amend paragraph A by deleting the numbers "400-439" assigned to Income accounts and substituting the numbers "400-432, 434-435" therefor. Immediately following Income accounts, insert the following new item "433, 436-439 Retained earnings accounts."

(c) Immediately following instruction "7. Accounting to be on Accrual Basis" add new general instructions "8. Extraordinary Items" and "9. Prior Period Items" and beginning with instruction "8. Distribution of Pay and Expenses of

<sup>3</sup> Such action is also consistent with the procedure specified by the Securities and Exchange Commission for calculations under Forms S-1, S-7, and S-9 adopted pursuant to the Securities Act of 1933 where in the instructions to each such form, it is provided "In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest."

<sup>4</sup> Filed as part of the original document.

Employees," renumber remaining instructions 8 through 12 as 10 through 14.

(d) Amend subparagraph (d) of renumbered instruction "14. Separate Accounts or Records for Each Licensed Project" by deleting the word "surplus" and substituting the words "retained earnings" therefor.

As so revised, the amended portions of the General Instructions section of Part 104 will read:

#### General Instructions

##### 2. Records.

E. All amounts included in the accounts prescribed herein for electric plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426, Miscellaneous Income Deductions.

##### 3. Numbering System.

400-432, 434-435 Income accounts.  
433, 436-439 Retained earnings accounts.

##### 8. Extraordinary Items.

It is the intent that net income shall reflect all items of profit and loss during the period with the sole exception of prior period adjustments as described in paragraph 9 below. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company, shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business. (In determining significance, items of a similar nature should be considered in the aggregate. Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434, Extraordinary income and 435, Extraordinary deductions.)

##### 9. Prior Period Items.

A. As a general rule, items relating to transactions which occurred prior to the current calendar year but were not recorded in the books of account shall be included in the same accounts in which they would have been recorded had the item been recorded in the proper period. Such items relate to events or transactions which occurred in a prior period or periods, the accounting effects of which could not be determined with reasonable assurance at the time, usually because of major uncertainty then exist-

ing. When the amount of a prior period item is relatively so large its inclusion for a single month would distort the accounts for that month, the amount may be distributed in equal amounts to the accounts for the current and remaining months of the calendar year. However, if the amount of any prior period item is so large that the company believes its inclusion in the income statement would seriously distort the net income for the year, the company may request Commission approval to record the amount in account 439, Adjustments to Retained Earnings. Such a request must be accompanied by adequate justification.

B. Treatment as prior period adjustments should not be applied to the normal, recurring corrections and adjustments which are the natural result of the use of estimates inherent in the accounting process. For example, changes in the estimated remaining lives of fixed assets affect the computed amounts of depreciation, but these changes should be considered prospective in nature and not prior period adjustments. Similarly, relatively insignificant adjustments of provisions for liabilities (including income taxes) made in prior periods should be considered recurring items to be reflected in operations of the current period. Some uncertainties, for example those relating to the realization of assets (collectibility of accounts receivable, ultimate recovery of deferred costs or realizability of inventories or other assets), would not qualify for prior period adjustment treatment, since economic events subsequent to the date of the financial statements must of necessity enter into the elimination of any previously existing uncertainty. Therefore, the effects of such matters are considered to be elements in the determination of net income for the period in which the uncertainty is eliminated. (See account 439, Adjustments to retained earnings.)

##### 14. Separate Accounts or Records for Each Licensed Project.

(d) The credits and debits to operating revenue, income, and retained earnings accounts that can be identified with and directly assigned to the project.

##### 3. Amend the Electric Plant Instructions of Part 104 as follows:

(a) In instruction "4. Electric Plant Purchased or Sold," amend the second sentence in paragraph F by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "421.1, Gain on Disposition of Property or account 421.2, Loss on Disposition of Property."

(b) In instruction "6. Land and Land Rights" amend the first sentence in paragraph E by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property."

(c) In instruction "9. Additions and Retirements of Electric Plant," amend the second sentence of paragraph E by deleting the words "435, Miscellaneous Debits to Surplus, or account 434, Miscellaneous Credits to Surplus," and substituting therefor "421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property."

As so revised, the amended portions of the Electric Plant Instructions of Part 104 will read:

#### Electric Plant Instructions

##### 4. Electric Plant Purchased or Sold.

F. \* \* \* Unless otherwise ordered by the Commission, the difference, if any, between (a) the net amount of debits and credits and (b) the consideration received for the property (less commissions and other expenses of making the sale), shall be included in account 421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property. \* \* \*

##### 6. Land and Land Rights.

E. Any difference between the amount received from the sale of land or land rights, less agents' commissions and other costs incident to the sale, and the book cost of such land or rights, shall be included in account 421.1, Gain or Disposition of Property, or account 421.2, Loss on Disposition of Property, as appropriate, unless a reserve therefor has been authorized and provided. \* \* \*

##### 9. Additions and Retirements of Electric Plant.

E. \* \* \* If the land is sold, the difference between the book cost (less any accumulated provision for depreciation or amortization therefor which has been authorized and provided) and the sale price of the land (less commissions and other expenses of making the sale) shall be included in account 421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property, as appropriate. \* \* \*

4. In the chart of Balance Sheet Accounts, amend account titles 215 and 216 by deleting the words "earned surplus" and substituting the words "retained earnings" therefor. As so revised these account titles will read:

Balance Sheet Accounts  
(Chart of Accounts)

#### LIABILITIES AND OTHER CREDITS

##### 5. PROPRIETARY CAPITAL

215\* Appropriated retained earnings.  
216\* Unappropriated retained earnings.

5. Account "110 Accumulated provision for depreciation and amortization of electric plant," is amended as follows:

In paragraph A, delete subparagraph (2) and redesignate subparagraphs (3) through (5) as (2) through (4). In the second sentence in paragraph E, delete the word "surplus" and substitute the words "retained earnings" therefor. The amended portion of paragraph E will read:

**110 Accumulated provision for depreciation and amortization of electric plant.**

E. \* \* \* It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by the Commission.

6. In account "124 Other investments," amend the final sentence in Note C by deleting the words "435, Miscellaneous Debits to Surplus," and substituting therefor "426.5, Other Deductions." As so amended, the final sentence in Note C will read:

**124 Other investments.**

Note C: \* \* \* When securities are written off or written down, the amount of the adjustment shall be charged to account 426.5, Other Deductions, or to an appropriate account for provisions for loss in value established as a separate subdivision of this account.

7. In account "183 Other deferred debits," amend the final sentence in subparagraph A(1) by deleting the words "435, Miscellaneous Debits to Surplus," and substituting therefor "426.5, Other Deductions." As so amended, the final sentence in subparagraph A(1) will read:

**183 Other deferred debits.**

A. \* \* \* (1) \* \* \* If the work is abandoned, the charge shall be to account 426.5, Other Deductions, or to the appropriate operating expense accounts.

8. In account "213, Discount on capital stock," amend paragraphs B and C by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "439, Adjustments to Retained Earnings." As so revised, paragraphs B and C of account 213 will read:

**§ 213 Discount on capital stock.**

B. When capital stock which has been actually issued is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-in Capital, provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207.

C. The utility may amortize the balance in this account by systematic charges to account 425, Miscellaneous amortization, or it may write off capital stock discount in whole or in part by charges to account 439, Adjustments to Retained Earnings.

9. In account "214, Capital stock expense" amend paragraphs B and C by deleting the words "435, Miscellaneous Debits to Surplus" and substituting

therefor, "439, Adjustments to Retained Earnings." As so revised, paragraphs B and C of account 214 will read:

**214 Capital stock expense.**

B. When capital stock which has been actually issued by the utility is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-in Capital, to the extent of gains on resale or cancellation of reacquired stock includible therein; provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207, from such source.

C. The utility may amortize the balance carried in this account by systematic charges to account 425, Miscellaneous Amortization, or it may write off capital stock expense in whole or in part by charges to account 493, Adjustments to Retained Earnings.

10. Account "215, Appropriated earned surplus" is amended by deleting the words "earned surplus" from the account title and the first sentence of the text and substituting the words "retained earnings" therefor. And so amended, these portions of account 215 will read:

**215 Appropriated retained earnings.**

This account shall include the amount of retained earnings which has been appropriated or set aside for specific purposes. \* \* \*

11. Account "216, Unappropriated earned surplus" is amended by deleting the words "earned surplus" from the account title and substituting the words "retained earnings" therefor, and by deleting the word "surplus" from the first sentence of the text and substituting the words "retained earnings" therefor. The amended portions of account 216 will read:

**216 Unappropriated retained earnings.**

This account shall include the balance, either debit or credit, of unappropriated retained earnings arising from earnings. \* \* \*

12. In account "217, Reacquired capital stock," amend paragraph B by deleting "435, Miscellaneous Debits to Surplus" and substituting therefor "439, Adjustments to Retained Earnings." As amended paragraph B will read:

**217 Reacquired capital stock.**

B. When reacquired capital stock is retired or canceled, the difference between its cost, including commissions and expenses paid in connection with the reacquisition, and its par or stated value plus any premium and less any discount and expenses applicable to the shares retired, shall be debited or credited, as appropriate, to account 207, Other Paid-in Capital, provided, however, that debits shall be charged to account 439, Adjustments to Retained Earnings, to the extent that they exceed the balance of gains on resale or can-

cellation of reacquired stock included in account 207.

13. In account "221, Bonds" amend paragraph B by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus," and substituting therefor "428, Amortization of Debt Discount and Expense or account 429, Amortization of Premium on Debt-Cr." As amended, paragraph B will read:

**221 Bonds.**

B. When bonds are reacquired, the difference between face value, adjusted for unamortized discount, expense or premium and the amount paid upon reacquisition, shall be included in account 428, Amortization of Debt Discount and Expense, or account 429, Amortization of Premium on Debt-Cr., as appropriate.

14. In account "236, Taxes accrued," amend the last sentence in paragraph B by deleting the remainder of the sentence after the word "expenses," and substituting therefor "see general instruction 9, for treatment." As amended, this portion of paragraph B will read:

**236 Taxes accrued.**

B. \* \* \* However, if such corrections are so large as to seriously distort current expenses, see general instruction 9, for treatment.

15. In account "255, Accumulated deferred investment tax credits," amend paragraphs A and B by deleting the number "411.1" wherever it appears and substituting therefor the number "411.3."

16. In account "265, Miscellaneous operating reserves," amend the note by deleting the words "Earned Surplus" and substituting therefor "Retained Earnings." As so amended, the note will read:

**265 Miscellaneous operating reserves.**

Note: This account includes only such reserves as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

17. In account "271, Contributions in aid of construction," amend paragraph B by deleting the words "to earned surplus or." As amended, paragraph B will read:

**271 Contributions in aid of construction.**

B. The credits to this account shall not be transferred to any other account without the approval of the Commission.

18. In the text of Balance Sheet accounts, amend prefatory Note B under the heading "11. Accumulated Deferred Income Taxes" by inserting the words "and nonutility property," between the words "etc.," and "and" and by deleting the remainder of the sentence after the word "below" and substituting therefor

"so as to allow ready identification of items relating to each utility department and to other Income and Deductions." As so amended, Note B will read:

**11. ACCUMULATED DEFERRED INCOME TAXES**

**NOTE B:** Public Utilities and Licensees which, in addition to an electric utility department, have another utility department, gas, water, etc., and nonutility property, and which have deferred taxes on income with respect thereto shall classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility department and to Other Income and Deductions.

19. In account "281, Accumulated deferred income taxes—Accelerated amortization," amend the second sentence in paragraph E by deleting the word "surplus" and substituting "retained earnings" therefor. As amended, this portion of paragraph E will read:

**281 Accumulated deferred income taxes—Accelerated amortization.**

E. \* \* \* It shall not transfer the balance in this account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of the Commission. \* \* \*

20. In account "282, Accumulated deferred income taxes—Liberalized depreciation," amend the second sentence in paragraph E by deleting the word "surplus" and substituting "retained earnings," therefor. As amended, this portion of paragraph E will read:

**282 Accumulated deferred income taxes—Liberalized depreciation.**

E. \* \* \* It shall not transfer the balance in the account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of the Commission. \* \* \*

21. In account "283, Accumulated deferred income taxes—Other," amend the second sentence in paragraph D by deleting the word "surplus" and substituting "retained earnings," therefor. As amended this portion of paragraph D will read:

**283 Accumulated deferred income taxes—Other.**

D. \* \* \* It shall not transfer the balance in the account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of the Commission. \* \* \*

22. In account "302, Franchises and consents," amend the last sentence in paragraph B and the first sentence in paragraph C by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As amended those portions of paragraphs B and C will read:

**302 Franchises and consents.**

B. \* \* \* Any excess of the amount actually paid by the utility over the amount above specified shall be charged to account 426.5, Other Deductions.

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant, as appropriate.

23. In account "303, Miscellaneous intangible plant," amend paragraph B by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As amended, paragraph B will read:

**303 Miscellaneous intangible plant.**

B. When any item included in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant, as appropriate.

24. Revise the chart of Income Accounts to read as follows:

<b>Income Accounts</b> (Chart of Accounts)	
<b>1. UTILITY OPERATING INCOME</b>	
400	Operating revenues.
Operating expenses:	
401	Operation expense.
402	Maintenance expense.
403	Depreciation expense.
404	Amortization of limited-term electric plant.
405	Amortization of other electric plant.
406	Amortization of electric plant acquisition adjustments.
407	Amortization of property losses.
408	Taxes other than income taxes.
408.1	Taxes other than income taxes, utility operating income.
409	Income taxes.
409.1	Income taxes, utility operating income.
410	Provision for deferred income taxes.
410.1	Provision for deferred income taxes, utility operating income.
411	Income taxes deferred in prior years—Cr.
411.1	Income taxes deferred in prior years—Cr., utility operating income.
411.3	Investment tax credit adjustments.
411.4	Investment tax credit adjustments, utility operations.
Total electric utility operating income.	
Net electric utility operating income.	
Other Operating Income:	
412	Revenues from electric plant leased to others.
413	Expenses of electric plant leased to others.
414	Other utility operating income.
Net utility operating income.	
<b>2. OTHER INCOME AND DEDUCTIONS</b>	
<b>A. OTHER INCOME</b>	
415	Revenues from merchandising, jobbing, and contract work.
416	Costs and expenses of merchandising, jobbing, and contract work.
417	Revenues from nonutility operations.
417.1	Expenses of nonutility operations.

- 418 Nonoperating rental income.
- 419 Interest and dividend income.
- 421 Miscellaneous nonoperating income.
- 421.1 Gain on disposition of property.

Total other income.

**B. OTHER INCOME DEDUCTIONS**

- 421.2 Loss on disposition of property.
- 425 Miscellaneous amortization.
- 426 Miscellaneous income deductions.
- 426.1 Donations.
- 426.2 Life insurance.
- 426.3 Penalties.
- 426.4 Expenditures for certain civic, political and related activities.
- 426.5 Other deductions.

Total other income deductions.  
Total other income and deductions.

**C. TAXES APPLICABLE TO OTHER INCOME AND DEDUCTIONS**

- 408.2 Taxes other than income taxes, other income and deductions.
- 409.2 Income taxes, other income and deductions.
- 410.2 Provision for deferred income taxes, other income and deductions.
- 411.2 Income taxes deferred in prior years—Cr., other income and deductions.
- 411.5 Investment tax credit adjustments, nonutility operations.
- 420 Investment tax credits.

Total taxes on other income and deductions.  
Net other income and deductions.

**3. INTEREST CHARGES**

- 427 Interest on long-term debt.
- 428 Amortization of debt discount and expense.
- 429 Amortization of premium on debt—Cr.
- 430 Interest on debt to associated companies.
- 430 Interest on debt to associated companies.
- 431 Other interest expense.

Total interest charges.

- 432 Interest charged to construction—Cr. Income before extraordinary items.

**4. EXTRAORDINARY ITEMS**

- 434 Extraordinary income.
- 435 Extraordinary deductions.
- 409.3 Income taxes, extraordinary items.

Net income.

25. Amend account "408, Taxes other than income taxes," as follows. Amend paragraph A by deleting the words "which are properly chargeable to electric operations." Add new paragraph D. Delete Notes A and D and redesignate Notes B, C, E, and F as Notes A, B, C, and D. Add new note E. As amended, these portions of account 408 will read:

**408 Taxes other than income taxes.**

A. This account shall include the amount of ad valorem, gross revenue or gross receipts taxes, State unemployment insurance, franchise taxes, Federal excise taxes, social security taxes, and all other taxes assessed by Federal, State, county, municipal, or other local governmental authorities, except income taxes.

D. This account shall be maintained according to the subaccounts 408.1 and 408.2 inclusive, shown below.

NOTE A: Special assessments for street and similar improvements shall be included in the appropriate utility plant or nonutility property account.

NOTE B: Taxes specifically applicable to construction shall be included in the cost of construction.

NOTE C: Gasoline and other sales taxes shall be charged as far as practicable to the same account as the materials on which the tax is levied.

NOTE D: Social Security and other forms of so-called pay roll taxes shall be distributed to utility departments and to nonutility functions on a basis related to pay roll. Amounts applicable to construction shall be charged to the appropriate plant account.

NOTE E: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or 431, Other Interest Expense, as appropriate.

26. Immediately following account "408, Taxes other than income taxes," add new subaccounts 408.1 and 408.2, which will read as follows:

408.1 Taxes other than income taxes, utility operating income.

This account shall include those taxes recorded in account 408, Taxes Other Than Income Taxes, which relate to utility operating income. This account shall be maintained so as to allow ready identification of taxes relating to Utility Operating Income (by department), Utility Plant Leased to Others and Other Utility Operating Income.

408.2 Taxes other than income taxes, other income and deductions.

This account shall include those taxes recorded in account 408, Taxes Other Than Income Taxes, which relate to Other Income and Deductions.

27. Account "409, Income Taxes" is amended as follows. In the first sentence in paragraph A insert the word "income" between the words "federal" and "taxes." In the second sentence in paragraph A, delete the remainder of the sentence after the word "adjusted" and substitute therefor "by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall include the actual taxes payable by the utility (See general instruction 9 for prior period adjustments)." Revise paragraph B. Add a new paragraph C. Delete notes B, C, and D. Redesignate Note E as Note B. As so amended, account 409 will read:

409 Income taxes.

A. This account shall include the amount of State and Federal income taxes on income properly accruable during the period covered by the income statement to meet the actual liability for such taxes. Concurrent credits for the tax accruals shall be made to account 236, Taxes Accrued, and as the exact amount of taxes becomes known, the current tax accruals shall be adjusted by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall in-

clude the actual taxes payable by the utility. (See general instruction 9 for prior period adjustments.)

B. The accruals for income taxes shall be apportioned among utility departments and to Other Income and Deductions so that, as nearly as practicable, each tax shall be included in the expenses of the utility department or Other Income and Deductions, the income from which gave rise to the tax. The income tax effect of amounts recorded in account 439, Adjustments to Retained Earnings shall be recorded in that account. The tax effect relating to interest charges shall be allocated between utility and nonutility operations. The basis for this allocation shall be the ratio of net investment in utility plant to net investment in nonutility plant.

C. This account shall be maintained according to the subaccounts 409.1, 409.2, and 409.3 inclusive, shown below.

NOTE A: Taxes assumed by the utility on interest shall be charged to account 431, Other Interest Expense.

NOTE B: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or account 431, Other Interest Expense, as appropriate.

28. Immediately following account "409, Income taxes," add new subaccounts 409.1, 409.2, and 409.3 which will read as follows:

409.1 Income taxes, utility operating income.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes which relate to utility operating income. This account shall be maintained so as to allow ready identification of tax effects (both positive and negative) relating to Utility Operating Income (by departments), Utility Plant Leased to Others and Other Utility Operating Income.

409.2 Income taxes, other income and deductions.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Other Income and Deductions.

409.3 Income taxes, extraordinary items.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Extraordinary Items.

29. In account "410, Provision for deferred income taxes," designate present paragraph as "A." Add a new paragraph B which will read as follows:

410 Provision for deferred income taxes.

A. \* \* \*

B. This account shall be maintained according to the subaccounts 410.1 and 410.2 inclusive, as shown below.

30. Immediately following account "410, Provision for deferred income taxes," add new subaccounts 410.1 and 410.2 which will read as follows:

410.1 Provision for deferred income taxes, utility operating income.

This account shall include the amount of those deferred income taxes reflected in account 410, Provision for Deferred Income Taxes which relate to Utility Operating Income (by department).

410.2 Provision for deferred income taxes, other income and deductions.

This account shall include the amount of those deferred income taxes reflected in account 410, Provision for Deferred Income Taxes which relate to Other Income and Deductions.

31. In account "411, Income taxes deferred in prior years—Credit," designate present paragraph as "A" and add a new paragraph "B" which will read as follows:

411 Income taxes deferred in prior years—Credit.

A. \* \* \*

B. This account shall be maintained according to the subaccounts 411.1 and 411.2 inclusive, as shown below.

32. Immediately following account "411, Income taxes deferred in prior years—Credit," add new subaccounts 411.1 and 411.2 which will read as follows:

411.1 Income taxes deferred in prior years—Credit, utility operating income.

This account shall include the amount of those taxes deferred in prior years—credit, reflected in account 411, Income Taxes Deferred in Prior Years—Credit which relate to Utility Operating Income (by department).

411.2 Income taxes deferred in prior years—Credit, other income and deductions.

This account shall include the amount of those taxes deferred in prior years—credit, reflected in account 411, Income Taxes Deferred in Prior Years—Credit which relate to Other Income and Deductions.

33. Redesignate account "411.1, Investment tax credit adjustments" as account "411.3," and add a new paragraph "C." to the text of the account. The amended portion of redesignated account 411.3 will read:

411.3 Investment tax credit adjustments.

C. This account shall be maintained according to the subaccounts 411.4 and 411.5 inclusive, as shown below.

34. Immediately following redesignated account "411.3, Investment tax credit adjustments," add new subaccounts 411.4 and 411.5, which will read as follows:

411.4 Investment tax credit adjustments, utility operations.

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Utility Operations (by department).

**411.5 Investment tax credit adjustments, nonutility operations.**

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Nonutility Operations.

35. Amend paragraph B of the explanatory text following accounts "412, Revenues from electric plant leased to others," and "413, Expenses of electric plant leased to others," by deleting the items "Taxes Other Than Income Taxes" and "Income Taxes." Immediately following the list of items in paragraph B, add a note. As amended, paragraph B and the note will read:

**412 Revenues from electric plant leased to others.****413 Expenses of electric plant leased to others.**

B. The detail of expenses shall be kept or supported so as to show separately the following:

Operation.  
Maintenance.  
Rents.  
Depreciation.  
Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes, identified separately.

36. In account "414, Other utility operating income," amend paragraph B by deleting the word "taxes." Immediately following paragraph B, add a note. As amended, these portions of account 414 will read:

**414 Other utility operating income.**

B. The expenses shall include every element of cost incurred in such operations, including depreciation, rents, and insurance.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes, identified separately.

37. In the text of Income Accounts, amend the heading "2. Other Income" by adding the words "and Deductions," so that as amended this heading will read:

**2. OTHER INCOME AND DEDUCTIONS**

38. Redesignate as "Note A," the note following the text of accounts "415, Revenues from merchandising, jobbing and contract work," and "416, Costs and expenses of merchandising, jobbing and contract work." Immediately following redesignated "Note A," add new Note B. From the list of items, delete item "24. Taxes directly assignable to merchandise and jobbing operations including income taxes on net income derived therefrom," and redesignate item "25. Losses from uncollectible merchandise and jobbing accounts" as item 24. New Note B will read:

**415 Revenues from merchandising, jobbing, and contract work.****416 Costs and expenses of merchandising, jobbing, and contract work.**

NOTE A: \* \* \*  
NOTE B: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes.

39. Amend account "417, Income from nonutility operations," as follows. Delete the word "Income" from the account title and substitute the word "Revenue." Immediately following the amended title of account 417, add the following new account title "417.1, Expenses of nonutility operations." In the first sentence in paragraph A, delete the words "This account" and substitute the words "These accounts." Delete the items "Taxes Other Than Income Taxes" and "Income Taxes" from the list of items in paragraph B. Immediately following the list of items in paragraph B, add a new Note: The amended portions of accounts 417 and 417.1 will read:

**417 Revenues from nonutility operations.****417.1 Expenses of nonutility operations.**

A. These accounts \* \* \*  
B. The expenses shall include all elements of costs incurred in such operations and the accounts shall be maintained so as to permit ready summarization as follows:

Operation.  
Maintenance.  
Rents.  
Depreciation.  
Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

40. In account "418, Nonoperating rental income," amend paragraph A by deleting "account 417" and substituting "accounts 417 or 417.1." Amend paragraph B by deleting from the list of items "Taxes Other Than Income Taxes" and "Income Taxes" and by adding a note. As amended account 418 will read:

**418 Nonoperating rental income.**

A. This account shall include all rent revenues and related expenses of land, buildings, or other property included in account 121, Nonutility Property, which is not used in operations covered by accounts 417 or 417.1.

B. The expenses shall include all elements of costs incurred in the ownership and rental of the property and the accounts shall be maintained so as to permit ready summarization as follows:

Operation.  
Maintenance.  
Rents.  
Depreciation.  
Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

41. In account 419, Interest and dividend income, delete paragraph "B" and redesignate paragraphs "C" and "D" as "B" and "C." Amend redesignated paragraph "C" by deleting the word "including" and substituting the word "excluding" therefor. Immediately following redesignated paragraph "C" add new Note A and redesignate present note as Note B. The amended portions of account 419 will read:

**419 Interest and dividend income.**

B. This account may include the pro rata amount necessary to extinguish (during the interval between the date of acquisition and the date of maturity) the difference between the cost to the utility and the face value of interest-bearing securities. Amounts thus credited or charged shall be concurrently included in the accounts in which the securities are carried.

C. Where significant in amount, expenses, excluding operating taxes and income taxes, applicable to security investments and to interest and dividend revenues thereon shall be charged hereto.

NOTE A: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

NOTE B: Interest accrued, the payment of which is not reasonably assured, dividends receivable which have not been declared or guaranteed, and interest or dividends upon reacquired securities issued or assumed by the utility, shall not be credited to this account.

42. In account "421, Miscellaneous nonoperating income," amend the first paragraph by inserting the words "except taxes," immediately after the word "items" in the first sentence and by adding the following sentence "Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes." Add new item 3 to the list of items. The amended portions of account 421 will read:

**421 Miscellaneous nonoperating income.**

This account shall include all revenue and expense items, except taxes, properly includible in the income account and not provided for elsewhere. Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

**ITEMS**

3. Gain on disposition of investments and reacquisition and resale or retirement of utility's debt securities and investments.

43. Immediately following account "421, Miscellaneous nonoperating income," add new accounts 421.1 and 421.2 which will read as follows:

**421.1 Gain on disposition of property.**

This account shall be credited with the gain on the sale, conveyance, exchange or transfer of utility or other property

to another. (See electric plant instruction 4F, 6E, or 9E.) Record income taxes on gains recorded in this account in account 409, Income Taxes.

**421.2 Loss on disposition of property.**

This account shall be charged with the loss on the sale, conveyance, exchange or transfer of utility or other property to another. (See electric plant instruction 4F, 6E, or 9E.) Record the reductions in income taxes attributable to losses recorded in this account in account 409, Income Taxes.

44. In the text of Income Accounts, delete the heading "3. Miscellaneous Income Deductions."

45. In account "425, Miscellaneous amortization," delete the last sentence in the first paragraph. The amended portion of account 425 will read:

**425 Miscellaneous amortization.**

This account shall include amortization charges not includable in other accounts which are properly deductible in determining the income of the utility before interest charges. Charges includable herein, if significant in amount, must be in accordance with an orderly and systematic amortization program.

46. In account "426, Other income deductions," amend the account title by deleting the word "Other" and substituting the word "Miscellaneous." Immediately following the first paragraph of the account, insert the text of the note now located under account "426.5, Other deductions." The amended portions of account 426 will read:

**426 Miscellaneous income deductions.**

Note: The classification of expenses as nonoperating and their inclusion in this account is for accounting purposes. It does not preclude Commission consideration of proof to the contrary for ratemaking or other purposes.

47. In account "426.5, Other deductions," delete the note and substitute therefor a list of items. As amended, account 426.5 will read:

**426.5 Other deductions.**

This account shall include other miscellaneous expenses which are nonoperating in nature, but which are properly deductible before determining total income before interest charges.

ITEMS

1. Loss relating to investments in securities written off or written down.
2. Loss on sale of investments.
3. Loss on reacquisition, resale, or retirement of utility's debt securities.
4. Preliminary survey and investigation expenses related to abandoned projects, when not written off to the appropriate operating expense account.

48. In the text of Income Accounts, redesignate the heading "4. Interest Charges," as "3. Interest Charges."

49. In the text of Income Accounts, delete the heading "5. Earned Surplus" and the following accounts classified under that heading:

- 433 Balance transferred from income.
- 434 Miscellaneous credits to surplus.
- 435 Miscellaneous debits to surplus.
- 436 Appropriations of surplus.
- 437 Dividends declared—Preferred stock.
- 438 Dividends declared—Common stock.

50. In the text of Income Accounts, immediately following account "432, Interest charged to construction—Cr.," add a new heading "4. Extraordinary Items" and new accounts "434, Extraordinary income" and "435, Extraordinary deductions," which will read as follows:

**434 Extraordinary income.**

This account shall be credited with nontypical, noncustomary, infrequently recurring gains, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 8.)

**435 Extraordinary deductions.**

This account shall be debited with nontypical, noncustomary, infrequently recurring losses, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 8.)

51. Following the text of Income Accounts and immediately preceding the chart of "Operating Revenue Accounts" insert a new section, entitled "Retained Earnings Accounts," which will contain the following chart and text of accounts:

**Retained Earnings Accounts**

(Chart of Accounts)

- 216 Unappropriated retained earnings (at beginning of period).
- 433 Balance transferred from income.
- 436 Appropriations of retained earnings.
- 437 Dividends declared—Preferred stock.
- 438 Dividends declared—Common stock.
- 439 Adjustments to retained earnings.
- 216 Unappropriated retained earnings (at end of period).

**Retained Earnings Accounts**

**433 Balance transferred from income.**

This account shall include the net credit or debit transferred from income for the year.

**436 Appropriations of retained earnings.**

This account shall include appropriations of retained earnings.

ITEMS

1. Appropriations required under terms of mortgages, orders of courts, contracts, or other agreements.
2. Appropriations required by action of regulatory authorities.
3. Other appropriations made at option of utility for specific purposes.

**437 Dividends declared—Preferred stock.**

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding pre-

ferred or prior lien capital stock issued by the utility.

B. Dividends shall be segregated for each class and series of preferred stock as to those payable in cash, stock and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

**438 Dividends declared—Common stock.**

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding common capital stock issued by the utility.

B. Dividends shall be segregated for each class of common stock as to those payable in cash, stock, and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

**439 Adjustments to retained earnings.**

A. This account shall include significant nonrecurring transactions relating to prior periods. Other than transactions of capital stock as specified in paragraph B below, all entries to this account must receive prior Commission approval. These transactions are limited to those adjustments which (a) can be specifically identified with and related to the business activities of particular prior periods, and (b) are not attributable to economic events occurring subsequent to the date of the financial statements for the prior period, and (c) depend primarily on determinations by persons other than the management, and (d) were not susceptible of reasonable estimation prior to such determination. This account shall also include the related income tax effects (State and Federal) on items included herein. All items included in this account shall be sufficiently described in the entries relating there to as to permit ready analysis.

B. Adjustments, charges or credits due to losses on reacquisition, resale or retirement of the company's own capital stock shall be included in this account. (See account 207, Other Paid-in Capital for the treatment of gains.)

ITEMS

1. Significant nonrecurring adjustments or settlements of income taxes.
2. Significant amounts resulting from litigation or similar claims.
3. Significant amounts relating to adjustments or settlements of utility revenue under rate processes.
4. Significant adjustments to plant in service depreciation and amortization as a result of Commission direction.
5. Write off of unamortized capital stock expenses.

B. The following are proposed amendments and revisions to the Uniform System of Accounts for Class D Public Utilities and Licensees in Part 105, Chapter 1, Title 18 of the Code of Federal Regulations:

1. In the Definitions section of Part 105, immediately following definition 18, add a new definition "19. Retained Earnings," and beginning with definition "19. Retirement units" renumber remaining definitions 19 through 24 as 20 through 25. New definition 19 will read:

### Definitions

1. "Retained Earnings" (formerly earned surplus) means the accumulated net income of the utility less distribution to stockholders and transfers to other capital accounts.

2. Amend the General Instructions section of Part 105 as follows: Immediately following instruction "3. Item Lists" add new general instructions "4. Extraordinary Items" and "5. Prior Period Items" and beginning with instruction "4. Distribution of Pay and Expenses of Employees," renumber remaining instructions 4. through 6. as 6. through 8. As so revised, the amended portions of the General Instructions section of Part 105 will read:

### General Instructions

#### 4. Extraordinary Items.

It is the intent that net income shall reflect all items of profit and loss during the period with the sole exception of prior period adjustments as described in paragraph 5 below. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business. (In determining significance, items of a similar nature should be considered in the aggregate. Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434, Extraordinary income and 435, Extraordinary deductions.)

#### 5. Prior Period Items.

A. As a general rule, items relating to transactions which occurred prior to the current calendar year but were not recorded in the books of account shall be included in the same accounts in which they would have been recorded had the item been recorded in the proper period. Such items relate to events or transactions which occurred in a prior period or periods, the accounting effects of which could not be determined with reasonable assurance at the time, usually because of major uncertainty then existing. When the amount of a prior period item is relatively so large its inclusion for a single month would distort the accounts for that month, the amount may be distributed in equal amounts to the accounts for the current and remaining months of the calendar year. However, if the amount of any prior period item is so large that the company believes its inclusion in the income statement would seriously distort the net income for the

year, the company may request Commission approval to record the amount in account 439, Adjustments to Retained Earnings. Such a request must be accompanied by adequate justification.

B. Treatment as prior period adjustments should not be applied to the normal, recurring corrections and adjustments which are the natural result of the use of estimates inherent in the accounting process. For example, changes in the estimated remaining lives of fixed assets affect the computed amounts of depreciation, but these changes should be considered prospective in nature and not prior period adjustments. Similarly, relatively insignificant adjustments of provisions for liabilities (including income taxes) made in prior periods should be considered recurring items to be reflected in operations of the current period. Some uncertainties, for example those relating to the realization of assets (collectibility of accounts receivable, ultimate recovery of deferred costs or realizability of inventories or other assets), would not qualify for prior period adjustment treatment, since economic events subsequent to the date of the financial statements must of necessity enter into the elimination of any previously-existing uncertainty. Therefore, the effects of such matters are considered to be elements in the determination of net income for the period in which the uncertainty is eliminated. (See account 439, Adjustments to retained earnings.)

3. Amend the second sentence in paragraph B of Electric Plant Instruction "6. Electric Plant Retired" by deleting the words "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property." The amended portion of paragraph B will read:

### Electric Plant Instructions

#### 6. Electric Plant Retired.

B. \* \* \* If the land is sold, the difference between the book cost (less any accumulated provision for depreciation or amortization therefor which has been authorized and provided) and the sale price of the land (less commissions and other expenses of making the sale) shall be included in account 421.1, Gain on Disposition of Property or account 421.2, Loss on Disposition of Property, as appropriate. \* \* \*

4. In the chart of Balance Sheet Accounts, amend account titles 215 and 216 by deleting the words "earned surplus" and substituting the words "retained earnings" therefor. As amended, these account titles will read:

#### Balance Sheet Accounts (Chart of Accounts)

### LIABILITIES AND OTHER CREDITS

#### 5. PROPRIETARY CAPITAL

- 215 Appropriated retained earnings.  
216 Unappropriated retained earnings.

5. Account "110, Accumulated provision for depreciation and amortization of electric plant" is amended as follows: Delete subparagraph A(2) and redesignate subparagraphs A(3) through A(5) as A(2) through A(4). In the second sentence in paragraph D, delete the word "surplus" and substitute "retained earnings." The amended portion of paragraph D will read:

#### 110 Accumulated provision for depreciation and amortization of electric plant.

D. \* \* \* It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by the Commission.

6. In account "183, Other deferred debits," amend the third sentence in subparagraph A(1) by changing the words "435, Miscellaneous Debits to Surplus" to read "426.5, Other Deductions." As amended this portion of subparagraph A(1) will read:

#### 183 Other deferred debits.

A. \* \* \*  
(1) \* \* \* If the work is abandoned, the charge shall be to account 426.5, Other Deductions, or to the appropriate operating expense account.

7. Account "213, Discount on capital stock," is amended as follows: In paragraph B, change the punctuation and words " : Provided, however, That" to read " ; provided, however, that." In paragraphs B and C, delete the words "435, Miscellaneous Debits to Surplus" and substitute "439, Adjustments to Retained Earnings." As amended paragraphs B and C will read:

#### 213 Discount on capital stock.

B. When capital stock which has been actually issued is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-in Capital; provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207.

C. The utility may amortize the balance in this account by systematic charges to account 425, Miscellaneous Amortization, or it may write off capital stock discount in whole or in part to account 439, Adjustments to Retained Earnings.

8. Account "214, Capital stock expense," is amended as follows: In paragraph B change the punctuation and words " : Provided, however, That" to read " ; provided, however, that." In paragraphs B and C delete the words "435, Miscellaneous Debits to Surplus" and substitute "439, Adjustments to Retained Earnings." As amended, paragraphs B and C will read:

#### 214 Capital stock expense.

B. When capital stock which has been actually issued by the utility is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-in Capital,

to the extent of gains on resale or cancellation of reacquired stock includible therein; provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207, from such source.

C. The utility may amortize the balance carried in this account by systematic charges to account 425, Miscellaneous Amortization, or it may write off capital stock expense in whole or in part by charges to account 439, Adjustments to Retained Earnings.

9. Account "215, Appropriated earned surplus," is amended by deleting the words "earned surplus" from the account title and the first sentence of the text and substituting the words "retained earnings" therefor, and by deleting the words "appropriated or" in the first sentence of the text. As so amended, these portions of account 215 will read:

**215 Appropriated retained earnings.**

This account shall include the amount of retained earnings which has been appropriated or set aside for specific purposes. \* \* \*

10. Account "216, Unappropriated earned surplus," is amended by deleting the words "earned surplus" from the account title and substituting the words "retained earnings" therefor, and by deleting the word "surplus" from the first sentence of the text and substituting the words "retained earnings" therefor. The amended portions of account 216 will read:

**216 Unappropriated retained earnings.**

This account shall include the balance, either debit or credit, of unappropriated retained earnings arising from earnings. \* \* \*

11. In account "217, Reacquired capital stock," amend paragraph B by deleting "435, Miscellaneous Debits to Surplus" and substituting therefor "439, Adjustments to Retained Earnings." As amended paragraph B will read:

**217 Reacquired capital stock.**

B. When reacquired capital stock is retired or canceled, the difference between its cost, including commissions and expenses paid in connection with the reacquisition, and its par or stated value plus any premium and less any discount and expenses applicable to the shares retired, shall be debited or credited, as appropriate, to account 207, Other Paid-in Capital, provided, however, that debits shall be charged to account 439, Adjustments to Retained Earnings, to the extent that they exceed the balance of gains on resale or cancellation of reacquired stock included in account 207.

12. In account "218, Noncorporate proprietorship," amend the second sentence in Note C by deleting the words "earned surplus" and substituting therefor "retained earnings." The amended portion of Note C will read:

**218 Noncorporate proprietorship.**

NOTE C: \* \* \* When this option is taken, the retained earnings accounts shall be main-

tained and entries thereto shall be made in accordance with the texts thereof.

13. In account "221, Bonds," amend paragraph B by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus," and substituting therefor "428, Amortization of Debt Discount and Expense or account 429, Amortization of Premium on Debt-Cr." As amended paragraph B will read:

**221 Bonds.**

B. When bonds are reacquired, the difference between face value, adjusted for unamortized discount, expense or premium and the amount paid upon reacquisition, shall be included in account 428, Amortization of Debt Discount and Expense or account 429, Amortization of Premium on Debt-Cr. as appropriate.

14. In account "236, Taxes accrued," amend the last sentence in paragraph B by deleting the remainder of the sentence after the word "expenses" and substituting therefor "see general instruction 5 for treatment." As amended, this portion of paragraph B will read:

**236 Taxes accrued.**

B. \* \* \* However, if such corrections are so large as to seriously distort current expenses, see general instructions 5, for treatment.

15. In account "255, Accumulated deferred investment tax credits," amend paragraphs A and B by deleting the number "411.1" wherever it appears and substituting therefor the number "411.3."

16. In account "265, Miscellaneous operating reserves," amend the note by deleting the words "Earned Surplus" and substituting therefor "Retained Earnings." As amended, the note will read:

**265 Miscellaneous operating reserves.**

NOTE: This account includes only such reserves as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

17. In account "271, Contributions in aid of construction," amend paragraph B by deleting the words "to earned surplus or." As amended paragraph B will read:

**271 Contributions in aid of construction.**

B. The credits to this account shall not be transferred to any other account without the approval of the Commission.

18. In account "302, Franchises and consents," amend the last sentence in paragraph B and the first sentence in paragraph C by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As amended, these portions of paragraphs B and C will read:

**302 Franchises and consents.**

B. \* \* \* Any excess of the amount actually paid by the utility over the amount above specified shall be charged to account 426.5, Other Deductions.

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant, as appropriate.

19. In account "303, Miscellaneous intangible plant," amend paragraph B by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As amended, paragraph B will read:

**303 Miscellaneous intangible plant.**

B. When any item included in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant, as appropriate.

20. Revise the chart of Income Accounts to read as follows:

**Income Accounts  
(Chart of Accounts)**

1. UTILITY OPERATING INCOME
  - 400 Operating revenues.
  - Operating expenses:
    - 401 Operation and maintenance expense.
    - 403 Depreciation expense.
    - 404 Amortization expense.
    - 408 Taxes other than income taxes.
    - 408.1 Taxes other than income taxes, utility operating income.
    - 409 Income taxes.
    - 409.1 Income taxes, utility operating income.
    - 411.3 Investment tax credit adjustments.
    - 411.4 Investment tax credit adjustments, utility operations.
    - Total electric utility operating expenses.
    - Net electric utility operating income.
  - Other Operating Income:
    - 412 Revenues from electric plant leased to others.
    - 413 Expenses of electric plant leased to others.
    - 414 Other utility operating income.
    - Net utility operating income.
2. OTHER INCOME AND DEDUCTIONS
  - A. OTHER INCOME
    - 415 Revenues from merchandising, jobbing, and contract work.
    - 416 Costs and expenses of merchandising, jobbing, and contract work.
    - 418 Nonoperating rental income.
    - 419 Interest and dividend income.
    - 421 Miscellaneous nonoperating income.
    - 421.1 Gain on disposition of property.
    - Total other income.
  - B. OTHER INCOME DEDUCTIONS
    - 421.2 Loss on disposition of property.
    - 425 Miscellaneous amortization.
    - 426 Miscellaneous income deductions.
    - 426.1 Donations.
    - 426.2 Life insurance.
    - 426.3 Penalties.
    - 426.4 Expenditures for certain civic, political and related activities.
    - 426.5 Other deductions.
    - Total other income deductions.
    - Total other income and deductions.

**C. TAXES APPLICABLE TO OTHER INCOME AND DEDUCTIONS**

- 408.2 Taxes other than income taxes, other income and deductions.  
 409.2 Income taxes, other income and deductions.  
 411.5 Investment tax credit adjustments, nonutility operations.

Total taxes on other income and deductions.  
 Net other income and deductions.

**3. INTEREST CHARGES**

- 427 Interest on long-term debt.  
 428 Amortization of debt discount and expense.  
 429 Amortization of premium on debt-Cr.  
 430 Interest on debt to associated companies.  
 431 Other interest expense.

Total interest charges.

- 432 Interest charged to construction-Cr.  
 Income before extraordinary items.

**4. EXTRAORDINARY ITEMS**

- 434 Extraordinary income.  
 435 Extraordinary deductions.  
 409.3 Income taxes, extraordinary items.

Net income.

21. Amend account "408, Taxes other than income taxes," as follows: Amend paragraph A by deleting the words "which are properly chargeable to electric operations." Add new paragraph D. Delete notes A and D and redesignate Notes B, C, E, and F as Notes A, B, C, and D. Add new note E. As amended, these portions of account 408 will read:

**408 Taxes other than income taxes.**

A. This account shall include the amount of ad valorem, gross revenue or gross receipts taxes, State employment insurance, franchise taxes, Federal excise taxes, social security taxes, and all other taxes assessed by Federal, State, county, municipal, or other local governmental authorities, except income taxes.

D. This account shall be maintained according to the subaccounts 408.1 and 408.2 inclusive, shown below.

NOTE A: Special assessments for street and similar improvements shall be included in the appropriate utility plant or nonutility property account.

NOTE B: Taxes specifically applicable to construction shall be included in the cost of construction.

NOTE C: Gasoline and other sales taxes shall be charged as far as practicable to the same account as the materials on which the tax is levied.

NOTE D: Social Security and other forms of so-called payroll taxes shall be distributed to utility departments and to nonutility functions on a basis related to payroll. Amounts applicable to construction shall be charged to the appropriate plant account.

NOTE E: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or 431, Other Interest Expense, as appropriate.

22. Immediately following account "408, Taxes other than income taxes," add new subaccounts 408.1 and 408.2 which will read as follows:

**408.1 Taxes other than income taxes, utility operating income.**

This account shall include those taxes recorded in account 408, Taxes Other Than Income Taxes, which relate to utility operating income. This account shall be maintained so as to allow ready identification of taxes relating to Utility Operating Income (by department), Utility Plant Leased to Others and Other Utility Operating Income.

**408.2 Taxes other than income taxes, other income and deductions.**

This account shall include those taxes recorded in account 408, Taxes Other Than Income Taxes, which relate to Other Income and Deductions.

23. Account "409, Income Taxes" is amended as follows: In the first sentence in paragraph A insert the word "income" between the words "federal" and "taxes." In the second sentence in paragraph A, delete the remainder of the sentence after the word "adjusted" and substitute therefor "by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall include the actual taxes payable by the utility (See general instruction 5 for prior period adjustments)." Revise paragraph B. Add a new paragraph C. Delete Notes B, C, and D. Redesignate Note E as Note B. As so amended, account 409 will read:

**409 Income taxes.**

A. This account shall include the amount of State and Federal income taxes on income properly accruable during the period covered by the income statement to meet the actual liability for such taxes. Concurrent credits for the tax accruals shall be made to account 236, Taxes Accrued, and as the exact amount of taxes becomes known, the current tax accruals shall be adjusted by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall include the actual taxes payable by the utility (See general instruction 5 for prior period adjustments).

B. The accruals for income taxes shall be apportioned among utility departments and to Other Income and Deductions so that, as nearly as practicable, each tax shall be included in the expenses of the utility department or Other Income and Deductions, the income from which gave rise to the tax. The income tax effect of amounts recorded in account 439, Adjustments to Retained Earnings shall be recorded in that account. The tax effect relating to interest charges shall be allocated between utility and nonutility operations. The basis for this allocation shall be the ratio of net investment in utility plant to net investment in nonutility plant.

C. This account shall be maintained according to the subaccounts 409.1, 409.2, and 409.3 inclusive, shown below.

NOTE A: Taxes assumed by the utility on interest shall be charged to account 431, Other Interest Expense.

NOTE B: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or account 431, Other Interest Expense, as appropriate.

24. Immediately following account "409, Income taxes," and new subaccounts 409.1, 409.2, and 409.3 which will read as follows:

**409.1 Income taxes, utility operating income.**

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes which relate to utility operating income. This account shall be maintained so as to allow ready identification of tax effects (both positive and negative) relating to Utility Operating Income (by departments), Utility Plant Leased to Others and Other Utility Operating Income.

**409.2 Income taxes, other income and deductions.**

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Other Income and Deductions.

**409.3 Income taxes, extraordinary items.**

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Extraordinary Items.

25. Redesignate account "411.1, Investment tax credit adjustments" as account "411.3," and add a new paragraph "C." to the text of the account. The amended portion of redesignated account "411.3" will read:

**411.3 Investment tax credit adjustments.**

C. This account shall be maintained according to the subaccounts 411.4 and 411.5 inclusive, as shown below.

26. Immediately following redesignated account "411.3, Investment tax credit adjustments," add new subaccounts 411.4 and 411.5 which will read as follows:

**411.4 Investment tax credit adjustments, utility operations.**

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Utility Operations (by department).

**411.5 Investment tax credit adjustments, nonutility operations.**

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Nonutility Operations.

27. Amend paragraph B of the explanatory text following accounts "412, Revenues from electric plant leased to others," and "413, Expenses of electric

plant leased to others," by listing "Operation" and "Maintenance" separately, and by deleting the items "Taxes Other Than Income Taxes" and "Income Taxes." Immediately following paragraph B, add a note. As amended, paragraph B and the note will read:

412 Revenues from electric plant leased to others.

413 Expenses of electric plant leased to others.

B. The detail of expense shall be kept or supported so as to show separately the following:

- Operation.
- Maintenance.
- Rents.
- Depreciation.
- Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes, identified separately.

28. In account "414, Other utility operating income," amend paragraph B, by deleting the word "taxes." Immediately following paragraph B, add a note. As amended, these portions of account 414 will read:

414 Other utility operating income.

B. The expenses shall include every element of cost incurred in such operations, including depreciation, rents, and insurance.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes, identified separately.

29. In the text of Income Accounts, amend the heading "2. Other Income" by adding the words "and Deductions," so that as amended this heading will read:

2. OTHER INCOME AND DEDUCTIONS

30. In the explanatory text following accounts "415, Revenues from merchandising, jobbing and contract work" and "416, Costs and expenses of merchandising, jobbing and contract work," redesignate the "Note" as "Note A." Immediately following redesignated "Note A," add new Note B. The amended portions of the explanatory text will read:

415 Revenues from merchandising, jobbing, and contract work.

416 Costs and expenses of merchandising, jobbing, and contract work.

NOTE A: \* \* \*  
NOTE B: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes.

31. Amend account "418, Nonoperating rental income," by adding immediately following the first paragraph a note which will read:

418 Nonoperating rental income.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than

Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

32. In account "419, Interest and dividend income," delete the letter "A." at the beginning of the first paragraph. Immediately following the first paragraph add a note. Delete paragraph B. As amended, account 419 will read:

419 Interest and dividend income.

This account shall include interest revenues on securities, loans, advances, special deposits, tax refunds and all other interest-bearing assets, and dividends on stocks of other companies, whether the securities on which the interest and dividends are received are carried as investments or included in sinking-fund or other special-fund accounts.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

33. In account "421, Miscellaneous nonoperating income," amend the first paragraph by inserting the words "except taxes," immediately after the word "items" in the first sentence and by adding the following sentence "Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes." As amended, account 421 will read:

421 Miscellaneous nonoperating income.

This account shall include all revenue and expense items, except taxes, properly includible in the income account and not provided for elsewhere. Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

34. Immediately following account "421, Miscellaneous nonoperating income," add new accounts 421.1 and 421.2, which will read as follows:

421.1 Gain on disposition of property.

This account shall be credited with the gain on the sale, conveyance, exchange, or transfer of utility or other property to another. (See electric plant instruction 6B.) Record income taxes on gains recorded in this account in Account 409, Income Taxes.

421.2 Loss on disposition of property.

This account shall be charged with the loss on the sale, conveyance, exchange, or transfer of utility or other property to another. (See electric plant instruction 6B.) Record the reductions in income taxes attributable to losses recorded in this account in Account 409, Income Taxes.

35. In the text of income accounts delete the heading "3. Miscellaneous Income Deductions."

36. In account "425, Miscellaneous amortization," delete the last sentence in the first paragraph. The amended portion of account 425 will read:

425 Miscellaneous amortization.

This account shall include amortization charges not includible in other accounts which are properly deductible in

determining the income of the utility before interest charges. Charges includible herein, if significant in amount, must be in accordance with an orderly and systematic amortization program.

37. In account "426, Other income deductions," amend the account title by deleting the word "Other" and substituting the word "Miscellaneous." Immediately following the first paragraph of the account, insert the text of the note now located under account "426.5, Other deductions." As amended account 426 will read:

426 Miscellaneous income deductions.

This account shall include miscellaneous expense items which are nonoperating in nature but which are properly deductible before determining total income before interest charges. The account shall be maintained according to subaccounts shown below.

NOTE: The classification of expenses as nonoperating and their inclusion in this account is for accounting purposes. It does not preclude the Commission consideration of proof to the contrary for ratemaking and other purposes.

38. In account "426.5, Other deductions," delete the note and substitute therefor a list of items. As amended, account 426.5 will read:

426.5 Other deductions.

This account shall include other miscellaneous expenses which are nonoperating in nature, but which are properly deductible before determining total income before interest charges.

ITEMS

1. Loss relating to investments in securities written off or written down.
2. Loss on sale of investments.
3. Loss on reacquisition, resale, or retirement of utility's debt securities.
4. Preliminary survey and investigation expenses related to abandoned projects, when not written off to the appropriate operating expense account.

39. In the text of Income Accounts, redesignate the heading "4. Interest Charges" as "3. Interest Charges."

40. In the text of Income Accounts, delete the heading "5. Earned Surplus" and the following accounts classified under that heading:

- 433 Balance transferred from income.
- 434 Miscellaneous credits to surplus.
- 435 Miscellaneous debits to surplus.
- 436 Appropriations of surplus.
- 437 Dividends declared—preferred stock.
- 438 Dividends declared—common stock.

41. In the text of Income Accounts, immediately following account "432, Interest charged to construction—Cr.," add a new heading "4. Extraordinary Items" and new accounts "434, Extraordinary income" and "435, Extraordinary deduction," which will read:

4. EXTRAORDINARY ITEMS

434 Extraordinary income.

This account shall be credited with nontypical, noncustomary, infrequently recurring gains, which would significantly distort the current year's income

computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 4.)

#### 435 Extraordinary deductions.

This account shall be debited with nontypical, noncustomary, infrequently recurring losses, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 4.)

42. Following the text of Income Accounts and immediately preceding the chart of "Operating Revenue Accounts," insert a new section, entitled "Retained Earnings Accounts," which will contain the following chart and text of accounts:

#### Retained Earnings Accounts

(Chart of Accounts)

- 216 Unappropriated retained earnings (at beginning of period).
- 433 Balance transferred from income.
- 436 Appropriations of retained earnings.
- 437 Dividends declared—Preferred stock.
- 438 Dividends declared—Common stock.
- 439 Adjustments to retained earnings.
- 216 Unappropriated retained earnings (at end of period).

#### Retained Earnings Accounts

##### 433 Balance transferred from income.

This account shall include the net credit or debit transferred from income for the year.

##### 436 Appropriations of retained earnings.

This account shall include appropriations of retained earnings.

#### ITEMS

1. Appropriations required under terms of mortgages, orders of courts, contracts, or other agreements.
2. Appropriations required by action of regulatory authorities.
3. Other appropriations made at option of utility for specific purposes.

##### 437 Dividends declared—Preferred stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding preferred or prior lien capital stock issued by the utility.

B. Dividends shall be segregated for each class and series of preferred stock as to those payable in cash, stock and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

##### 438 Dividends declared—Common stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding common capital stock issued by the utility.

B. Dividends shall be segregated for each class of common stock as to those payable in cash, stock, and other forms. If not payable in cash, the medium of

payment shall be described with sufficient detail to identify it.

#### 439 Adjustments to retained earnings.

A. This account shall include significant nonrecurring transactions relating to prior periods. Other than transactions of capital stock as specified in paragraph B below, all entries to this account must receive prior Commission approval. These transactions are limited to those adjustments which (a) can be specifically identified with and related to the business activities of particular prior periods, and (b) are not attributable to economic events occurring subsequent to the date of the financial statements for the prior period, and (c) depend primarily on determinations by persons other than the management, and (d) were not susceptible of reasonable estimation prior to such determination. This account shall also include the related income tax effects (State and Federal) on items included herein. All items included in this account shall be sufficiently described in the entries relating thereto as to permit ready analysis.

B. Adjustments, charges or credits due to losses on reacquisition, resale or retirement of the company's own capital stock shall be included in this account. (See account 207, Other Paid-in Capital for the treatment of gains.)

#### ITEMS

1. Significant nonrecurring adjustments or settlements of income taxes.
2. Significant amounts resulting from litigation or similar claims.
3. Significant amounts relating to adjustments or settlements of utility revenue under rate processes.
4. Significant adjustments to plant in service depreciation and amortization as a result of Commission direction.
5. Write off of unamortized capital stock expenses.

C. Effective for the reporting year 1970, it is proposed to revise certain pages of FPC Form No. 1-F, Annual Report for Public Utilities and Licensees (Class C and Class D), prescribed by § 141.2, Chapter 1, Title 18 of the Code of Federal Regulations, all as set out in Attachment A hereto.

D. The following are proposed amendments and revisions to the Uniform System of Accounts for Class C Natural Gas Companies, in Part 204, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the General Instructions section of Part 204 as follows:

(a) In instruction "2. Records," amend the title of account 426 in paragraph E by deleting the word "Other" and substituting the word "Miscellaneous" therefor so that as amended this account title will read "Account 426, Miscellaneous Income Deductions."

(b) In instruction "3. Numbering System," amend paragraph A by deleting the numbers "400-439" assigned to Income accounts and substituting the numbers "400-432, 434-435" therefor. Immediately following Income accounts insert the following new item "433, 436-439 Retained earnings accounts."

(c) Immediately following instruction "7. Accounting to be on Accrual Basis,"

add new general instructions "8. Extraordinary Items" and "9. Prior Period Items" and renumber remaining instructions 8. through 12. as 10. through 14.

As so revised, the amended portions of the General Instructions section of Part 204 will read:

#### General Instructions

##### 2. Records.

E. All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426, Miscellaneous Income Deductions.

##### 3. Numbering System.

#### A. \* \* \*

400-432, 434-435 Income accounts.  
43, 436-439 Retained earnings accounts.

##### 8. Extraordinary Items.

It is the intent that net income shall reflect all items of profit and loss during the period with the sole exception of prior period adjustments as described in paragraph 9 below. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business. (In determining significance, items of a similar nature should be considered in the aggregate. Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434, Extraordinary income and 435, Extraordinary deductions.)

##### 9. Prior Period Items.

A. As a general rule, items relating to transactions which occurred prior to the current calendar year but were not recorded in the books of account shall be included in the same accounts in which they would have been recorded had the item been recorded in the proper period. Such items relate to events or transactions which occurred in a prior period or periods, the accounting effects of which could not be determined with reasonable assurance at the time, usually because of major uncertainty then existing. When the amount of a prior period item is relatively so large its inclusion for a single

month would distort the accounts for that month, the amount may be distributed in equal amounts to the accounts for the current and remaining months of the calendar year. However, if the amount of any prior period item is so large that the company believes its inclusion in the income statement would seriously distort the net income for the year, the company may request Commission approval to record the amount in account 439, Adjustments to Retained Earnings. Such a request must be accompanied by adequate justification.

B. Treatment as prior period adjustments should not be applied to the normal, recurring corrections and adjustments which are the natural result of the use of estimates inherent in the accounting process. For example, changes in the estimated remaining lives of fixed assets affect the computed amounts of depreciation, but these changes should be considered prospective in nature and not prior period adjustments. Similarly relatively insignificant adjustments of provisions for liabilities (including income taxes) made in prior periods should be considered recurring items to be reflected in operations of the current period. Some uncertainties, for example those relating to the realization of assets (collectibility of accounts receivable, ultimate recovery of deferred costs or realizability of inventories or other assets), would not qualify for prior period adjustment treatment, since economic events subsequent to the date of the financial statements must of necessity enter into the elimination of any previously existing uncertainty. Therefore, the effects of such matters are considered to be elements in the determination of net income for the period in which the uncertainty is eliminated. (See account 439, Adjustments to retained earnings.)

2. Amend the Gas Plant Instructions of Part 204 as follows:

(a) In instruction "4. Gas Plant Purchased or Sold," amend the second sentence in paragraph F by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "421.1, Gain on Disposition of Property or account 421.2, Loss on Disposition of Property."

(b) In instruction "6. Land and Land Rights," amend the first sentence in paragraph E by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property."

(c) In instruction "9. Additions and Retirements of Gas Plant," amend the second sentence in paragraph E by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus," and substituting therefor "421.1, Gain on Disposition of Property or account 421.2, Loss on Disposition of Property."

As so revised the amended portions of the Gas Plant Instructions of Part 204 will read:

**Gas Plant Instructions**

**4. Gas Plant Purchased or Sold.**

F. \* \* \* Unless otherwise ordered by the Commission, the difference, if any, between (a) the net amount of debits and credits and (b) the consideration received for the property (less commissions and other expenses of making the sale) shall be included in account 421.1, Gain on Disposition of Property or account 421.2, Loss on Disposition of Property. \* \* \*

**6. Land and Land Rights.**

E. Any difference between the amount received from the sale of land or land rights, less agents' commissions and other costs incident to the sale, and the book cost of such land or rights, shall be included in account 421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property, as appropriate, unless a reserve therefor has been authorized and provided. \* \* \*

**9. Additions and Retirements of Gas Plant.**

E. \* \* \* If the land is sold, the difference between the book cost (less any accumulated provision for depreciation, depletion, or amortization therefor which has been authorized and provided) and the sale price of the land (less commissions and other expenses of making the sale) shall be included in account 421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property, as appropriate. \* \* \*

3. Amend the chart of Balance Sheet Accounts as follows: Amend account titles 215 and 216 by deleting the words "earned surplus" and substituting the words "retained earnings" therefor. Immediately following account title "253, Other deferred credits," add new account title "255, Accumulated deferred investment tax credits." The amended portions of the chart of Balance Sheet Accounts will read:

Balance Sheet Accounts (Chart of Accounts)	
* * * * *	
LIABILITIES AND OTHER CREDITS	
5. PROPRIETARY CAPITAL	
* * * * *	
215	Appropriated retained earnings.
216	Unappropriated retained earnings.
* * * * *	
8. DEFERRED CREDITS	
* * * * *	
255	Accumulated deferred investment tax credits.

4. Account "110, Accumulated provision for depreciation, depletion and amortization of gas plant," is amended as follows: In paragraph A, delete subparagraph (2) and redesignate subparagraphs (3) through (5) as (2) through (4). In the second sentence in paragraph E, delete the word "surplus" and

substitute the words "retained earnings" therefor. The amended portion of paragraph E will read:

**110 Accumulated provision for depreciation, depletion and amortization of gas plant.**

E. \* \* \* It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by the Commission.

5. In account "124, Other investments," amend the final sentence in Note C by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As so amended, the final sentence in Note C will read:

**124 Other investments.**

NOTE C: \* \* \* When securities are written off or written down, the amount of the adjustment shall be charged to account 426.5, Other Deductions, or to an appropriate account for provisions for loss in value established as a separate subdivision of this account.

6. In account "183, Other deferred debits," amend the final sentence in subparagraph A(1) by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As so amended, the final sentence in subparagraph A(1) will read:

**183 Other deferred debits.**

A. \* \* \*  
(1) \* \* \* If the work is abandoned, the charge shall be to account 426.5, Other Deductions, or to the appropriate operating expense accounts.

7. Account "213, Discount on capital stock," is amended as follows: In paragraph B change the punctuation and words " : Provided, however, That" to read " ; provided, however, that." In paragraphs B and C, delete the words "435, Miscellaneous Debits to Surplus," and substitute "439, Adjustments to Retained Earnings." As amended paragraphs B and C will read:

**213 Discount on capital stock.**

B. When capital stock which has been actually issued is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-In Capital; provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207.

C. The utility may amortize the balance in this account by systematic charges to account 425, Miscellaneous Amortization, or it may write off capital stock discount in whole or in part to account 439, Adjustments to Retained Earnings.

8. Account "214, Capital stock expense" is amended as follows: In paragraph B change the punctuation and words " : Provided, however, That" to read " ; provided, however, that." In paragraphs B and C delete the words "435, Miscellaneous Debits to Surplus" and substitute "439, Adjustments to Retained

Earnings." As amended, paragraphs B and C will read:

**214 Capital stock expense.**

B. When capital stock which has been actually issued by the utility is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-In Capital, to the extent of gains on resale or cancellation of reacquired stock includible therein; provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207, from such source.

C. The utility may amortize the balance in this account by systematic charges to account 425, Miscellaneous Amortization, or it may write off capital stock expense in whole or in part by charges to account 439, Adjustments to Retained Earnings.

9. Account "215, Appropriated earned surplus," is amended by deleting the words "earned surplus" from the account title and the first sentence of the text and substituting the words "retained earnings" therefor. As so amended, these portions of account 215 will read:

**215 Appropriated retained earnings.**

This account shall include the amount of retained earnings which has been appropriated or set aside for specific purposes.

10. Account "216, Unappropriated earned surplus," is amended by deleting the words "earned surplus" from the account title and substituting the words "retained earnings" therefor and by deleting the word "surplus" from the first sentence of the text and substituting the words "retained earnings" therefor. The amended portions of account 216 will read:

**216 Unappropriated retained earnings.**

This account shall include the balance, either debit or credit, of unappropriated retained earnings arising from earnings.

11. In account "217, Reacquired capital stock," amend paragraph B by deleting "435, Miscellaneous Debits to Surplus" and substituting therefor "439, Adjustments to Retained Earnings." As amended paragraph B will read:

**217 Reacquired capital stock.**

B. When reacquired capital stock is retired or canceled, the difference between its cost, including commissions and expenses paid in connection with the reacquisition, and its par or stated value plus any premium and less any discount and expenses applicable to the shares retired, shall be debited or credited, as appropriate, to account 207, Other Paid-In Capital, provided, however, that debits shall be charged to account 439, Adjustments to Retained Earnings, to the extent that they exceed the balance of gains on resale or cancellation of reacquired stock included in account 207.

12. In account "221, Bonds," amend paragraph B by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "428, Amortization of Debt Discount and Expense or account 429, Amortization of Premium on Debt-Cr." As amended paragraph B will read:

**221 Bonds.**

B. When bonds are reacquired, the difference between face value, adjusted for unamortized discount, expense or premium and the amount paid upon reacquisition, shall be included in account 428, Amortization of Debt Discount and Expense, or account 429, Amortization of Premium on Debt-Cr., as appropriate.

13. In account "236, Taxes accrued," amend the last sentence in paragraph B by deleting the remainder of the sentence after the word "expenses," and substituting therefor "see general instruction 9, for treatment." As amended, this portion of paragraph B will read:

**236 Taxes accrued.**

B. \* \* \* However, if such corrections are so large as to seriously distort current expenses, see general instruction 9, for treatment.

14. Immediately following account "253, Other deferred credits," add new account 255 which will read as follows:

**255 Accumulated deferred investment tax credits.**

A. This account shall be credited with all investment tax credits deferred by companies which have elected to follow deferral accounting, partial or full, rather than recognizing in the income statement the total benefits of the tax credit as realized. After such election, a company may not transfer amounts from this account, except as authorized herein and in accounts 411.3, Investment Tax Credit Adjustments, and 420, Investment Tax Credits, or with approval of the Commission.

B. Where the company's accounting provides that investment tax credits are to be passed on to customers, this account shall be debited and Account 411.3, credited with a proportionate amount determined in relation to the average useful life of gas utility property to which the tax credits relate or such lesser period of time as may be adopted and used by the company. If, however, the deferral procedure provides that investment tax credits are not to be passed on to customers, the proportionate restorations to income shall be credited to Account 420.

C. If any of the investment tax credits to be deferred are related to utility operations other than gas or to nonutility operations, appropriate subdivisions of this account shall be maintained and entries shall be appropriately recorded in this account and in account 413, Expenses of Gas Plant Leased to Others; account 414, Other Utility Operating Income; account 416, Costs and Expenses of Merchandising, Jobbing and Contract

Work; account 417.1, Expenses of Non-utility Operations; or account 418, Non-operating Rental Income.

D. Records shall be maintained identifying the properties related to the investment tax credits for each year, the weighted average service life of such properties, and any unused balance of such credits. Such records are not necessary unless the credits are deferred.

15. In account "265, Miscellaneous operating reserves," amend the note by deleting the words "Earned Surplus" and substituting therefor "Retained Earnings." As so amended, the note will read:

**265 Miscellaneous operating reserves.**

NOTE: This account includes only such reserves as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

16. In account "271, Contributions in aid of construction," amend paragraph B by deleting the words "to earned surplus or." As amended, paragraph B will read:

**271 Contributions in aid of construction.**

B. The credits to this account shall not be transferred to any other account without the approval of the Commission.

17. In the text of Balance Sheet Accounts, amend prefatory Note B under the heading "11. Accumulated Deferred Income Taxes" as follows: Insert the words "and nonutility property" between the words "etc." and "and." Delete the remainder of Note B after the word "below" and substitute therefor "so as to allow ready identification of items relating to each utility department and to Other Income and Deductions." As revised Note B will read:

**11. ACCUMULATED DEFERRED INCOME TAXES**

NOTE B: Natural Gas Companies which, in addition to a gas utility department, have another utility department, electric, water, etc., and nonutility property, and which have deferred taxes on income with respect thereto shall classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility department and to Other Income and Deductions.

18. In account "281, Accumulated deferred income taxes—Accelerated amortization," amend the second sentence in paragraph E by deleting the word "surplus" and substituting "retained earnings" therefor. As amended, this portion of paragraph E will read:

**281 Accumulated deferred income taxes—Accelerated amortization.**

E. \* \* \* It shall not transfer the balance in this account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of the Commission.

19. In account "282, Accumulated deferred income taxes—Liberalized depreciation," amend the second sentence in paragraph E by deleting the word

"surplus" and substituting "retained earnings therefor." As amended, this portion of paragraph E will read:

**282 Accumulated deferred income taxes—Liberalized depreciation.**

E. \* \* \* It shall not transfer the balance in the account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account without prior approval of the Commission.

20. In account "283, Accumulated deferred income taxes—Other," amend the second sentence in paragraph D by deleting the word "surplus" and substituting "retained earnings" therefor. As amended this portion of paragraph D will read:

**283 Accumulated deferred income taxes—Other.**

D. \* \* \* It shall not transfer the balance in the account or any portion thereof to retained earnings or make any use thereof except as provided in the text of this account, without prior approval of the Commission. \* \* \*

21. In account "302, Franchises and consents," amend the last sentence in paragraph B and the first sentence in paragraph C by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As amended, these portions of paragraphs B and C will read:

**302 Franchises and consents.**

B. \* \* \* Any excess of the amount actually paid by the utility over the amount above specified shall be charged to account 426.5, Other Deductions.

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Plant, as appropriate.

22. In account "303, Miscellaneous intangible plant," amend paragraph B by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As amended, paragraph B will read:

**303 Miscellaneous intangible plant.**

B. When any item included in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions or account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Plant, as appropriate.

23. Revise the chart of Income Accounts to read as follows:

**Income Accounts  
(Chart of Accounts)**

**1. UTILITY OPERATING INCOME**

- 400 Operating revenues.
- Operating expenses:
  - 401 Operation expense.
  - 402 Maintenance expense.

- 403 Depreciation and depletion expense.
- 404 Amortization of limited-term gas plant.
- 405 Amortization of other gas plant.
- 406 Amortization of gas plant acquisition adjustments.
- 407.1 Amortization of property losses.
- 407.2 Amortization of conversion expenses.
- 408 Taxes other than income taxes.
- 408.1 Taxes other than income taxes, utility operating income.
- 409 Income taxes.
- 409.1 Income taxes, utility operating income.
- 410 Provision for deferred income taxes.
- 410.1 Provision for deferred income taxes, utility operating income.
- 411 Income taxes deferred in prior years—Cr.
- 411.1 Income taxes deferred in prior years—Cr., utility operating income.
- 411.3 Investment tax credit adjustments.
- 411.4 Investment tax credit adjustments, utility operations.
- Total gas utility operating expenses.
- Net gas utility operating income.

**Other Operating Income:**

- 412 Revenues from gas plant leased to others.
- 413 Expenses of gas plant leased to others.
- 414 Other utility operating income.
- Net utility operating income.

**2. OTHER INCOME AND DEDUCTIONS**

**A. OTHER INCOME**

- 415 Revenues from merchandising, jobbing, and contract work.
- 416 Costs and expenses of merchandising, jobbing, and contract work.
- 417 Revenues from nonutility operations.
- 417.1 Expenses of nonutility operations.
- 418 Nonoperating rental income.
- 419 Interest and dividend income.
- 421 Miscellaneous nonoperating income.
- 421.1 Gain on disposition of property.
- Total other income.

**B. OTHER INCOME DEDUCTIONS**

- 421.2 Loss on disposition of property.
- 425 Miscellaneous amortization.
- 426 Miscellaneous income deductions.
- 426.1 Donations.
- 426.2 Life insurance.
- 426.3 Penalties.
- 426.4 Expenditures for certain civic, political, and related activities.
- 426.5 Other deductions.
- Total other income deductions.
- Total other income and deductions.

**C. TAXES APPLICABLE TO OTHER INCOME AND DEDUCTIONS**

- 408.2 Taxes other than income taxes, other income, and deductions.
- 409.2 Income taxes, other income and deductions.
- 410.2 Provision for deferred income taxes, other income, and deductions.
- 411.2 Income taxes deferred in prior years—Cr., other income and deductions.
- 411.5 Investment tax credit adjustments, nonutility operations.
- 420 Investment tax credits.
- Total taxes on other income and deductions.
- Net other income and deductions.

**3. INTEREST CHARGES.**

- 427 Interest on long-term debt.
- 428 Amortization of debt discount and expense.
- 429 Amortization of premium on debt—Cr.

- 430 Interest on debt to associated companies.
- 431 Other interest expense.
- Total interest charges.
- 432 Interest charged to construction—Cr.
- Income before extraordinary items.
- 4. EXTRAORDINARY ITEMS.
- 434 Extraordinary income.
- 435 Extraordinary deductions.
- 409.3 Income taxes, extraordinary items.
- Net income.

24. Amend account "408, Taxes other than income taxes," as follows: Amend paragraph A by deleting the words "which are properly chargeable to gas operations." Add new paragraph D. Delete Notes A and D and redesignate Notes B, C, E and F as Notes A, B, C and D. Add new note E. As amended, these portions of account 408 will read:

**408 Taxes other than income taxes.**

A. This account shall include the amount of ad valorem, gross revenue or gross receipts taxes, State unemployment insurance, franchise taxes, Federal excise taxes, social security taxes, and all other taxes assessed by federal, state, county, municipal, or other local governmental authorities, except income taxes.

D. This account shall be maintained according to the subaccounts 408.1 and 408.2 inclusive, shown below.

NOTE A: Special assessments for street and similar improvements shall be included in the appropriate utility plant or nonutility property account.

NOTE B: Taxes specifically applicable to construction shall be included in the cost of construction.

NOTE C: Gasoline and other sales taxes shall be charged as far as practicable to the same account as the materials on which the tax is levied.

NOTE D: Social Security and other forms of so-called pay roll taxes shall be distributed to utility departments and to nonutility functions on a basis related to pay roll. Amounts applicable to construction shall be charged to the appropriate plant account.

NOTE E: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or 431, Other Interest Expense, as appropriate.

25. Immediately following account "408, Taxes other than income taxes," add new subaccounts 408.1 and 408.2 which will read as follows:

**408.1 Taxes other than income taxes, utility operating income.**

This account shall include those taxes recorded in account 408, Taxes Other Than Income Taxes which relate to utility operating income. This account shall be maintained so as to allow ready identification of taxes relating to Utility Operating Income (by department), Utility Plant Leased to Others and Other Utility Operating Income.

**408.2 Taxes other than income taxes, other income and deductions.**

This account shall include those taxes recorded in account 408, Taxes Other

Than Income Taxes, which relate to Other Income and Deductions.

26. Account "409, Income Taxes," is amended as follows: In the first sentence in paragraph A insert the word "income" between the words "federal" and "taxes." In the second sentence in paragraph A delete the remainder of the sentence after the word "adjusted" and substitute therefor "by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall include the actual taxes payable by the utility. (See general instruction 9 for prior period adjustments.)" Revise paragraph B. Add a new paragraph C. Delete Notes B, C, and D. Redesignate Note E as Note B. As so amended, account 409 will read:

#### 409 Income taxes.

A. This account shall include the amount of State and Federal income taxes on income properly accruable during the period covered by the income statement to meet the actual liability for such taxes. Concurrent credits for the tax accruals shall be made to account 236, Taxes Accrued, and as the exact amount of taxes becomes known, the current tax accruals shall be adjusted by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall include the actual taxes payable by the utility. (See general instruction 9 for prior period adjustments.)

B. The accruals for income taxes shall be apportioned among utility departments and to Other Income and Deductions, so that, as nearly as practicable, each tax shall be included in the expenses of the utility department or Other Income and Deductions, the income from which gave rise to the tax. The income tax effect of amounts recorded in account 439, Adjustments to Retained Earnings shall be recorded in that account. The tax effect relating to interest charges shall be allocated between utility and nonutility operations. The basis for this allocation shall be the ratio of net investment in utility plant to net investment in nonutility plant.

C. This account shall be maintained according to the subaccounts 409.1, 409.2, and 409.3 inclusive, shown below.

NOTE A: Taxes assumed by the utility on interest shall be charged to account 431, Other Interest Expense.

NOTE B: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or account 431, Other Interest Expense, as appropriate.

27. Immediately following account "409, Income taxes," add new subaccounts 409.1, 409.2, and 409.3 which will read as follows:

#### 409.1 Income taxes, utility operating income.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes

which relate to utility operating income. This account shall be maintained so as to allow ready identification of tax effects (both positive and negative) relating to Utility Operating Income (by departments), Utility Plant Leased to Others and Other Utility Operating Income.

#### 409.2 Income taxes, other income, and deductions.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Other Income and Deductions.

#### 409.3 Income taxes, extraordinary items.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Extraordinary Items.

28. In account "410, Provision for deferred income taxes," designate present paragraph as "A" and add a new paragraph B which will read as follows:

#### 410 Provision for deferred income taxes.

A. \* \* \*

B. This account shall be maintained according to the subaccounts 410.1 and 410.2 inclusive, as shown below.

29. Immediately following account "410, Provision for deferred income taxes," add new subaccounts 410.1 and 410.2 which will read as follows:

#### 410.1 Provision for deferred income taxes, utility operating income.

This account shall include the amount of those deferred income taxes reflected in account 410, Provision for Deferred Income Taxes which relate to Utility Operating Income (by department).

#### 410.2 Provision for deferred income taxes, other income, and deductions.

This account shall include the amount of those deferred income taxes reflected in account 410, Provision for Deferred Income Taxes which relate to Other Income and Deductions.

30. In account "411, Income taxes deferred in prior years—Credit," designate present paragraph as "A" and add a new paragraph "B" which will read as follows:

#### 411 Income taxes deferred in prior years—Credit.

A. \* \* \*

B. This account shall be maintained according to the subaccounts 411.1 and 411.2 inclusive, as shown below.

31. Immediately following account "411, Income taxes deferred in prior years—Credit" add new subaccounts 411.1 and 411.2 which will read as follows:

#### 411.1 Income taxes deferred in prior years—Credit, utility operating income.

This account shall include the amount of those taxes deferred in prior years—credit, reflected in account 411, Income Taxes Deferred in Prior Years—Credit which relate to Utility Operating Income (by department).

#### 411.2 Income taxes deferred in prior years—Credit, other income and deductions.

This account shall include the amount of those taxes deferred in prior years—credit, reflected in account 411, Income Taxes Deferred in Prior Years—Credit which relate to Other Income and Deductions.

32. Immediately following new subaccount "411.2, Income taxes deferred in prior years—Credit, other income and deductions," add new account 411.3 and new subaccounts 411.4 and 411.5, which will read as follows:

#### 411.3 Investment tax credit adjustments.

A. This account shall be debited with the total amount of Investment Tax Credits used in calculating the reported current year's income taxes which are charged to account 409, Income Taxes, except to the extent that all or part of such credits are to be passed on to customers currently, either as a result of the election of the company, or a directive of a State regulatory commission as defined in the Natural Gas Act, under these latter circumstances that part or all of such credits passed on to customers would be treated solely as a reduction in income taxes for the year and no entries would be necessary.

1. When a company is using deferral accounting for all or any part of the investment tax credit allowed for the current year, account 255, Accumulated Deferred Investment Tax Credits, shall be credited with an equal amount of the investment tax credits debited to this account.

2. When a company's accounting does not provide for deferral of all or any part of the tax credits and such credits are not to be passed on to customers, account 420, Investment Tax Credits, shall be credited with the same amount of the investment tax credit debited to this account.

B. When a company which has deferred all or part of its investment tax credits passes on to its customers all or part of such deferred credits, either as a result of its election to do so or at the direction of a State commission, it shall credit this account and debit account 255, with such amounts passed on in the current year, provided, however, that the amounts shall be allocated proportionately over the average useful life of the property to which the tax credits relate or such lesser period as may be adopted and consistently used by the company.

C. When deferral accounting for all or any part of investment tax credits is adopted, a company may change the apportionment of its annual amortization between this account and account 420 in accordance with the above instructions provided that the total annual amortization credit is calculated on a consistent basis such as over the average useful life of the property to which tax credits relate or over a lesser period of time as may be adopted and consistently used by the company.

D. This account shall be maintained according to the subaccounts 411.4 and 411.5 inclusive, as shown above.

**411.4 Investment tax credit adjustments, utility operations.**

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Utility Operations (by department).

**411.5 Investment tax credit adjustments, nonutility operations.**

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Nonutility Operations.

33. Amend paragraph B of the explanatory text following accounts "412, Revenues from gas plant leased to others" and "413, Expenses of gas plant leased to others" by deleting the items "Taxes Other Than Income Taxes" and "Income Taxes." Immediately following the list of items in paragraph B, add a note. As amended, paragraph B and the note will read:

**412 Revenues from gas plant leased to others.**

**413 Expenses of gas plant leased to others.**

B. The detail of expenses shall be kept or supported so as to show separately the following:

- Operation.
- Maintenance.
- Rents.
- Depreciation and Depletion.
- Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes, identified separately.

34. In account "414, Other utility operating income," amend paragraph B by deleting the word "taxes." Immediately following paragraph B add a note. As amended, these portions of account 414 will read:

**414 Other utility operating income.**

B. The expenses shall include every element of cost incurred in such operations, including depreciation, rents, and insurance.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes, identified separately.

35. In the text of Income Accounts, amend the heading "2. Other Income" by adding the words "and Deductions," so that as amended this heading will read:

**2. OTHER INCOME AND DEDUCTIONS**

36. In the explanatory text following accounts "415, Revenues from merchandising, jobbing and contract work" and "416, Costs and expenses of merchandising, jobbing and contract work," re-

designate the "Note" as "Note A." Immediately following redesignated "Note A," add new Note B. From the list of Items, delete item "24, Taxes directly assignable to merchandise and jobbing operations including income taxes on net income derived therefrom," and redesignate item "25, Losses from uncollectible merchandise and jobbing accounts," as item 24. The amended portions of the explanatory text will read:

**415 Revenues from merchandising, jobbing, and contract work.**

**416 Costs and expenses of merchandising, jobbing, and contract work.**

NOTE A: \* \* \*

NOTE B: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes.

**ITEMS**

24. Losses from uncollectible merchandise and jobbing accounts.

37. Amend account "417, Income from nonutility operations" as follows: Delete the word "Income" from the account title and substitute the word "revenues." Immediately following the amended title of account 417, add the following new account title "417.1, Expenses of nonutility operations." In the first sentence in paragraph A, delete the words "This account" and substitute the words "These accounts." Delete the items "Taxes other than income taxes" and "Income taxes" from the list of items in paragraph B. Immediately following the list of items in paragraph B, add a new Note. The amended portions of accounts 417 and 417.1 will read:

**417 Revenues from nonutility operations.**

**417.1 Expenses of nonutility operations.**

A. These accounts \* \* \*

B. The expenses shall include all elements of costs incurred in such operations, and the accounts shall be maintained so as to permit ready summarization as follows:

- Operation.
- Maintenance.
- Rents.
- Depreciation.
- Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

38. In account "418, Nonoperating rental income," amend paragraph A by deleting "account 417" and substituting "accounts 417 or 417.1." Amend paragraph B by deleting from the list of items "Taxes other than income taxes" and "Income taxes" and by adding a note. As amended, account 418 will read:

**418 Nonoperating rental income.**

A. This account shall include all rent revenues and related expenses of land, buildings, or other property included in account 121, Nonutility Property, which

is not used in operations covered by accounts 417 or 417.1.

B. The expenses shall include all elements of costs incurred in the ownership and rental of the property and the accounts shall be maintained so as to permit ready summarization as follows:

- Operation.
- Maintenance.
- Rents.
- Depreciation.
- Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

39. In account "419, Interest and dividend income," delete paragraph "B" and redesignate paragraphs "C" and "D" as "B" and "C." Amend redesignated paragraph "C" by deleting the word "including" and substituting the word "excluding" therefor. Immediately following redesignated paragraph "C" add new Note A and redesignate present note as Note B. The amended portions of account 419 will read:

**419 Interest and dividend income.**

B. This account may include the pro rata amount necessary to extinguish (during the interval between the date of acquisition and the date of maturity) the difference between the cost to the utility and face value of interest-bearing securities. Amounts thus credited or charged shall be concurrently included in the accounts in which the securities are carried.

C. Where significant in amount, expenses, excluding operating taxes and income taxes, applicable to security investments and to interest and dividend revenues thereon, shall be charged hereto.

NOTE A: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

NOTE B: Interest accrued, the payment of which is not reasonably assured, dividends receivable which have not been declared or guaranteed, and interest or dividends upon reacquired securities issued or assumed by the utility shall not be credited to this account.

40. Immediately following account "419, Interest and dividend income," add new account 420 which will read as follows:

**420 Investment tax credits.**

This account shall be credited as follows with investment tax credit amounts not passed on to customers: (a) By amount equal to debits to account 411.3, Investment Tax Credit Adjustments, for investment tax credits used in calculating income taxes for the year when the company's accounting provides for non-deferral of all or a portion of such credits; and, (b) By amounts equal to debits to account 255, Accumulated Deferred Investment Tax Credits, for proportionate amounts of tax credit deferrals allocated over the average useful life of the property to which the tax credits relate, or such lesser period of time as may be

adopted and consistently used by the company.

41. In account "421, Miscellaneous nonoperating income," amend the first paragraph by inserting the words "except taxes," immediately after the word "items" in the first sentence and by adding the following sentence "Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes." Add new item 3 to the list of items. The amended portions of account 421 will read:

#### 421 Miscellaneous nonoperating income.

This account shall include all revenue and expense items, except taxes, properly includible in the income account and not provided for elsewhere. Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes and income taxes shall be recorded in account 409, Income Taxes.

##### ITEMS

3. Gain on disposition of investments and reacquisition and resale or retirement of utility's debt securities and investments.

42. Immediately following account "421, Miscellaneous nonoperating income," add new accounts 421.1 and 421.2 which will read as follows:

#### 421.1 Gain on disposition of property.

This account shall be credited with the gain on the sale, conveyance, exchange or transfer of utility or other property to another. (See gas plant instruction 4F, 6E, or 9E.) Record income taxes on gains recorded in this account in account 409, Income Taxes.

#### 421.2 Loss on disposition of property.

This account shall be charged with the loss on the sale, conveyance, exchange or transfer of utility or other property to another. (See gas plant instructions 4F, 6E, or 9E.) Record the reductions in income taxes attributable to losses recorded in this account in account 409, Income Taxes.

43. In the text of Income Accounts, delete the heading "3. Miscellaneous Income Deductions."

44. In account "425, Miscellaneous amortization," delete the last sentence in the first paragraph. The amended portion of account 425 will read:

#### 525 Miscellaneous amortization.

This account shall include amortization charges not includible in other accounts which are properly deductible in determining the income of the utility before interest charges. Charges includible herein, if significant in amount, must be in accordance with an orderly and systematic amortization program.

45. In account "426, Other income deductions," amend the account title by deleting the word "Other" and substituting the word "Miscellaneous." Immediately following the first paragraph of the account, insert the text of the note now located under account "426.5,

Other deductions." The amended portions of account 426 will read:

#### 426 Miscellaneous income deductions.

NOTE: The classification of expenses as nonoperating and their inclusion in this account is for accounting purposes. It does not preclude Commission consideration of proof to the contrary for ratemaking or other purposes.

46. In account "426.5, Other deductions," delete the note and substitute therefor a list of items. As amended account 426.5 will read:

#### 426.5 Other deductions.

This account shall include other miscellaneous expenses which are nonoperating in nature, but which are properly deductible before determining total income before interest charges.

##### ITEMS

1. Loss relating to investments in securities written off or written down.  
2. Loss on sale of investments.  
3. Loss on reacquisition, resale, or retirement of utility's debt securities.  
4. Preliminary survey and investigation expenses related to abandoned projects, when not written off to the appropriate operating expense account.

47. In the text of Income Accounts, redesignate the heading "4. Interest Charges" as "3. Interest Charges."

48. In the text of Income Accounts, delete the heading "5. Earned Surplus" and the following accounts classified under that heading:

433 Balance transferred from income.  
434 Miscellaneous credits to surplus.  
435 Miscellaneous debits to surplus.  
436 Appropriations of surplus.  
437 Dividends declared—Preferred stock.  
438 Dividends declared—Common stock.

49. In the text of Income Accounts, immediately following account "432, Interest charged to construction—Cr.," add a new heading "4. Extraordinary Items" and new accounts "434, Extraordinary income" and "435, Extraordinary deductions" which will read as follows:

##### 4. EXTRAORDINARY ITEMS

#### 434 Extraordinary income.

This account shall be credited with nontypical, noncustomary, infrequently recurring gains, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 8.)

#### 435 Extraordinary deductions.

This account shall be debited with nontypical, noncustomary, infrequently recurring losses, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 8.)

50. Following the text of Income Accounts and immediately preceding the

chart of "Operating Revenue Accounts" insert a new section entitled "Retained Earnings Accounts," which will contain the following chart and text of accounts:

#### Retained Earnings Accounts (Chart of Accounts)

216 Unappropriated retained earnings (at beginning of period).  
433 Balance transferred from income.  
436 Appropriations of retained earnings.  
437 Dividends declared—Preferred stock.  
438 Dividends declared—Common stock.  
439 Adjustments to retained earnings.  
216 Unappropriated retained earnings (at end of period).

#### Retained Earnings Accounts

#### 433 Balance transferred from income.

This account shall include the net credit or debit transferred from income for the year.

#### 436 Appropriations of retained earnings.

This account shall include appropriations of retained earnings.

##### ITEMS

1. Appropriations required under terms of mortgages, orders of courts, contracts, or other agreements.  
2. Appropriations required by action of regulatory authorities.  
3. Other appropriations made at option of utility for specific purposes.

#### 437 Dividends declared—Preferred stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding preferred or prior lien capital stock issued by the utility.

B. Dividends shall be segregated for each class and series of preferred stock as to those payable in cash, stock and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

#### 438 Dividends declared—Common stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding common capital stock issued by the utility.

B. Dividends shall be segregated for each class of common stock as to those payable in cash, stock and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

#### 439 Adjustments to retained earnings.

A. This account shall include significant nonrecurring transactions relating to prior periods. Other than transactions of capital stock as specified in paragraph B below, all entries to this account must receive prior Commission approval. These transactions are limited to those adjustments which (a) can be specifically identified with and related to the business activities of particular prior periods, and (b) are not attributable to economic events occurring subsequent to the date of the financial statements for the prior period, and (c) depend primarily on determinations by persons other than the management, and (d) were not susceptible of reasonable estimation prior

to such determination. This account shall also include the related income tax effects (State and Federal) on items included herein. All items included in this account shall be sufficiently described in the entries relating thereto as to permit ready analysis.

B. Adjustments, charges or credits due to losses on reacquisition, resale or retirement of the company's own capital stock shall be included in this account. (See account 207, Other Paid-in Capital for the treatment of gains.)

ITEMS

1. Significant nonrecurring adjustments or settlements of income taxes.
2. Significant amounts resulting from litigation or similar claims.
3. Significant amounts relating to adjustments or settlements of utility revenue under rate processes.
4. Significant adjustments to plant in service depreciation and amortization as a result of Commission direction.
5. Write off of unamortized capital stock expenses.

51. Amend the note in account "721, Nonproductive well drilling," by changing the General Instruction number from "12" to "14." As amended the note will read:

721 Nonproductive well drilling.

NOTE: Records in support of the charges to this account shall conform, as appropriate, to General Instruction 14, Gas Well Records.

52. In account "733, Gas withdrawn from underground storage—Debit," amend the note by deleting "435, Miscellaneous Debits to Surplus" and substituting "439, Adjustments to Retained Earnings." As amended the note will read:

733 Gas withdrawn from underground storage—Debit.

NOTE: Adjustments for gas inventory losses due to cumulative inaccuracies in gas measurement, or from other causes, shall be entered in account 741, Gas Losses. If, however, any adjustment is substantial and related predominantly to prior years, it shall be charged to account 439, Adjustments to Retained Earnings.

53. In account "741, Gas losses," amend the final sentence in the first paragraph by deleting "435, Miscellaneous Debits to Surplus" and substituting therefor "439, Adjustments to Retained Earnings." As amended, this portion of account 741 will read:

741 Gas losses.

\*\*\* If, however, any adjustment is substantial and relates predominantly to prior years, it shall be charged to account 439, Adjustments to Retained Earnings.

E. The following are proposed amendments and revisions to the Uniform System of Accounts for Class D Natural Gas Companies, in Part 205, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the General Instructions section of Part 205 as follows: Immediately after instruction "3. Item Lists," insert new instructions "4. Extraordinary Items" and "5. Prior Period Items." Beginning with instruction "4. Distribution

of Pay and Expenses of Employees," re-number remaining instructions 4. through 6. as 6. through 8. New instructions 4. and 5. will read:

General Instructions

4. Extraordinary Items.

It is the intent that net income shall reflect all items of profit and loss during the period with the sole exception of prior period adjustments as described in paragraph 5 below. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business. (In determining significance, items of a similar nature should be considered in the aggregate. Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434, Extraordinary income and 435, Extraordinary deductions.)

5. Prior Period Items.

A. As a general rule, items relating to transactions which occurred prior to the current calendar year but were not recorded in the books of account shall be included in the same accounts in which they would have been recorded had the item been recorded in the proper period. Such items relate to events or transactions which occurred in a prior period or periods, the accounting effects of which could not be determined with reasonable assurance at the time, usually because of major uncertainty then existing. When the amount of a prior period item is relatively so large its inclusion for a single month would distort the accounts for that month, the amount may be distributed in equal amounts to the accounts for the current and remaining months of the calendar year. However, if the amount of any prior period item is so large that the company believes its inclusion in the income statement would seriously distort the net income for the year, the company may request Commission approval to record the amount in account 439, Adjustments to Retained Earnings. Such a request must be accompanied by adequate justification.

B. Treatment as prior period adjustments should not be applied to the normal, recurring corrections and adjustments which are the natural result of the use of estimates inherent in the accounting process. For example, changes in the estimated remaining lives of fixed assets affect the computed amounts of depreciation, but these changes should be con-

sidered prospective in nature and not prior period adjustments. Similarly, relatively insignificant adjustments of provisions for liabilities (including income taxes) made in prior periods should be considered recurring items to be reflected in operations of the current period. Some uncertainties, for example those relating to the realization of assets (collectibility of accounts receivable, ultimate recovery of deferred costs or realizability of inventories or other assets), would not qualify for prior period adjustment treatment, since economic events subsequent to the date of the financial statements must of necessity enter into the elimination of any previously existing uncertainty. Therefore, the effects of such matters are considered to be elements in the determination of net income for the period in which the uncertainty is eliminated. (See account 439, Adjustments to retained earnings.)

2. Amend the second sentence in paragraph B of Gas Plant Instruction "6. Gas Plant Retired" by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property." As amended, this portion of paragraph B will read:

Gas Plant Instructions

6. Gas Plant Retired.

B. \*\*\* If the land is sold, the difference between the book cost (less any accumulated provision for depreciation, depletion, or amortization therefor which has been authorized and provided) and the sale price of the land (less commissions and other expenses of making the sale) shall be included in account 421.1, Gain on Disposition of Property, or account 421.2, Loss on Disposition of Property, as appropriate. \*\*\*

3. Amend the chart of Balance Sheet Accounts as follows: Amend account titles 215 and 216 by deleting the words "earned surplus" and substituting the words "retained earnings" therefor. Immediately following account title "253, Other deferred credits," add new account title "255, Accumulated deferred investment tax credits." The amended portions of the chart of Balance Sheet Accounts will read:

	Balance Sheet Accounts (Chart of Accounts)
	* * * * *
	LIABILITIES AND OTHER CREDITS
	* * * * *
	5. PROPRIETARY CAPITAL
	* * * * *
215	Appropriated retained earnings.
216	Unappropriated retained earnings.
	* * * * *
	8. DEFERRED CREDITS
	* * * * *
255	Accumulated deferred investment tax credits.
	* * * * *
4.	Account "110, Accumulated provision for depreciation, depletion and

amortization of gas plant," is amended as follows: In paragraph A, delete subparagraph (2) and redesignate subparagraphs (3) through (5) as (2) through (4). In the second sentence in paragraph D, delete the word "surplus" and substitute the words "retained earnings" therefor. The amended portion of paragraph D will read:

**110 Accumulated provision for depreciation, depletion, and amortization of gas plant.**

D. \* \* \* It shall not transfer any portion of this account to retained earnings or make any other use thereof without authorization by the Commission.

5. In account "183, Other deferred debits," amend the final sentence in subparagraph A(1) by deleting the words "435, Miscellaneous Debits to Surplus," and substituting therefor "426.5, Other Deductions." As so amended, the final sentence in subparagraph A(1) will read:

**183 Other deferred debits.**

A. \* \* \*

(1) \* \* \* If the work is abandoned, the charge shall be to account 426.5, Other Deductions, or to the appropriate operating expense account.

6. In account "213, Discount on capital stock," amend paragraphs B and C by deleting the words "435, Miscellaneous Debits to Surplus," and substituting "439, Adjustments to Retained Earnings." As amended, paragraphs B and C will read:

**213 Discount on capital stock.**

B. When capital stock which has been actually issued is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-In Capital; provided, however, that the amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207.

C. The utility may amortize the balance in this account by charges to account 425, Miscellaneous Amortization, or it may write off capital stock discount in whole or in part to account 439, Adjustments to Retained Earnings.

7. Account "214, Capital stock expense" is amended as follows: In paragraph B change the punctuation and words "(: Provided, however, That" to read "(: provided, however, that." In paragraphs B and C delete the words "435, Miscellaneous Debits to Surplus" and substitute "439, Adjustments to Retained Earnings." As amended, paragraphs B and C will read:

**214 Capital stock expense.**

B. When capital stock which has been actually issued by the utility is retired, the amount in this account applicable to the shares retired shall be written off to account 207, Other Paid-In Capital, to the extent of gains on resale or cancellation of reacquired stock includible therein; provided, however, that the

amount shall be charged to account 439, Adjustments to Retained Earnings, to the extent that it exceeds the balance in account 207, from such source.

C. The utility may amortize the balance in this account by systematic charges to account 425, Miscellaneous Amortization, or it may write off capital stock expense in whole or in part by charges to account 439, Adjustments to Retained Earnings.

8. Account "215, Appropriated earned surplus," is amended by deleting the words "earned surplus" from the account title and the first sentence of the text and substituting the words "retained earnings" therefor. As so amended, these portions of account 215 will read:

**215 Appropriated retained earnings.**

This account shall include the amount of retained earnings which has been appropriated or set aside for specific purposes. \* \* \*

9. Account "216, Unappropriated earned surplus," is amended by deleting the words "earned surplus" from the account title and substituting the words "retained earnings" therefor, and by deleting the word "surplus" from the first sentence of the text and substituting the words "retained earnings" therefor. The amended portions of account 216 will read:

**216 Unappropriated retained earnings.**

This account shall include the balance, either debit or credit, of unappropriated retained earnings arising from earnings. \* \* \*

10. Account "217, Reacquired capital stock," is amended as follows: In paragraph B change the punctuation and words "(: Provided, however, That" to read "(: provided, however, that." In paragraph B, delete the words "435, Miscellaneous Debits to Surplus" and substitute therefor "439, Adjustments to Retained Earnings." As amended, paragraph B will read:

**217 Reacquired capital stock.**

B. When reacquired capital stock is retired or canceled, the difference between its cost, including commissions and expenses paid in connection with the reacquisition, and its par or stated value plus any premium and less any discount and expenses applicable to the shares retired, shall be debited or credited, as appropriate, to account 207, Other Paid-In Capital; provided, however, that debits shall be charged to account 439, Adjustments to Retained Earnings, to the extent that they exceed the balance of gains on resale or cancellation of reacquired stock included in account 207.

11. In account "218, Noncorporate proprietorship," amend the final sentence in Note C by deleting the word "surplus" and substituting "retained earnings." As amended this portion of Note C will read:

**218 Noncorporate proprietorship.**

NOTE C: \* \* \* When this option is taken, the retained earnings accounts shall be maintained and entries thereto shall be made in accordance with the texts thereof.

12. In account "221, Bonds," amend paragraph B by deleting "434, Miscellaneous Credits to Surplus, or account 435, Miscellaneous Debits to Surplus" and substituting therefor "428, Amortization of Debt Discount and Expense, or account 429, Amortization of Premium on Debt-Cr." As amended paragraph B will read:

**221 Bonds.**

B. When bonds are reacquired, the difference between face value, adjusted for unamortized discount, expense or premium and the amount paid upon reacquisition, shall be included in account 428, Amortization of Debt Discount and Expense, or account 429, Amortization of Premium on Debt-Cr., as appropriate.

13. In account "236, Taxes accrued," amend the last sentence in paragraph B by deleting the remainder of the sentence after the word "expenses," and substituting therefor "see general instruction 5, for treatment." As amended this portion of paragraph B will read:

**236 Taxes accrued.**

B. \* \* \* However, if such corrections are so large as to seriously distort current expenses, see general instruction 5 for treatment.

14. Immediately following account "253, Other deferred credits," add new account 255 which will read as follows:

**255 Accumulated deferred investment tax credits.**

A. This account shall be credited with all investment tax credits deferred by companies which have elected to follow deferral accounting, partial or full, rather than recognizing in the income statement the total benefits of the tax credit as realized. After such election, a company may not transfer amounts from this account, except as authorized herein and in accounts 411.3, Investment Tax Credit Adjustments, and 420, Investment Tax Credits, or with approval of the Commission.

B. Where the company's accounting provides that investment tax credits are to be passed on to customers, this account shall be debited and account 411.3, credited with a proportionate amount determined in relation to the average useful life of gas utility property to which the tax credits relate or such lesser period of time as may be adopted and used by the company. If, however, the deferral procedure provides that investment tax credits are not to be passed on to customers, the proportionate restorations to income shall be credited to account 420.

C. If any of the investment tax credits to be deferred are related to utility operations other than gas or to nonutility operations, appropriate subdivisions of this account shall be maintained and entries shall be appropriately recorded in

this account and in account 413, Expenses of Gas Plant Leased to Others; account 414, Other Utility Operating Income; account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work; account 417, Income from Non-utility Operations; or account 418, Non-operating Rental Income.

D. Records shall be maintained identifying the properties related to the investment tax credits for each year, the weighted average service life of such properties, and any unused balance of such credits. Such records are not necessary unless the credits are deferred.

15. In account "265, Miscellaneous operating reserves," amend the note by deleting the words "Earned Surplus" and substituting therefor "Retained Earnings." As so amended the note will read:

**265 Miscellaneous operating reserves.**

NOTE: This account includes only such reserves as may be created for operating purposes and does not include any reservations of income the credits for which should be carried in account 215, Appropriated Retained Earnings.

16. In account "271, Contributions in aid of construction," amend paragraph B by deleting the words "to earned surplus or." As amended paragraph B will read:

**271 Contributions in aid of construction.**

B. The credits to this account shall not be transferred to any other account without the approval of the Commission.

17. In account "302, Franchises and consents," amend the last sentence in paragraph B and the first sentence in paragraph C by deleting the words "435, Miscellaneous Debits to Surplus," and substituting therefor "426.5, Other Deductions." As amended these portions of paragraphs B and C will read:

**302 Franchises and consents.**

B. Any excess of the amount actually paid by the utility over the amount above specified shall be charged to account 426.5, Other Deductions.

C. When any franchise has expired, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or to account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Plant, as appropriate.

18. In account "303, Miscellaneous intangible plant," amend paragraph B by deleting the words "435, Miscellaneous Debits to Surplus" and substituting therefor "426.5, Other Deductions." As amended, paragraph B will read:

**303 Miscellaneous intangible plant.**

B. When any item included in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Plant, as appropriate.

19. Revise the chart of Income Accounts to read as follows:

Income Accounts (Chart of Account)	
<b>1. UTILITY OPERATING INCOME</b>	
400	Operating revenues.
Operating expenses:	
401	Operation and maintenance expense.
403	Depreciation and depletion expense.
404	Amortization expense.
408	Taxes other than income taxes.
408.1	Taxes other than income taxes, utility operating income.
409	Income taxes.
409.1	Income taxes, utility operating income.
411.3	Investment tax credit adjustments.
411.4	Investment tax credit adjustment, utility operations.
Total gas utility operating expenses.	
Net gas utility operating income.	
Other Operating Income:	
412	Revenues from gas plant leased to others.
413	Expenses of gas plant leased to others.
414	Other utility operating income.
Net utility operating income.	
<b>2. OTHER INCOME AND DEDUCTIONS.</b>	
<b>A. OTHER INCOME</b>	
415	Revenues from merchandising, jobbing, and contract work.
416	Costs and expenses of merchandising, jobbing, and contract work.
418	Nonoperating rental income.
419	Interest and dividend income.
421	Miscellaneous nonoperating income.
421.1	Gain on disposition of property.
Total other income.	
<b>B. OTHER INCOME DEDUCTIONS.</b>	
421.2	Loss on disposition of property.
425	Miscellaneous amortization.
426	Miscellaneous income deductions.
426.1	Donations.
426.2	Life insurance.
426.3	Penalties.
426.4	Expenditures for certain civic, political and related activities.
426.5	Other deductions.
Total other income deductions.	
Total other income and deductions.	
<b>C. TAXES APPLICABLE TO OTHER INCOME AND DEDUCTIONS</b>	
408.2	Taxes other than income taxes, other income, and deductions.
409.2	Income taxes, other income, and deductions.
411.5	Investment tax credit adjustments, nonutility operations.
420	Investment tax credits.
Total taxes on other income and deductions.	
Net other income and deductions.	
<b>3. INTEREST CHARGES</b>	
427	Interest on long-term debt.
428	Amortization of debt discount and expense.
429	Amortization of premium on debt—Cr.
430	Interest on debt to associated companies.
431	Other interest expense.
Total interest charges.	
432	Interest charged to construction—Cr.
Income before extraordinary items.	

**4. EXTRAORDINARY ITEMS**

- 434 Extraordinary income.
  - 435 Extraordinary deductions.
  - 409.3 Income taxes, extraordinary items.
- Net income.

20. Amend account "408, Taxes other than income taxes," as follows: Amend paragraph A by deleting the words "which are properly chargeable to gas operations." Add new paragraph D. Delete Notes A and D and redesignate Notes B, C, E, and F as Notes A, B, C, and D. Add new Note E. As amended these portions of account 408 will read:

**408 Taxes other than income taxes.**

A. This account shall include the amount of ad valorem, gross revenue or gross receipts taxes, State unemployment insurance, franchise taxes, Federal excise taxes, social security taxes, and all other taxes assessed by Federal, State, county, municipal, or other local governmental authorities, except income taxes.

D. This account shall be maintained according to the subaccounts 408.1 and 408.2 inclusive, shown below.

NOTE A: Special assessments for street and similar improvements shall be included in the appropriate utility plant or nonutility property account.

NOTE B: Taxes specifically applicable to construction shall be included in the cost of construction.

NOTE C: Gasoline and other sales taxes shall be charged as far as practicable to the same account as the materials on which the tax is levied.

NOTE D: Social Security and other forms of so-called payroll taxes shall be distributed to utility departments and to nonutility functions on a basis related to payroll. Amounts applicable to construction shall be charged to the appropriate plant account.

NOTE E: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or 431, Other Interest Expense, as appropriate.

21. Immediately following account "408, Taxes other than income taxes," add new subaccounts 408.1 and 408.2 which will read as follows:

**408.1 Taxes other than income taxes, utility operating income.**

This account shall include those taxes recorded in 408, Taxes Other Than Income Taxes, which relate to utility operating income. This account shall be maintained so as to allow ready identification of taxes relating to Utility Operating Income (by department), Utility Plant Leased to Others and Other Utility Operating Income.

**408.2 Taxes other than income taxes, other income, and deductions.**

This account shall include those taxes recorded in account 408, Taxes Other Than Income Taxes, which relate to Other Income and Deductions.

22. Account "409, Income Taxes," is amended as follows: In the first sentence in paragraph A insert the word "income" between the words "federal" and "taxes." In the second sentence in paragraph A, delete the remainder of the sentence

after the word "adjusted" and substitute therefor "by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall include the actual taxes payable by the utility. (See general instruction 5 for prior period adjustments.)" Revise paragraph B. Add a new paragraph C. Delete Notes B, C, and D. Redesignate Note E as Note B. As so amended, account 409 will read:

#### 409 Income taxes.

A. This account shall include the amount of State and Federal income taxes on income properly accruable during the period covered by the income statement to meet the actual liability for such taxes. Concurrent credits for the tax accruals shall be made to account 236, Taxes Accrued, and as the exact amount of taxes becomes known, the current tax accruals shall be adjusted by a charge or credit to this account, unless such adjustment is properly includible in account 439, Adjustments to Retained Earnings, so that this account as nearly as can be ascertained shall include the actual taxes payable by the utility. (See general instruction 5 for prior period adjustments.)

B. The accruals for income taxes shall be apportioned among utility departments and to Other Income and Deductions so that, as nearly as practicable, each tax shall be included in the expenses of the utility department or Other Income and Deductions, the income from which gave rise to the tax. The income tax effect of amounts recorded in account 439, Adjustments to Retained Earnings shall be recorded in that account. The tax effect relating to interest charges shall be allocated between utility and nonutility operations. The basis for this allocation shall be the ratio of net investment in utility plant to net investment in nonutility plant.

C. This account shall be maintained according to the subaccounts 409.1, 409.2, and 409.3 inclusive, shown below.

NOTE A: Taxes assumed by the utility on interest shall be charged to account 431, Other Interest Expense.

NOTE B: Interest on tax refunds or deficiencies shall not be included in this account but in account 419, Interest and Dividend Income, or account 431, Other Interest Expense, as appropriate.

23. Immediately following account "409, Income taxes," add new subaccounts 409.1, 409.2, and 409.3 which will read as follows:

#### 409.1 Income taxes, utility operating income.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes which relate to utility operating income. This account shall be maintained so as to allow ready identification of tax effects (both positive and negative) relating to Utility Operating Income (by departments), Utility Plant Leased to Others and Other Utility Operating Income.

#### 409.2 Income taxes, other income, and deductions.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Other Income and Deductions.

#### 409.3 Income taxes, extraordinary items.

This account shall include the amount of those State and Federal income taxes reflected in account 409, Income Taxes (both positive and negative) which relate to Extraordinary Items.

24. Immediately following new subaccount "409.3 Income taxes, extraordinary items," add new account 411.3 and new subaccounts 411.4 and 411.5 which will read as follows:

#### 411.3 Investment tax credit adjustments.

A. This account shall be debited with the total amount of Investment Tax Credits used in calculating the reported current year's income taxes which are charged to account 409, Income Taxes, except to the extent that all or part of such credits are to be passed on to customers currently, either as a result of the election of the company, or a directive of a State regulatory commission as defined in the Natural Gas Act, under these latter circumstances that part or all of such credits passed on to customers would be treated solely as a reduction in income taxes for the year and no entries would be necessary.

1. When a company is using deferral accounting for all or any part of the investment tax credit allowed for the current year, account 255, Accumulated Deferred Investment Tax Credits, shall be credited with an equal amount of the investment tax credit debited to this account.

2. When a company's accounting does not provide for deferral of all or any part of the tax credits and such credits are not to be passed on to customers, account 420, Investment Tax Credits, shall be credited with the same amount of the investment tax credit debited to this account.

B. When a company which has deferred all or part of its investment tax credits passes on to its customers all or a part of such deferred credits, either as a result of its election to do so or at the direction of a State commission, it shall credit this account and debit account 255, with such amounts passed on in the current year, provided, however, that the amounts shall be allocated proportionately over the average useful life of the property to which the tax credits relate or such lesser period as may be adopted and consistently used by the company.

C. When deferral accounting for all or any part of investment tax credits is adopted, a company may change the apportionment of its annual amortization between this account and account 420 in accordance with the above instructions provided that the total annual amortization credit is calculated on a consistent basis such as over the average

useful life of the property to which tax credits relate or over a lesser period of time as may be adopted and consistently used by the company.

D. This account shall be maintained according to the subaccounts 411.4 and 411.5 inclusive, as shown below.

#### 411.4 Investment tax credit adjustments, utility operations.

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Utility Operations (by department).

#### 411.5 Investment tax credit adjustments, nonutility operations.

This account shall include the amount of those investment tax credit adjustments reflected in account 411.3, Investment Tax Credit Adjustments related to property used in Nonutility Operations.

25. Amend paragraph B of the explanatory text following accounts "412, Revenues from gas plant leased to others" and "413, Expenses of gas plant leased to others," by listing "Operation" and "Maintenance" separately and by deleting the items "Taxes other than income taxes" and "Income taxes." Immediately following paragraph B, add a Note. As amended, paragraph B and the note will read:

#### 412 Revenues from gas plant leased to others.

#### 413 Expenses of gas plant leased to others.

B. The detail of expense shall be kept or supported so as to show separately the following:

- Operation.
- Maintenance.
- Rents.
- Depreciation and depletion.
- Amortization.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes, identified separately.

26. In account "414, Other utility operating income," amend paragraph B by deleting the word "taxes." Immediately following paragraph B add a note. As amended, these portions of account 414 will read:

#### 414 Other utility operating income.

B. The expenses shall include every element of cost incurred in such operations, including depreciation, rents, and insurance.

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes, identified separately.

27. In the text of Income Accounts, amend the heading "2. Other Income" by adding the words "and Deductions," so that as amended this heading will read:

2. OTHER INCOME AND DEDUCTIONS

28. In the explanatory text following accounts "415, Revenues from merchandising, jobbing and contract work" and "416, Costs and expenses of merchandising, jobbing and contract work," redesignate the "Note" as "Note A." Immediately following redesignated "Note A," add new Note B. The amended portions of the explanatory text will read:

415 Revenues from merchandising, jobbing, and contract work.

416 Costs and expenses of merchandising, jobbing, and contract work.

NOTE A: \* \* \*

NOTE B: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes.

29. Amend account "418, Nonoperating rental income," by adding a note which will read:

418 Nonoperating rental income.

\* \* \* \* \*

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes.

30. In account "419, Interest and dividend income," add a new Note immediately following paragraph A and delete paragraph B. The amended portions of account 419 will read:

419 Interest and dividend income.

A. \* \* \*

NOTE: Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes.

31. Immediately following account "419, Interest and dividend income," add new account 420 which will read:

420 Investment tax credits.

This account shall be credited as follows with investment tax credit amounts not passed on to customers:

(a) By amount equal to debits to account 411.3, Investment Tax Credit Adjustments, for investment tax credits used in calculating income taxes for the year when the company's accounting provides for nondeferral of all or a portion of such credits; and,

(b) By amounts equal to debits to account 255, Accumulated Deferred Investment Tax Credits, for proportionate amounts of tax credit deferrals allocated over the average useful life of the property to which the tax credits relate, or such lesser period of time as may be adopted and consistently used by the company.

32. In account "421, Miscellaneous nonoperating income," amend the first paragraph by inserting the words "except taxes," immediately after the word "items" in the first sentence and by adding the following sentence "Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be re-

corded in account 409, Income Taxes." As amended account 421 will read:

421 Miscellaneous nonoperating income.

This account shall include all revenue and expense items, except taxes, properly includible in the income account and not provided for elsewhere. Related operating taxes shall be recorded in account 408, Taxes Other Than Income Taxes, and income taxes shall be recorded in account 409, Income Taxes.

33. Immediately following account "421, Miscellaneous nonoperating income," add new accounts 421.1 and 421.2 which will read as follows:

421.1 Gain on disposition of property.

This account shall be credited with the gain on the sale, conveyance, exchange, or transfer of utility or other property to another. (See gas plant instruction 6B.) Record income taxes on gains recorded in this account in account 409, Income Taxes.

421.2 Loss on disposition of property.

This account shall be charged with the loss on the sale, conveyance, exchange, or transfer of utility or other property to another. (See gas plant instruction 6B.) Record the reductions in income taxes attributable to losses recorded in this account in account 409, Income Taxes.

34. In the text of Income Accounts, delete the heading "3. Miscellaneous Income Deductions."

35. In account "425, Miscellaneous amortization," delete the last sentence in the first paragraph. The amended portion of account 425 will read:

425 Miscellaneous amortization.

This account shall include amortization charges not includible in other accounts which are properly deductible in determining the income of the utility before interest charges. Charges includible herein, if significant in amount, must be in accordance with an orderly and systematic amortization program.

36. In account "426, Other income deductions," amend the account title by deleting the word "Other" and substituting the word "Miscellaneous." Immediately following the first paragraph of the account insert the text of the note now located under account "426.5, Other deductions." The amended portions of account 426 will read:

426 Miscellaneous income deductions.

NOTE: The classification of expenses as nonoperating and their inclusion in this account is for accounting purposes. It does not preclude Commission consideration of proof to the contrary for ratemaking or other purposes.

37. In account "426.5, Other deductions," delete the note and substitute therefor a list of items. As amended account 426.5 will read:

426.5 Other deductions.

This account shall include other miscellaneous expenses which are nonoperating in nature, but which are properly deductible before determining total income before interest charges.

ITEMS

1. Loss relating to investments in securities written off or written down.
2. Loss on sale of investments.
3. Loss on reacquisition, resale, or retirement of utility's debt securities.
4. Preliminary survey and investigation expenses related to abandoned projects, when not written off to the appropriate operating expense account.

38. In the text of Income Accounts, redesignate heading "4. Interest Charges" as "3. Interest Charges."

39. In the text of Income Accounts, delete the heading "5. Earned Surplus" and the following accounts classified under that heading:

- 433 Balance transferred from income.
- 434 Miscellaneous credits to surplus.
- 435 Miscellaneous debits to surplus.
- 436 Appropriations of surplus.
- 437 Dividends declared—Preferred stock.
- 438 Dividends declared—Common stock.

40. In the text of Income Accounts, immediately following account "432, Interest charged to construction—Cr.," add a new heading "4. Extraordinary Items" and new accounts "434, Extraordinary income" and "435, Extraordinary deductions," which will read as follows:

4. EXTRAORDINARY ITEMS

434 Extraordinary income.

This account shall be credited with nontypical, noncustomary, infrequently recurring gains, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 4.)

435 Extraordinary deductions.

This account shall be debited with nontypical, noncustomary, infrequently recurring losses, which would significantly distort the current year's income computed before Extraordinary Items, if reported other than as extraordinary items. The applicable income tax effects of this account shall be recorded in account 409, Income Taxes, identified separately. (See general instruction 4.)

41. Following the text of Income Accounts, and immediately preceding the chart of "Operating Revenue Accounts," insert a new section, entitled "Retained Earnings Accounts," which will contain the following chart and text of accounts.

Retained Earnings Accounts

(Chart of Accounts)

- 216 Unappropriated retained earnings (at beginning of period).
- 433 Balance transferred from income.
- 436 Appropriations of retained earnings.
- 437 Dividends declared—Preferred stock.

- 438 Dividends declared—Common stock.  
 439 Adjustments to retained earnings.  
 216 Unappropriated retained earnings (at end of period).

### Retained Earnings Accounts

#### 433 Balance transferred from income.

This account shall include the net credit or debit transferred from income for the year.

#### 436 Appropriations of retained earnings.

This account shall include appropriations of retained earnings.

#### ITEMS

1. Appropriations required under terms of mortgages, orders of courts, contracts, or other agreements.
2. Appropriations required by action of regulatory authorities.
3. Other appropriations made at option of utility for specific purposes.

#### 437 Dividends declared—Preferred stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding preferred or prior lien capital stock issued by the utility.

B. Dividends shall be segregated for each class and series of preferred stock as to those payable in cash, stock and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

#### 438 Dividends declared—Common stock.

A. This account shall include amounts declared payable out of retained earnings as dividends on actually outstanding common capital stock issued by the utility.

B. Dividends shall be segregated for each class of common stock as to those payable in cash, stock and other forms. If not payable in cash, the medium of payment shall be described with sufficient detail to identify it.

#### 439 Adjustments to retained earnings.

A. This account shall include significant nonrecurring transactions relating to prior periods. Other than transactions of capital stock as specified in paragraph B below, all entries to this account must receive prior Commission approval. These transactions are limited to those adjustments which (a) can be specifically identified with and related to the business activities of particular prior periods, and (b) are not attributable to economic events occurring subsequent to the date of the financial statements for the prior period, and (c) depend primarily on determinations by persons other than the management, and (d) were not susceptible of reasonable estimation prior to such determination. This account shall also include the related income tax effects (State and Federal) on items included herein. All items included in this account shall be sufficiently described in the entries relating thereto as to permit ready analysis.

B. Adjustments, charges or credits due to losses on reacquisition, resale, or retirement of the company's own capital stock shall be included in this account.

(See account 207, Other Paid-In Capital for the treatment of gains.)

#### ITEMS

1. Significant nonrecurring adjustments or settlements of income taxes.
2. Significant amounts resulting from litigation or similar claims.
3. Significant amounts relating to adjustments or settlements of utility revenue under rate processes.
4. Significant adjustments to plant in service depreciation and amortization as a result of Commission direction.
5. Write off of unamortized capital stock expenses.

42. Amend the note in account "721, Nonproductive well drilling," by changing the General Instruction number from "5" to "7." As amended the note will read:

#### 721 Nonproductive well drilling.

NOTE: Records in support of the charges to this account shall conform, as appropriate, to note of general instruction 7, Gas Well Records.

F. Effective for the reporting year 1970, it is proposed to revise certain pages of FPC Form No. 2-A, Annual Report for Natural Gas Companies (Class C and Class D) prescribed by § 260.2, Chapter I, Title 18 of the Code of Federal Regulations, all as set out in Attachment B hereto.<sup>5</sup>

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

By direction of the Commission.

GORDON M. GRANT,  
 Secretary.

[F.R. Doc. 70-8873; Filed, July 13, 1970;  
 8:45 a.m.]

## FEDERAL TRADE COMMISSION

[16 CFR Part 426]

### ADVERTISING OF CYCLAMATE-CONTAINING ARTIFICIAL SWEETENERS AS NONPRESCRIPTION DRUGS

#### Cancellation of Notice and Public Hearing on Proposed Trade Regulation Rule

On May 20, 1970, the Federal Trade Commission issued a notice of public hearing and opportunity to submit data, views or arguments regarding a proposed Trade Regulation Rule on the above subject.

The Commission hereby cancels said notice and hearing in the above proceeding.

Notice will be given of any new or further proceeding in this matter.

Issued: July 13, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA,  
 Secretary.

[F.R. Doc. 70-9022; Filed, July 13, 1970;  
 8:50 a.m.]

<sup>5</sup> Filed as part of original document.

## NATIONAL LABOR RELATIONS BOARD

[29 CFR Part 103]

### JURISDICTIONAL STANDARDS APPLICABLE TO PRIVATE COLLEGES AND UNIVERSITIES

#### Notice of Proposed Rule Making

Notice is hereby given that the National Labor Relations Board has under consideration adoption of a proposed rule to prescribe standards which the Board will apply in determining whether to exercise its jurisdiction in proceedings involving private colleges and universities arising under section 8, 9, and 10 of the National Labor Relations Act, as amended (61 Stat. 140, 143, 146, 29 U.S.C. secs. 158, 159, and 160). The purposes of the proposed rule and the data deemed relevant thereto are set forth in the attached explanatory statement. This rule is proposed pursuant to the authority of sections 6 and 14(c) of the National Labor Relations Act, as amended (61 Stat. 140, 73 Stat. 541, 29 U.S.C. secs. 156, 164(c)).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed rule should file 25 copies of the same, not later than 30 days after publication hereof in the FEDERAL REGISTER, with the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570. Copies of such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary of the Board, Room 701, 1717 Pennsylvania Avenue NW., Washington, D.C.

Dated, Washington, D.C., July 8, 1970.

By direction of the Board.

OGDEN W. FIELDS,  
 Executive Secretary.

*Explanatory statement.* The jurisdiction of the National Labor Relations Board to prevent unfair labor practices and determine questions concerning representation under sections 8, 9, and 10 of the National Labor Relations Act, as amended,<sup>1</sup> extends to all such matters which "affect commerce" as defined in section 2(7) of the Act.<sup>2</sup> In 1950, the Board by rule of decision announced certain specific standards which it would apply in determining whether or not to assert its jurisdiction in specific cases.<sup>3</sup> From time to time, the Board has by rule of decision modified existing standards

<sup>1</sup> 61 Stat. 140, 143, 146, 29 U.S.C. Secs. 158, 159, 160.

<sup>2</sup> 61 Stat. 137, 29 U.S.C. Sec. 152(7). See *N.L.R.B. v. Fainblatt*, 306 U.S. 601.

<sup>3</sup> See 16th Annual Report of the National Labor Relations Board, 1951, pp. 15-16.

and established new standards.<sup>4</sup> However, except in exceptional circumstances and in connection with the purely commercial activities of such institutions,<sup>5</sup> the Board until recently has declined to exercise its jurisdiction over the operations of private colleges and universities without regard to otherwise applicable standards.<sup>6</sup>

In *Cornell University*, 183 NLRB No. 41, decided June 12, 1970, the Board reexamined its jurisdictional policy with respect to private colleges and universities and concluded that it would henceforth assert jurisdiction on a broader basis "over those private colleges and universities whose operations have a substantial effect on commerce \* \* \*." The Board did not in that case establish standards for the assertion of such jurisdiction over private nonprofit colleges and universities, but determined to leave the development of appropriate jurisdictional standards to further proceedings.

The Board has considered whether to develop such jurisdictional standards by rule of decision or through the rule-making procedures of the Administra-

tive Procedure Act,<sup>7</sup> and has tentatively concluded that in view of the nature of the problem and the diverse characteristics of the institutions potentially affected, it would best effectuate the policies of the National Labor Relations Act to utilize such rulemaking procedures.

The Board does not have in view any specific jurisdictional standard which it proposes to adopt. The standards utilized by the Board with respect to other classes of enterprises have involved consideration of such factors, singly or in combination, as the nature of the enterprise, the gross dollar volume of business, the value of sales in or affecting commerce, the value of purchases in or affecting commerce, and the relationship of the enterprise to the national defense or other governmental operations.<sup>8</sup> It may be that with respect to educational institutions, other factors may also be relevant in determining the degree of impact on commerce, such as sources of revenue, total volume and general nature of purchases, the relationship of the institution to other enterprises, the size of the student body, the proportion of out-of-state students, and the number of employees, academic and nonacademic.

The data which the Board deems desirable to enable it to formulate an appropriate jurisdictional standard for private colleges and universities encompasses a broad spectrum of information relating to the number, class, and size of the various institutions potentially affected by such standard as may be adopted. Specifically such data should to the extent possible include, but need not be limited to, information concerning classifications of institutions gen-

erally considered relevant by the affected institutions, such as junior colleges, 4-year colleges, etc., and, with respect to each such classification, the number of institutions therein, and the size of such institutions in terms of income, expenditures, student body, and employees, with such other data or additional feasible refinements and breakdowns of the gross figures as appear to be appropriate in order to reflect the impact of the operations of the affected institutions on interstate commerce. Such information may be submitted on the basis of each individual institution within the class, with or without naming such institutions, or may be submitted on the basis of reasonable groupings within each class. If the data is submitted on the basis of groupings, it should reflect the total number of institutions within each such group, and the total, average, and median with respect to each of the types of information presented. To the extent possible data expressed in terms of money should be correlated to data as expressed in terms of number of students and employees.

The Board further deems it desirable that the views and arguments submitted include specific suggested standards, expressed in such terms as may be deemed relevant, to the end that the Board's jurisdiction may be asserted over those private colleges and universities whose impact on commerce may be deemed substantial, but not over those whose impact may be deemed insubstantial.

It is the Board's intention to apply such standard or standards as may be adopted to all proceedings pending at the time of the adoption thereof, as well as to all proceedings which may arise thereafter.

[F.R. Doc. 70-8928; Filed, July 13, 1970; 8:47 a.m.]

<sup>4</sup> See, e.g., 19th Annual Report of the National Labor Relations Board, 1954, pp. 2-5; 22d Annual Report, 1957, pp. 7-9; 23d Annual Report, 1958, pp. 7-9; *Floridian Hotel of Tampa, Inc.*, 124 NLRB 261; *Carol Management Corporation*, 133 NLRB 1126; *El Dorado, Inc.*, 151 NLRB 579; *Parkview Gardens*, 166 NLRB 697; *Butte Medical Properties*, 168 NLRB No. 52; *University Nursing Home*, 168 NLRB No. 53.

<sup>5</sup> E.g., *Port Arthur College*, 92 NLRB 152; *California Institute of Technology*, 102 NLRB 1402; *Massachusetts Institute of Technology*, 110 NLRB 1611; *Woods Hole Oceanographic Institution*, 143 NLRB 568.

<sup>6</sup> E.g., *Trustees of Columbia University*, 97 NLRB 424; *University of Miami*, 146 NLRB 1448; *Leland Stanford Junior University*, 152 NLRB 704; *Massachusetts Institute of Technology*, 152 NLRB 598.

<sup>7</sup> 80 Stat. 383, 5 U.S.C. sec. 553.

<sup>8</sup> See Annual Reports and cases cited in footnotes 3 and 4, *supra*; see also *Woods Hole Oceanographic Institution*, *supra*.

# Notices

## DEPARTMENT OF STATE

### Agency for International Development

[Delegation of Authority No. 67; Amdt. 1]

#### ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

##### Delegation of Authority

1. Delegation of Authority No. 67, dated March 1, 1967 (32 F.R. 3781) is amended hereby as follows:

Add to Section 1 a new paragraph (d) as follows:

(d) Delegation of Authority No. 41, of May 8, 1964 (29 F.R. 6892), section 2, relating to section 607 determinations.

2. This amendment to Delegation of Authority No. 67 is effective immediately.

Dated: June 11, 1970.

JOHN A. HANNAH,  
Administrator.

[F.R. Doc. 70-8948; Filed, July 13, 1970;  
8:49 a.m.]

### DIRECTOR, OFFICE OF GOVERNMENT PROPERTY RESOURCES, ET AL.

#### Redelegation of Authority Regarding Contracting Functions

A. Pursuant to the authority delegated to me by Delegation of Authority No. 17, as amended (34 F.R. 6446), from the Administrator of the Agency for International Development, I hereby redelegate the following authority to certain officers of the Office of Government Property Resources with respect to the rehabilitation by a contractor listed in the General Services Administration regional term contract price schedules of property acquired by the Agency for International Development pursuant to section 608 of the Foreign Assistance Act of 1961, as amended:

1. To the Director, Office of Government Property Resources and the Chiefs, domestic A.I.D. Field Offices and their Inspectors. a. To negotiate the estimated man-hours of labor and the spare parts support required for rehabilitation of each item by the contractor. Any amount in excess of \$10,000 per item may not be approved by the Chiefs, domestic A.I.D. Field Offices or by their Inspectors; such amount may be approved only by the Director.

b. To inspect prior to quality assurance inspection each mechanical equipment item completed by the contractor.

c. To inspect and accept each non-mechanical item completed by the contractor.

2. To the Director, Office of Government Property Resources, the Chief, Logistics Service Center, and the Chief, Production Planning Branch, Logistics Service Center. To issue purchase orders

for services and supplies direct to the contractor.

3. To the Director, Office of Government Property Resources and his Quality Assurance Inspectors. To inspect for quality assurance and accept each mechanical equipment item completed by the contractor.

4. To the Director, Office of Government Property Resources and the Chief, Logistics Service Center. To approve the contractor's invoices for direct payment to the contractor.

B. The authorities herein redelegated to the officers named above may not be redelegated further by those officers, but may be exercised by persons authorized by them to perform the functions of their office in an acting capacity.

C. The authorities herein redelegated are to be exercised in accordance with the Federal Property Management Regulations promulgated by the General Services Administration and with the policies, regulations, and procedures promulgated within the Agency for International Development.

D. This redelegation of authority shall be effective immediately.

Dated: June 3, 1970.

JAMES M. KEARNS,  
Acting Assistant Administrator  
for Administration.

[F.R. Doc. 70-8949; Filed, July 13, 1970;  
8:49 a.m.]

## POST OFFICE DEPARTMENT

### INTERNATIONAL MAIL

#### Changes Brought About by Universal Postal Congress

The following are significant changes affecting the exchange of mail with other countries, including Canada and Mexico, that are being brought about by the Universal Postal Congress held in Tokyo in November 1969. These changes become effective on July 1, 1971, and on October 1, 1973, as indicated below, and are published as advance information for the benefit of international mail users. These changes do not apply to domestic mail.

A. *Changes effective July 1, 1971.* The minimum size permitted for international post cards and postal cards will be increased from 3x4¼ inches to 3½x-5½ inches. The maximum size limit of 4¼x6 inches remains the same.

2. International reply-paid post cards will be discontinued.

3. A new postage rate structure will be introduced in place of the current 1- and 2-ounce uniform weight steps for assessing surface postage rates. The new weight-step pattern will be 1, 2, 4, 8, 16,

32, and 64 ounces. The applicable rates will be announced later.

4. Reductions in weight limits will apply to letter-packages, small packets, printed matter, and matter for the blind, as follows:

*Letter-packages.* Limit reduced from 4 pounds 6 ounces to 4 pounds.

*Small packets.* Limit reduced from 2 pounds 3 ounces to 2 pounds.

*Printed matter—Books, catalogs, and directories.* Limits reduced from 11 pounds to 10 pounds; from 22 pounds to 20 pounds; and from 33 pounds to 30 pounds.

*Prints other than books, catalogs, and directories.* Limits reduced from 6 pounds 9 ounces to 4 pounds; from 22 pounds to 20 pounds; and from 33 pounds to 30 pounds.

*Matter for the blind.* Limit reduced from 15 pounds 6 ounces to 14 pounds.

5. The *Samples of merchandise* class of mail will be discontinued. Items formerly mailed as "Samples" must be mailed as "Small packets" or "Letter packages" (if permitted by the country concerned), or as parcel post.

6. A reply envelope, card or wrapper enclosed with printed material from another country cannot be addressed to an agent—such as a bank—in the addressee's country. The reply envelope must be addressed for delivery in the country from which the printed material originated.

B. *Changes effective October 1, 1973.* The minimum size of letters and other postal union mail in envelopes will be increased from 3 x 4¼ inches to 3½ x 5½ inches. Mail in package form on which the address surface measures less than 3½ x 5½ inches must have a rectangular address tag attached, the dimensions of which are not less than 2¾ x 4 inches.

(5 U.S.C. 301, 39 U.S.C. 501, 505)

DAVID A. NELSON,  
General Counsel.

[F.R. Doc. 70-8908; Filed, July 13, 1970;  
8:46 a.m.]

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### MISSION CREEK RESERVATION IN CALIFORNIA

#### Notice of Termination of Federal Supervision Over Property and Individual Members Thereof

Notice is hereby given that the Indians named below and the dependent members of their immediate families named below who are not members of any other tribe or band of Indians are no longer entitled to any of the services performed by the

United States for Indians because of their status as Indians; that all statutes of the United States which affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner as they apply to other citizens within their jurisdiction. Title to the land on the Mission Creek Reservation has passed from the U.S. Government under distribution plan dated May 6, 1966.

#### MISSION CREEK RESERVATION

All those certain lots, pieces or parcels of land, situated, lying and being in the county of Riverside, State of California, and bounded and particularly described as follows, to wit:

Sections 12, 13, and 14, T. 2 S., R. 3 E., San Bernardino Base and Meridian, and S $\frac{1}{2}$  section 1 and E $\frac{1}{2}$  section 2, T. 2 S., R. 3 E., San Bernardino Base and Meridian, all in Riverside County, Calif., containing 2,555.98 acres, more or less.

Name	Date of birth	Address
Lena P. Chaparosa <sup>1</sup> ...	5-25-1907	Post Office Box 162, Banning, Calif. 92220.
Alfred B. England...	8-9-1954	518 Santa Ana, Newport Beach, Calif. 92660.
Jean N. England.....	7-12-1928	Do.
Susan M. England.....	3-5-1957	Do.
Peter J. Grand <sup>1</sup> .....	5-17-1892	Post Office Box 365, Palm Springs, Calif. 92262.
Eileen Kitchen.....	8-26-1928	Post Office Box 781, Banning, Calif. 92220.
John J. Kitchen <sup>1</sup> .....	4-21-1919	Post Office Box 26, Anza, Calif. 92306.
Gloria P. Martin.....	5-1-1934	Star Route, Box 113-A, Moreno, Calif. 92360.
Henry Maxey, Jr.....	12-24-1961	2137 Westinghouse, San Diego, Calif. 92111.
Madeline Maxey.....	10-15-1960	Do.
Maryanne Maxey.....	8-6-1958	Do.
Necia K. Maxey.....	2-5-1938	Do.
Wallace J. Newman <sup>1</sup> .....	5-28-1902	Post Office Box 1562, Whittier, Calif. 90605.
Wallace J. Newman, Jr.	11-4-1931	Do.
Mercedes N. Stone <sup>1</sup> ...	1-23-1906	3701 Fillmore, Sp. 177, Rancho Riverside, Riverside, Calif. 92505.

<sup>1</sup> Original allottees.

This notice is issued pursuant to the Act of August 18, 1958 (72 Stat. 619), amended August 11, 1964 (78 Stat. 390), including the provisions in the 1964 Act that this notice affects only Indians who received any part of the assets of the reservation and the dependent members of their immediate families who are not members of any other tribe or band of Indians; and that all restrictions and tax exemptions applicable to trust or restricted lands or interests therein owned by the Indians who are affected by this notice are terminated.

This notice becomes effective as of the date of publication in the FEDERAL REGISTER.

HARRISON LOESCH,

Assistant Secretary of the Interior.

JULY 1, 1970.

[F.R. Doc. 70-8907; Filed, July 13, 1970; 8:46 a.m.]

## DEPARTMENT OF AGRICULTURE

Office of the Secretary  
KANSAS

### Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named county in the State of Kansas natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

KANSAS

Crawford.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 8th day of July 1970.

CLIFFORD M. HARDIN,  
Secretary of Agriculture.

[F.R. Doc. 70-8919; Filed, July 13, 1970; 8:47 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

### CONDITIONS FOR MARKETING NEW DRUGS EVALUATED IN DRUG EFFICACY STUDY

#### Drugs for Human Use; Drug Efficacy Study Implementation

As part of the Drug Efficacy Study program, in which the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, undertook a review of drugs cleared through the new-drug procedures between 1938 and October 10, 1962, the Food and Drug Administration publishes implementation notices to inform interested persons of the evaluations of the effectiveness of such drugs. The implementation notices published thus far have described certain time limits and other information applicable to the drugs. Setting forth such information once instead of in each notice, thereby eliminating the need for repetition of certain information common to many of the notices, would be an aid in publishing the implementation notices. Accordingly, that information is described herein and will be applicable, by specific reference thereto, in future announcements that implement National Academy of Sciences-National Research Council drug efficacy studies on drugs for use in man. All time periods listed below are to be computed from the date

of publication of the implementing notice in the FEDERAL REGISTER.

(a) When a new drug is evaluated as effective for one or more indications:

(1) Holders of approved or effective new-drug applications for that drug shall submit supplements as follows unless otherwise specified in the notice:

(i) Within 60 days, a supplement for revised labeling, as needed, to be in accord with the reevaluation of the drug as reflected in the labeling conditions described in the implementation notice; and complete container labeling if current container labeling has not been submitted; and

(ii) Within 180 days, adequate data to assure the bioavailability of the drug in the formulation which is marketed, if specified in the notice (if such data are already included in the application, reference thereto will suffice); and

(iii) Within 60 days, a supplement containing updating information needed to make the application current; or if the implementation notice authorizes abbreviated applications and supplements, updating information to the extent required in abbreviated new-drug applications (§ 130.4(f)) published in the FEDERAL REGISTER Apr. 24, 1970; 35 F.R. 6574) for items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new-drug application form FD-356H (§ 130.4(c)).

(2) If satisfactory information is submitted pursuant to an implementation notice, new-drug applications which became effective on the basis of safety prior to October 10, 1962, will be approved on the basis of effectiveness as well as safety of the drug. If an applicant exercises the option to use indications evaluated as "possibly effective" or "probably effective" for the time period allowed for submitting evidence of effectiveness, approval will be withheld pending deletion of such claims or submission of substantial evidence in support thereof.

(3) Any person who does not hold an approved or effective new-drug application and who distributes or intends to distribute such drug shall submit a new-drug application containing labeling and other information in accord with the implementation notice within the following time periods:

(i) Within 60 days for abbreviated new-drug applications (requirements described in § 130.4(f)) published in the FEDERAL REGISTER April 24, 1970 (35 F.R. 6574)) when no bioavailability data are required;

(ii) Within 180 days for abbreviated new-drug applications in which bioavailability data are to be included; or

(iii) Within 180 days for full new-drug applications (§ 130.4(c)).

(4) Within 30 days, any person who would be adversely affected by deletion from the labeling of claims for which substantial evidence of effectiveness is lacking may request a hearing to show why such indications should not be deleted. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue

of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in a hearing.

(b) The holder of an approved or effective application for a drug which is within the scope of an implementation notice and any person marketing such drug without approval shall put into use within 60 days, and in advance of approval, labeling which is in accord with the conditions set forth in the implementation notice, if any.

(c) Twelve months will be provided for the marketing of a drug bearing labeling containing indications evaluated as "probably effective," during which time holders of approved applications and persons marketing such drug without approval may obtain and submit substantial evidence of effectiveness of the drug for such uses.

(d) Six months will be provided for the marketing of a drug bearing labeling containing indications evaluated as "possibly effective," during which time holders of approved applications and persons marketing such drug without approval may obtain and submit substantial evidence of effectiveness of the drug for such uses.

(e) At the end of the 12-month and 6-month periods, any such data will be evaluated and the conclusions published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of all new-drug applications for such drug pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act, unless in the case of a drug that is effective for some indications, all other indications are deleted from the labeling.

(f) Any data submitted in response to an implementation notice to support indications for which a drug is classified as other than effective must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

(g) If a drug which falls within the scope of the implementation notice is labeled or advertised for use in a condition other than one provided for in such notice, it may be regarded as an unapproved new drug subject to regulatory proceedings unless such recommended use is approved in a new drug application or provided for in a notice of claimed investigational exemption for a new drug.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53,

as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 15, 1970.

CHARLES C. EDWARDS,  
*Commissioner of Food and Drugs.*

[F.R. Doc. 70-8938; Filed, July 13, 1970;  
8:48 a.m.]

#### Office of the Secretary

#### OFFICE OF THE REGIONAL ATTORNEY

#### Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare reads as follows:

SEC. 1S80-00 *Mission.* The Regional Attorney serves as the legal adviser to the Regional Director and as chief legal officer for the DHEW programs and activities served by the Office of the Regional Director.

SEC. 1S80-10 *Organization.* On all matters within the competence of the legal profession, the Regional Attorney is subject to the supervision of the General Counsel; on all other matters, he is subject to the supervision of the Regional Director.

SEC. 1S80-20 *Functions.* To carry out this function, the Regional Attorney:

1. Advises and counsels the Regional Director and operating program personnel on legal issues relating to their responsibilities within the region;
2. As requested by the Regional Director, assists in legal aspects of program development and of policy problem solution;
3. Provides professional legal services, such as preparation of legal instruments, memoranda, reports, and interpretive analyses;
4. Represents or counsels the Regional Director in negotiations to resolve actual and potential problems of a legal nature;
5. Provides appropriate legal assistance to state agencies and officials in connection with DHEW programs, as requested by the Regional Director;
6. As requested by the General Counsel, prepares for and conducts administrative hearings, aids the U.S. attorney in preparation for and conduct of litigation, and performs such other duties as may be requested by the General Counsel;
7. Seeks to so order his time and workload priorities as to meet the needs of the Regional Office as determined by the Regional Director;
8. Subject to final approval by the Regional Director, selects, promotes, and takes all personnel actions with respect to his professional and clerical staff, in accordance with the personnel policies of the Office of the General Counsel.

Dated: July 2, 1970.

ELLIOTT L. RICHARDSON,  
*Secretary.*

[F.R. Doc. 70-8934; Filed, July 13, 1970;  
8:48 a.m.]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-245]

### CONNECTICUT LIGHT AND POWER CO., ET AL.

#### Notice of Availability of Statement on Environmental Considerations

Pursuant to the National Environmental Policy Act of 1969 and to the Atomic Energy Commission's regulations in 10 CFR Part 50, notice is hereby given that a document entitled "Statement on Environmental Considerations Related to the Proposed Operation by The Connecticut Light and Power Co., The Hartford Electric Light Co., Western Massachusetts Electric Co., and The Millstone Point Company of Millstone Nuclear Power Station Unit 1" is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Single copies of the statement may be obtained by writing to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 7th day of July 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,  
*Director,*

*Division of Reactor Licensing.*

[F.R. Doc. 70-8900; Filed, July 13, 1970;  
8:45 a.m.]

[Docket No. 50-75]

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### Notice of Proposed Issuance of Construction Permit and Amended Facility License

The Atomic Energy Commission (hereinafter "the Commission") is considering the issuance of a construction permit to the National Aeronautics and Space Administration (NASA) of Cleveland, Ohio. The permit would authorize NASA to make alterations to its Zero Power Reactor I (ZPR-I) which is located on NASA's Lewis Research Center site in Cleveland. The alterations involve, among other things, the proposed use of a 10-inch core tank. The ZPR-I has been operated at 100 watts (thermal) under Facility License No. CX-13 using a 12-inch core tank.

As the application is complete enough to permit all evaluations, upon completion of the alterations to ZPR-I in compliance with the terms and conditions of the application and the construction permit, and in the absence of good cause to the contrary, the Commission will issue to NASA without further prior notice an amended facility license. The amended license would authorize NASA to operate the modified ZPR-I at power levels up to 100 watts (thermal).

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a

request for a hearing, and any person whose interest may be affected by the issuance of this construction permit and amended facility license may file a petition for leave to intervene. A request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to these proposed issuances, see (1) the application dated May 12, 1970, and supplement thereto dated June 3, 1970, (2) the proposed construction permit and proposed amended license with Technical Specifications, and (3) the related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of items (2) and (3) above may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 2d day of July 1970.

For the Atomic Energy Commission,

PAUL F. COLLINS,  
Acting Assistant Director for  
Reactor Operations, Division  
of Reactor Licensing.

[F.R. Doc. 70-8899; Filed, July 13, 1970;  
8:45 a.m.]

[Docket No. PRM-40-12]

## NEFARNIN ASSOCIATES

### Notice of Denial of Petition for Reconsideration

Nefarnin Associates of Boston, Mass., on May 15, 1969, filed with the Atomic Energy Commission a petition for reconsideration of the Commission's denial of a petition for rule making, published in the FEDERAL REGISTER of April 24, 1969 (34 F.R. 6870), to amend 10 CFR Part 40 to exempt from licensing requirements cufflinks of depleted uranium. In its April 24 notice, the Commission concluded that, in light of its criteria for approval of products intended for use by the general public published in the FEDERAL REGISTER on March 16, 1965 (30 F.R. 3462), set forth below, cufflinks of depleted uranium are adornments, the use of which would result in a small increase of radiation exposure among the general public without commensurate benefit, and that it would not be in the public interest to institute the public rule making proceeding requested by the petitioner.

1. Nefarnin Associates contends that the Commission's denial of its petition for rule making conflicts with the standards set out in its criteria for approval of products intended for use by the general public (consumer product criteria). It reads the criteria as indicating (1)

that if a consumer product would emit only a minimal amount of radiation, the Commission will approve its distribution without a careful weighing of harms and benefits (criterion 2), and (2) that degree of benefit from use of the product will not be considered except where tangible benefits to the public are questionable, and approval may result in widespread use of radioactive material (criterion 3).

The criteria referred to do not support petitioner's petition. Criterion 2, to which the petitioner particularly refers, states that "Approval of a proposed consumer product will depend upon both associated exposures of persons to radiation and the apparent usefulness of the product." While criterion 2 emphasizes that when radiation from a consumer product is above a few percent of certain levels, a decision as to approval will be more difficult, it was not intended to, and does not imply, that no evaluation would be necessary if radiation levels are lower.

Criterion 3 sets forth, among other things, pertinent considerations for an application in which benefits of the product are questionable and use widespread. It does not follow, however, that if benefits are negligible and the use is not widespread, the Commission would automatically approve distribution of the product. Furthermore, criterion 3 specifically states that "the use of radioactive materials in toys, novelties, and adornments may be of marginal benefit."

Criterion 9 lists the principal considerations for the evaluation of proposals for use of radioactive materials in consumer products. One of these considerations is the benefit that will accrue to or be denied the public because of the utility of the product by approval or disapproval of a specific product. It is questionable whether, if the use of uranium in cuff links is disapproved, the public would be denied any benefit which it would otherwise have had.

The criteria reflect the advice given by the Federal Radiation Council in its Report No. 1, approved by the President May 30, 1960, that "there should not be any man-made radiation exposure without the expectation of benefit resulting from such exposure \* \* \* It is basic that exposure to radiation should result from a real determination of its necessity." The claimed utility of uranium in cufflinks for its decorative and weight qualities, is of insufficient validity, in light of such considerations, to justify its exemption. (The Federal Radiation Council was established as a statutory body by an amendment to the Atomic Energy Act of 1954 (Public Law 86-373) in 1959, to advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States.)

2. Nefarnin Associates also maintains that the Commission's denial of its petition is unreasonably discriminatory in that (a) the Commission "allows" radium to be used in watch dials despite

the fact that radium dials emit many times the radiation that uranium cufflinks emit, and (b) the Commission allows uranium to be used for coloring glass and glazes, and thorium to be used in gas mantles, both primarily decorative purposes, which result in radiation emissions comparable to that from uranium cufflinks. It also maintains that uranium cufflinks have utility in that their unusual weight prevents cuffs from riding up.

The statutory authority given the Commission by the Atomic Energy Act of 1954 includes authority to license or regulate certain radioactive material does not include authority to license or regulate naturally occurring radium, including radium used in luminous timepieces.

Gas mantles are not used for primarily decorative purposes. The exempt use of source material in glass and glazes was authorized, before the adoption of the Commission's consumer product criteria, in consideration of more than simply their "decorative qualities" as inferred by petitioner. In approving the use of uranium to color glass and glazes for certain decorative purposes, the Commission viewed the fact that these were long-standing uses, predating the Atomic Energy Act and regulation of the use of uranium by the Commission, as an important consideration in allowing their continuance.<sup>1</sup> There are considerable problems involved in imposing regulatory controls to prohibit long-continued practices and uses, that do not arise in disapproving distribution of new items containing uranium, such as the petitioner's cuff links. For example, it would be very difficult to locate or retrieve all the uranium-containing glazes distributed over several decades or to impose regulatory controls which would effectively differentiate glazes produced some time ago from those recently produced.

There are other differences between uranium cuff links and uranium glazes pertinent to approving exempt use of cuff links in contrast to use of glazes. For example, in glazes the uranium constitutes only a few percent by weight of the product, whereas, the petitioner's cuff links would be 100 percent by weight uranium. Also, in glazes the uranium is bound up chemically in a true glass; whereas, in the petitioner's cuff links, the uranium is of a chemically active elemental form.

The criteria have been applied to the use for which exemption has been requested in Nefarnin's petition on a case-by-case basis as stated in the introductory paragraph of the criteria. Thus, the use has been evaluated on its own merits with reference to the criteria, and not on the basis of other uses wherein the relevant factors under consideration were different.

Petitioner claims utility of uranium in cufflinks because of weight. However, if there is a need for high density material

<sup>1</sup> See the statement of the Commission on this subject in section 5 of Criteria for Approval of Products Intended for Use by the General Public, 30 F.R. 3462, Mar. 16, 1965.

for the manufacturing of heavy cufflinks, nonradioactive materials such as gold, tantalum or lead are available.

3. Nefarin Associates also contends that the Commission's consumer product criteria do not forbid marketing of products because at some future time too many radioactive products may appear on the market, but rather support a more liberal policy which could be made more stringent if numerous requests to sell radioactive products are received. In line with this theory, petitioner offers to accept a limitation on an exemption to a short period, or to a limited number of cufflinks, to enable the Commission to review the exemption in light of subsequent requests for exemption of other products.

While the Commission's consumer product criteria state that approval of consumer products containing radioactive material is accomplished on a case-by-case basis, the Commission policy is to consider the types of products which would be distributed as well as the numbers of each type. The fact that the consumer product criteria indicate that a reconsideration of the Commission's policy would be necessary if certain levels of dosage were approached was not intended to mean that no assessment would be made of individual types.

An exemption for the use of uranium in cufflinks subject to a limitation of time, or numbers which may be distributed, would not solve the basic problem, as stated in the Commission's denial of the petition for rulemaking—that of a small increase in radiation exposure among the general public without commensurate benefit.

Sufficient grounds not having been presented for further consideration of Nefarin Associates' petition for rule making, we adhere to the view that it would not be in the public interest to institute the public rule making proceeding requested by the petitioner.

Accordingly, the petition of Nefarin Associates for reconsideration of the Commission's denial of its petition for rule making published April 24, 1969, is denied.

Dated at Washington, D.C., this 17th day of June 1970.

For the Atomic Energy Commission.

W. B. McCool,  
Secretary.

[F.R. Doc. 70-8901; Filed, July 13, 1970; 8:45 a.m.]

## CIVIL AERONAUTICS BOARD

[Dockets Nos. 22283, 22284; Order 70-7-44]

### FONTANA AVIATION, INC.

#### Order To Show Cause

Issued under delegated authority July 8, 1970.

In accordance with notices of intent filed by the Postmaster General on December 16, 1969, pursuant to 14 CFR, Part 298, final service rates for the transportation of mail by aircraft were

established by Order 70-1-113, January 23, 1970, for Fontana Aviation, Inc. These rates contemplated six trips weekly in each direction in the markets involved.

On June 17, 1970, the Postmaster General filed two petitions stating that a review of air taxi mail service on these routes reveals that weekend trips cannot be justified in view of the volume of mail involved, and that he has been authorized by the carrier to petition for new rates based on five round trips per week. The current and proposed rates per great circle aircraft mile are as follows:

Docket	Between	Rates in cents	
		Order 70-1-113	Proposed
22283.....	Iron Mountain and Detroit via Lansing, Mich.	49.91	56.93
22284.....	Iron Mountain, Mich. and Chicago, Ill., via Green Bay and Milwaukee, Wis.	49.91	63.71

The Board finds it is in the public interest to fix and determine the fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petitions and other matters officially noticed, it is proposed to issue an order<sup>1</sup> to include the following findings and conclusions:

On and after June 17, 1970, the fair and reasonable final service mail rates per great circle aircraft mile to be paid to Fontana Aviation, Inc., entirely by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, based on five round trips per week shall be as follows:

Docket	Between	Rates in cents	
		Order 70-1-113	Proposed
22283.....	Iron Mountain and Detroit via Lansing, Mich.	49.91	56.93
22284.....	Iron Mountain, Mich. and Chicago, Ill., via Green Bay and Milwaukee, Wis.	49.91	63.71

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its organization regulations 14 CFR 385.14(f):

It is ordered, That:

1. Fontana Aviation, Inc., the Postmaster General, Eastern Air Lines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., North Central Airlines, Inc., Ozark Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions.

<sup>1</sup> As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

sions and fix, determine, and publish the final rates for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rates of compensation to be paid to Fontana Aviation, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the attached appendix; and

3. This order shall be served upon Fontana Aviation, Inc., the Postmaster General, Eastern Air Lines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., North Central Airlines, Inc., and Ozark Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL]

HARRY J. ZINK,  
Secretary.

#### APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-8954; Filed, July 13, 1970; 8:50 a.m.]

[Dockets Nos. 20291, 20993; Order 70-7-37]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Fare and Rate Matters

Issued under delegated authority July 7, 1970.

By Order 70-6-142, dated June 25, 1970, action was deferred, with a view toward eventual approval, on certain resolutions incorporated in agreements adopted by the International Air Transport Association (IATA). The agreements would amend existing resolutions by the inclusion of a new currency in Oman and Muscat and by providing for a change in the currency of Gibraltar to the decimal system.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 70-6-142 will herein be made final.

Accordingly, it is ordered, That: Agreements CAB 21821 and 21838 be and hereby are approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,  
Secretary.

[F.R. Doc. 70-8953; Filed, July 13, 1970;  
8:50 a.m.]

[Docket No. 22220]

### STERLING AIRWAYS A/S

#### Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on July 6, 1970, at 2 p.m., e.d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 18, 1970.

[SEAL] HARRY H. SCHNEIDER,  
Hearing Examiner.

[F.R. Doc. 70-8936; Filed, July 13, 1970;  
8:48 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18906, 18907; FCC 70-706]

### SOUTHERN BROADCASTING CO. AND FURNITURE CITY TELEVISION CO., INC.

#### Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Southern Broadcasting Co. (WGHP-TV), High Point, N.C., for renewal of broadcast license, Docket No. 18906, File No. BRCT-574; Furniture City Television Co., Inc., High Point, N.C., for construction permit for new television broadcast station, Docket No. 18907, File No. BPCT-4302.

1. The Commission has before it for consideration the above-captioned applications, one requesting a renewal of license to operate on channel 8, High Point, N.C., and the other requesting a construction permit for a new television broadcast station to operate on channel 8, High Point, N.C.<sup>1</sup>

<sup>1</sup> On Nov. 3, 1969, WEAL, Inc., licensee of television broadcast station WUBC, channel 48, Greensboro, N.C., filed an application (BPCT-4315) for a construction permit to specify operation on channel 8, High Point, N.C., in lieu of channel 48, Greensboro, N.C. However, on June 12, 1970, the application was dismissed pursuant to the applicant's request.

2. In our Notice of Inquiry in Docket No. 18774, 20 FCC 2d 880 (1969), we set forth tentative standards concerning the ascertainment of community problems by broadcast applicants. We find that both applicants have satisfactorily complied with those standards.

3. Southern Broadcasting Co. is qualified to own and operate television broadcast station WGHP-TV and Furniture City Television Co., Inc., is qualified to construction, own and operate the proposed new television broadcast station. The applications are, however, mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. The Commission is, therefore, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below. Since this is a renewal-new applicant proceeding, it will be governed by our Policy Statement on Comparative Hearings Involving Regular Renewal Applicants, 22 FCC 2d 424 (1970).<sup>2</sup>

4. It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Southern Broadcasting Co. and Furniture City Television Co., Inc., are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. It is further ordered, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: July 1, 1970.

<sup>2</sup> In this connection, prehearing discovery, pursuant to §§ 1.311-1.325 of the Commission's rules, for the purposes of making a comparative evaluation of the competing applications should await a determination as to whether Southern Broadcasting Co.'s program service has been substantially attained to meeting the needs and interests of its area and that its operation of the station has not been characterized by serious deficiencies.

Released: July 8, 1970.

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

[F.R. Doc. 70-8946; Filed, July 13, 1970;  
8:49 a.m.]

## FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder  
License No. 69]

### CALDWELL SHIPPING CO.

#### Order of Revocation

By letter dated June 19, 1970, the Federal Maritime Commission was advised that Caldwell Shipping Co., Jacksonville, Fla., a division of Luckenbach Steamship Co., Inc., operating under FMC License No. 69 was sold to the firm of Strachan Shipping Co. on May 15, 1970.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order 201.1, § 6.03.

It is ordered, That the Independent Ocean Freight Forwarder License No. 69 be reissued in the name of Luckenbach Steamship Co., Inc., doing business as Carolina Forwarding Corp., Luckenbach Steamship Co., Inc., doing business as Heide Co., and Luckenbach Steamship Co., Inc.—Tampa, Divisions of Luckenbach Steamship Co., Inc., thereby eliminating Caldwell Shipping Co. from the license.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Caldwell Shipping Co.

JOHN F. GILSON,  
Deputy Director,  
Bureau of Domestic Regulation.

[F.R. Doc. 70-8921; Filed, July 13, 1970;  
8:47 a.m.]

### EVANS PRODUCTS CO. AND RETLA STEAMSHIP CO.

#### Notice of Agreement Filed

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 the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, 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. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a

statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Amy Scupi, Esq., Galland, Kharasch, Calkins and Lippman, Canal Square, 1054 31st Street NW., Washington, D.C. 20007.

Agreement No. 9549-5 between Retla Steamship Co. and Evans Products Co. modifies Article 5 of the basic agreement by redefining the amount of compensation to be paid Retla for services rendered under the agreement as agent of Evans.

Dated: July 7, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[F.R. Doc. 70-8923; Filed, July 13, 1970;  
8:47 a.m.]

#### FOSS ALASKA LINE, INC., AND MITSUI O.S.K. LINES, LTD.

##### Notice of Agreement Filed

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 the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, 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. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. A. J. Iamundo, Mitsui O.S.K. Lines, Ltd.,  
17 Battery Place, New York, N.Y. 10004.

Agreement No. 9877 between Foss Alaska Line, Inc., and Mitsui O.S.K. Lines, Ltd., provides for a through billing arrangement covering the transportation of cargo from ports in Alaska to ports in Japan with transshipment at Seattle, Wash., in accordance with the terms and conditions of the agreement.

Dated: July 7, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[F.R. Doc. 70-8922; Filed, July 13, 1970;  
8:47 a.m.]

#### W. R. KEATING & CO., INC. AND WTC AIR FREIGHT

##### Notice of Agreement Filed

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 the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, 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. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Charles V. Thornton, Paul, Hastings, Janofsky & Walker, 510 South Spring Street, Los Angeles, Calif. 90012.

Federal Maritime Commission Agreement No. FF 70-7 has been filed for the purpose of obtaining Commission approval pursuant to section 15, Shipping Act, 1916, of the sale of all the issued and outstanding capital stock of W. R. Keating & Co., Inc. (Keating) to WTC Air Freight (WTC).

Keating, a New York corporation, holds Independent Ocean Freight Forwarder License No. 190, and WTC, a California corporation, owns 100 percent of the issued and outstanding capital stock of

the following firms: Penson Forwarding Corp. (FMC License No. 879); John H. Faunce, Inc. (FMC License No. 712); A. J. DeMay & Co., Inc. (FMC License No. 833); and Regis F. Kramer Associates (FMC License No. 1238).

WTC intends to relinquish the FMC licenses of A. J. DeMay & Co., Inc. and Regis F. Kramer Associates shortly.

Dated: July 7, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[F.R. Doc. 70-8924; Filed, July 13, 1970;  
8:47 a.m.]

#### ROYAL CARIBBEAN CRUISE LINE A/S

##### Notice of Application for Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Royal Caribbean Cruise Line A/S, Haakon VII's gate 1, Oslo 1, Norway.

Dated: July 8, 1970.

FRANCIS C. HURNEY,  
Secretary.

[F.R. Doc. 70-8925; Filed, July 13, 1970;  
8:47 a.m.]

#### FEDERAL POWER COMMISSION

[Dockets Nos. RP70-8, RP70-9]

#### COLORADO INTERSTATE GAS CO.

##### Notice of Filing of Stipulation and Agreement

JULY 10, 1970.

Take notice that on June 29, 1970, Colorado Interstate Gas Co. (CIG) submitted for approval a stipulation and agreement in Dockets Nos. RP70-8 and RP70-9. The stipulation and agreement would resolve all issues in these proceedings except that CIG's plan for disposing of the accumulated balances in its deferred tax reserve account, Docket No. RP70-9, is to be withdrawn without prejudice. The stipulation and agreement provides for a reduction in the increase proposed by CIG in Docket No. RP70-8 and for flow through refunds.

The stipulation and agreement provides for upward adjustment of CIG's peaking service rate on November 1, 1970, and CIG's other rates on or about November 1, 1970, when the Powder River project facilities are placed in service; allows CIG to increase its rates to reflect

certain limited rate increases of its suppliers and requires CIG to reduce its rates to reflect all supplier rate reductions, effective after June 30, 1970; requires CIG to flow through to its jurisdictional customers the appropriate portion of all refunds, together with interest, received from its suppliers which are applicable to purchases by CIG from such suppliers during the term of the stipulation and agreement, as defined therein; and provides, with certain exceptions, that CIG will not file for an increase in its jurisdictional rates which would become effective prior January 1, 1972, after suspension, if any.

Copies of the stipulation and agreement were served on all parties to these proceedings, all of CIG's jurisdictional customers and interested State commissions.

Answers or comments relating to the proposed stipulation and agreement may be filed with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, on or before July 24, 1970.

KENNETH F. PLUMB  
*Acting Secretary.*

[F.R. Doc. 70-9016; Filed, July 13, 1970;  
8:50 a.m.]

[Docket No. CI71-5]

## LOUISIANA LAND AND EXPLORATION CO.

### Notice of Application

JULY 10, 1970.

Take notice that on July 1, 1970, the Louisiana Land and Exploration Co. (applicant), 225 Baronne Street, Post Office Box 60350, New Orleans, La. 70160, filed in Docket No. CI71-5 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corp. from Caillou Island Field, Lafourche Parish, La., and the Lake Racourci Field, Terrebonne Parish, La., at a total initial rate of 25 cents per Mcf at 15.025 p.s.i.a. By letter of July 9, 1970, applicant agrees to accept a certificate conditioned to total initial rates of 20 cents per Mcf for gas well gas and 18.5 cents per Mcf for casinghead gas. The details of applicant's proposal are more fully set forth in the application which is on file with the Commission and open to public inspection.

In order to coordinate consideration of the subject application with consideration of the related pipeline certificate application filed in Docket No. CP70-314, any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate ac-

tion to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
*Acting Secretary.*

[F.R. Doc. 70-9015; Filed, July 13, 1970;  
8:50 a.m.]

## FEDERAL RESERVE SYSTEM

### MERCANTILE BANKSHARES CORP.

#### Order Approving Action To Become a Bank Holding Company

In the matter of the application of Mercantile Bankshares Corp., Baltimore, Md., for approval of action to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of a new bank into which will be merged Mercantile-Safe Deposit and Trust Co., Baltimore, Md.; and a new bank into which will be merged Annapolis Banking and Trust Co., Annapolis, Md.

There has come before the Board of Governors, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Mercantile Bankshares Corp., Baltimore, Md., for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of a new bank into which will be merged Mercantile-Safe Deposit and Trust Co., Baltimore, Md.; and a new bank into which will be merged Annapolis Banking and Trust Co., Annapolis, Md.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and the Maryland Commissioner of Banking, and requested their views and recommendation. Neither ob-

jected to approval of the proposed transaction.

Notice of receipt of the application was published in the FEDERAL REGISTER on October 9, 1969 (34 F.R. 15675), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The 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<sup>1</sup> 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 period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,<sup>2</sup>  
July 7, 1970.

[SEAL] KENNETH A. KENYON,  
*Deputy Secretary.*

[F.R. Doc. 70-8902; Filed, July 13, 1970;  
8:45 a.m.]

## SEVERN BANK AND TRUST CO.

### Order Approving Merger of Banks

In the matter of the application of Severn Bank and Trust Co. for approval of merger with The Annapolis Banking and Trust Co.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Severn Bank and Trust Co., Annapolis, Md., which is to be a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and The Annapolis Banking and Trust Co., Annapolis, Md., under the charter of the former and the name of the latter. As an incident to the merger, the four offices of The Annapolis Banking and Trust Co. would become branches of the resulting bank. 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 received pursuant to the Act on the competitive factors involved in the proposed merger,

<sup>1</sup> 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 Richmond. Dissenting Statements of Governors Mitchell and Brimmer also filed as part of the original document and available upon request.

<sup>2</sup> Voting for this action: Chairman Burns and Governors Robertson, Daane, Maisel, and Sherrill. Voting against this action: Governors Mitchell and Brimmer.

It is hereby ordered, For the reasons set forth in the Statement<sup>1</sup> of this date concerning the application of Mercantile Bankshares Corp. to become a bank holding company (of which proposal the present application is an incident), that the said application be and hereby is approved provided that the 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 Richmond pursuant to delegated authority.

By order of the Board of Governors,<sup>2</sup>  
July 7, 1970.

[SEAL] KENNETH A. KENYON,  
Deputy Secretary.

[F.R. Doc. 70-8903; Filed, July 13, 1970;  
8:45 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[70-4893]

### NATIONAL FUEL GAS CO. ET AL.

#### Notice of Proposed Issue and Sale of Debentures at Competitive Bidding by Holding Company and Long- Term Notes to Holding Company and Short-Term Notes to Banks by Subsidiary Companies

JULY 8, 1970.

Notice is hereby given that National Fuel Gas Co. ("National"), 30 Rockefeller Plaza, New York, N.Y. 10020, a registered holding company, and three of its gas utilities subsidiary companies, Iroquois Gas Corp. ("Iroquois"), United Natural Gas Co. ("United"), and Pennsylvania Gas Co. ("Penn"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43, 45, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

National proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, \$21 million principal amount of ---- percent Debentures, Series due August 1975. The interest rate of

the debentures (which shall be a multiple of one-eighth of 1 percent and the price, exclusive of accrued interest, to be paid to National (which shall be not less than 99 percent nor more than 102 percent of the principal amount thereof) will be determined by the competitive bidding. The debentures will be issued under an indenture dated as of August 15, 1968, between National and Manufacturers Hanover Trust Co. as Trustee, as heretofore supplemented and as to be further supplemented by a Third Supplemental Indenture. The debentures may not be redeemed prior to August 15, 1975, if such redemption is for the purpose or in anticipation of their refunding through the use, directly or indirectly, of funds borrowed by the company at an effective interest cost of less than the effective interest cost of the debentures.

National proposes to use the net proceeds from the sale of its debentures to acquire for cash \$21 million principal amount of unsecured long-term promissory notes from its three above-mentioned gas utility subsidiary companies (Iroquois \$13,100,000, United \$4,700,000, and Penn \$3,200,000). Concurrently, the subsidiary companies will prepay \$8,400,000 of their notes payable to National maturing December 31, 1970, as follows: Iroquois, \$6,700,000; United, \$1 million; and Penn, \$1,400,000. National will use the proceeds of the subsidiaries' not prepayments to prepay \$8,400,000 of its notes payable to The Chase Manhattan Bank (N.A.), maturing December 31, 1970. The notes issued and sold to National will mature on August 15, 1975, and will bear interest at a rate per annum equal to the effective cost of money incurred by National on its proposed sale of debentures, rounded to the next one-tenth of 1 percent, and such interest will be payable semiannually. The net proceeds derived from the sale of these long-term notes, together with funds available from current operations, will be used by the subsidiary companies to make additions to utility plant, to prepay notes to National aggregating \$8,400,000, and to increase and replenish working capital. The total cost of the 1970 plant expansion programs of the three subsidiary companies is estimated at \$18,555,000.

Iroquois, United, and Penn also propose to issue and sell from time to time to the banks named below short-term promissory notes in the respective aggregate amounts of \$7 million for Iroquois, \$5,500,000 for United, and \$3,300,000 for Penn. Each such note will be dated as of the date of issue, will mature not later than 9 months thereafter, will bear interest at the prime commercial rate in effect on the issue date, and will be prepayable at any time, in whole or in part, without penalty or premium. Such 9-month notes will aggregate about 5.1 percent of the principal amount and par value of Iroquois' other securities as of April 30, 1970, 10.9 percent in respect of United, and 12.7 percent in respect of Penn. The proceeds derived from the sale of such short-term note borrowings

from banks will be used by Iroquois, United, and Penn to finance the cost of gas purchased and stored underground for current inventory purposes, and it is stated that such borrowings are expected to be repaid early in 1971 as gas is withdrawn from storage and sold. The maximum amount to be outstanding from each bank with respect to Iroquois is as follows:

Marine Midland Trust Company of Western New York, Buffalo, N.Y.-----	\$3,290,000
Manufacturers & Traders Trust Co., Buffalo, N.Y.-----	3,150,000
Liberty National Bank & Trust Co., Buffalo, N.Y.-----	560,000
	<hr/> 7,000,000

The maximum amount to be outstanding from each bank with respect to United is as follows:

Bradford National Bank, Brad- ford, Pa.-----	\$200,000
Du Bois Deposit National Bank, Du Bois, Pa.-----	300,000
Elk County Bank & Trust Co., St. Marys, Pa.-----	300,000
Emporium Trust, Emporium, Pa. Exchange Bank & Trust Co., Franklin, Pa.-----	170,000
First National Bank of Mercer County, Greenville, Pa.-----	200,000
First Seneca Bank & Trust Co., Oil City, Pa.-----	750,000
McDowell National Bank, Sharon, Pa.-----	500,000
Northwest Bank & Trust Co., Oil City, Pa.-----	500,000
The Pennsylvania Bank & Trust Co., Titusville, Pa.-----	500,000
Producers Bank & Trust Co., Bradford, Pa.-----	70,000
Mellon National Bank & Trust Co., Pittsburgh, Pa.-----	1,810,000
	<hr/> 5,500,000

The maximum amount to be outstanding from each bank with respect to Penn is as follows:

Warren National Bank, Warren, Pa.-----	\$550,000
The First National Bank of Erie, Erie, Pa.-----	1,400,000
Marine National Bank, Erie, Pa.---	500,000
Marine Midland Chautauqua Na- tional Bank, Jamestown, N.Y.---	500,000
The Pennsylvania Bank & Trust Co., Warren, Pa.-----	350,000
	<hr/> 3,300,000

The estimated fees and expenses to be paid by National in connection with the proposed debentures will be filed by amendment. The fees and expenses of independent counsel for the underwriters, which are to be paid by the successful bidder, are estimated at \$12,000. The fees and expenses in connection with the proposed notes are estimated at \$1,550 for National, \$3,110 for Iroquois, \$260 for United, and \$210 for Penn.

The proposed issue and sale of long-term notes by Iroquois are subject to the jurisdiction of the Public Service Commission of New York, the State commission of the State in which Iroquois is organized and doing business; the proposed issue and sale of long-term notes

<sup>1</sup> 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 Richmond. Dissenting Statements of Governors Mitchell and Brimmer also filed as part of the original document and available upon request.

<sup>2</sup> Voting for this action: Chairman Burns and Governors Robertson, Daane, Maisel, and Sherrill. Voting against this action: Governors Mitchell and Brimmer.

by United and Penn are subject to the jurisdiction of the Pennsylvania Public Utility Commission, the State commission of the State in which both United and Penn are organized and doing business. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than July 29, 1970, 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 the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants 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 filed or as it may be 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, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 70-8909; Filed, July 13, 1970;  
8:46 a.m.]

[812-2716]

#### WINDSOR FUND, INC.

#### Notice of Filing of Application for an Order Exempting Sale by an Open-End Company of Its Securities at Other Than the Public Offering Price

JULY 8, 1970.

Notice is hereby given that Windsor Fund, Inc. (Applicant), 1630 Locust Street, Philadelphia, Pa. 19103, a Delaware corporation registered under the Investment Company Act of 1940 (Act), as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of Section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in ex-

change for substantially all the assets of Northeastern Trust (Northeastern), a Massachusetts business trust. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Northeastern has its principal office in Boston, Mass., and has been primarily engaged in investing and reinvesting in securities since its inception on March 23, 1929. Applicant represents that Northeastern is exempt from registration under the Act by reason of section 3(c)(1) thereof. Northeastern currently has 41 shareholders and for Federal income tax purposes is classified as a personal holding company. Its affairs are supervised by five trustees, one of whom, David Witherspoon Scudder, is a Vice President of Wellington Management Co. (Wellington), the investment advisor to Windsor, and solely by virtue of such positions is, as defined in section 2(a)(3) of the Act, an affiliated person of both Wellington and Northeastern; otherwise, neither Northeastern nor any of its trustees or shareholders is either an affiliated person of Windsor or an affiliated person of such person.

Pursuant to an agreement, Applicant will acquire substantially all of the cash and securities owned by Northeastern in exchange for shares of its own common stock. Applicant asserts that the agreement was negotiated at arms length and throughout the discussions and deliberations leading up to the execution of the agreement, Mr. Scudder, as a Northeastern trustee, abstained from all votes and any other actions which could have placed his position as Vice President of Wellington in conflict with his obligations to Northeastern. Mr. Scudder will not receive any compensation for or in connection with the transactions contemplated by the agreement.

The number of shares of Applicant to be issued to Northeastern is to be determined by dividing the aggregate market value of the assets of Northeastern (subject to certain adjustments set forth in the application) to be transferred to Applicant by the net asset value per share of Applicant (as defined in the agreement), both to be determined as of the valuation time. As of December 31, 1969, Northeastern had a value of approximately \$4,743,295. Applicant represents that the shareholders of Northeastern do not presently intend to transfer (other than by redemption) the shares of Applicant acquired in this transaction.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the

provisions of the Act, other than section 22(d), and submits that the granting of the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 28, 1970, 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 reason 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 this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 70-8910; Filed, July 13, 1970;  
8:45 a.m.]

[812-2717]

#### WINDSOR FUND, INC.

#### Notice of Filing of Application for an Order Exempting Sale by an Open-End Company of Its Securities at Other Than the Public Offering Price

JULY 8, 1970.

Notice is hereby given that Windsor Fund, Inc. (Applicant) 1630 Locust Street, Philadelphia, Pa. 19103, a Delaware corporation registered under the Investment Company Act of 1940 (Act), as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of Section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all the assets

of Champlain Trust (Champlain), a Massachusetts Business Trust. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Champlain has its principal office in Boston, Mass., and has operated as a private investment company since its inception in 1931. Applicant asserts that Champlain is exempt from registration under the Act by reason of section 3(c) (1) thereof. Champlain currently has four shareholders and for Federal income tax purposes is classified as a personal holding company. Applicant further asserts that Champlain's affairs are supervised by three trustees and that neither Champlain nor any of its trustees or shareholders is either an affiliated person of Windsor or an affiliated person of such person as defined in section 2(a) (3) of the Act. Pursuant to an agreement, Applicant will acquire substantially all of the cash and securities owned by Champlain in exchange for shares of its own common stock. Applicant represents that the shareholders of Champlain have no present intention of transferring, other than by redemption, the shares of Applicant acquired in this transaction.

The number of shares of Applicant to be issued to Champlain is to be determined by dividing the aggregate market value of the assets of Champlain (subject to certain adjustments set forth in the application) to be transferred to Applicant by the net asset value per share of Applicant (as defined in the agreement), both to be determined as of the valuation time. As of December 31, 1969, Champlain assets had a value of approximately \$719,592.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 27, 1970, 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 reason 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 this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 70-8911; Filed, July 13, 1970;  
8:46 a.m.]

[812-2731]

#### WINDSOR FUND, INC.

#### Notice of Filing of Application for an Order Exempting Sale by an Open-End Company of Its Securities at Other Than the Public Offering Price

JULY 8, 1970.

Notice is hereby given that Windsor Fund, Inc. (Applicant), a Delaware corporation registered under the Investment Company Act of 1940, (Act), as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all the assets of Unibrake (Unibrake), a California corporation. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Unibrake is a personal holding company all of whose shares are owned by Skinner Securities Co., a partnership with two equal partners. Applicants assert that Unibrake is exempt from registration under the Act by reason of the provisions of section 3(c) (1) and that neither Unibrake nor any of its directors, officers, or shareholders is either an affiliated person of Windsor or an affiliated person of such person as defined in section 2(a) (3) of the Act. Pursuant to an agreement, Applicant will acquire substantially all of the cash and securities owned by Unibrake in exchange for shares of its own Common Stock. Applicant represents that the shareholder of Unibrake has no present intention of transferring (other than by redemption) the shares of Applicant acquired in this transaction.

The number of shares of Applicant to be issued to Unibrake is to be determined by dividing the aggregate market value of the assets of Unibrake (subject to certain adjustments set forth in the application) to be transferred to Applicant by the net asset value per share of Applicant (as defined in the agreement), both to be determined as of the valuation time. As of December 31, 1969, Unibrake assets had a value of approximately \$695,420.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 27, 1970, 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 reason 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 this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 70-8912; Filed, July 13, 1970;  
8:46 a.m.]

[812-2775]

**WINDSOR FUND, INC.****Notice of Filing of Application for an Order Exempting Sale by an Open-End Company of Its Securities at Other Than the Public Offering Price**

JULY 8, 1970.

Notice is hereby given that Windsor Fund, Inc. (Applicant), 1630 Locust Street, Philadelphia, Pa. 19103, a Delaware corporation registered under the Investment Company Act of 1940 (Act), as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all the assets of Northumberland Investment Co. (Northumberland), a Pennsylvania corporation. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Northumberland is a personal holding company all of whose shares are owned by Mr. Roy A. Hunt, Jr. Applicant asserts that Northumberland is exempt from registration under the Act by reason of the provisions of section 3(c)(1) and that neither Northumberland nor any of its directors, officers, or shareholder is either an affiliated person of Windsor or an affiliated person of such person as defined in section 2(a)(3) of the Act. Pursuant to an agreement, Applicant will acquire 18,000 shares of Alcan Aluminum Ltd. (Alcan), owned by Northumberland in exchange for shares of its own common stock.

The number of shares of Applicant to be issued to Northumberland is to be determined by dividing the aggregate market value of the assets of Northumberland (subject to certain adjustments set forth in the application) to be transferred to Applicant by the net asset value per share of Applicant (as defined in the agreement), both to be determined as of the valuation time. As of April 30, 1970, the Alcan shares to be acquired had a value of approximately \$414,000. Applicant has been advised that the sole stockholder of Northumberland has no present intention of transferring (other than by redemption) any of Applicant's shares following the proposed transaction.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the

provisions of the Act, other than section 22(d) and submits that the granting of the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 27, 1970, 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 reason 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 this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

[F.R. Doc. 70-8913; Filed, July 13, 1970;  
8:46 a.m.]

[812-2776]

**WINDSOR FUND, INC.****Notice of Filing of Application for an Order Exempting Sale by an Open-End Company of Its Securities at Other Than the Public Offering Price**

JULY 8, 1970.

Notice is hereby given that Windsor Fund, Inc. (Applicant), 1630 Locust Street, Philadelphia, Pa. 19103, a Delaware corporation registered under the Investment Company Act of 1940 (Act), as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange

for substantially all the assets of Amberson Investment Co (Amberson), a Pennsylvania corporation. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Amberson is a personal holding company all of whose shares are owned by Mr. Torrence M. Hunt. Applicant asserts that Amberson is exempt from registration under the Act by reason of the provisions of section 3(c)(1) and that neither Amberson nor any of its directors, officers, or shareholders is either an affiliated person of Windsor or an affiliated person of such person as defined in section 2(a)(3) of the Act. Pursuant to an agreement, Applicant will acquire 18,000 shares of Alcan Aluminum Ltd. (Alcan), owned by Amberson in exchange for shares of its own common stock.

The number of shares of Applicant to be issued to Amberson is to be determined by dividing the aggregate market value of the assets of Amberson (subject to certain adjustments set forth in the application) to be transferred to Applicant by the net asset value per share of Applicant (as defined in the agreement), both to be determined as of the valuation time. As of April 30, 1970, the Alcan shares to be acquired had a value of approximately \$414,000. Applicant has been advised that the sole stockholder of Amberson has no present intention of transferring (other than by redemption) any of Applicant's shares following the proposed transaction.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 27, 1970 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 reason 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

## NOTICES

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 applica-

tion 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 this matter,

including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL]

ORVAL L. DuBois,  
*Secretary.*

[F.R. Doc. 70-8914; Filed, July 13, 1970;  
8:46 a.m.]



22 CFR	Page	36 CFR	Page	43 CFR—Continued	Page
51	10656	6	10658	PROPOSED RULES:	
<b>24 CFR</b>		7	10658, 10951	1810	11244
0	10953	261	11021	<b>45 CFR</b>	
203	10648	<b>38 CFR</b>		177	10652
207	10648	2	10759	<b>46 CFR</b>	
220	10648	3	10648	221	10957
1914	10649, 11181	18a	10759	531	10957
1915	10651, 11182	18b	10760	541	10858
<b>26 CFR</b>		21	10765, 11236	PROPOSED RULES:	
1	11020	<b>39 CFR</b>		542	11187
13	11232	137	11021	<b>47 CFR</b>	
PROPOSED RULES:		138	10952	1	10988, 11126
1	11184	144	11022	2	11178
20	10862	153	11022	15	10766
25	10862	<b>41 CFR</b>		31	11237
31	10962	3-3	10899	33	11237
<b>29 CFR</b>		60-1	10660	73	11178
102	10657	101-17	10954	74	10901-10903
531	10757	101-32	10773	87	11179
PROPOSED RULES:		101-40	10955	PROPOSED RULES:	
103	11270	<b>42 CFR</b>		15	11036
<b>30 CFR</b>		78	10855	43	11185
PROPOSED RULES:		PROPOSED RULES:		63	11133
75	10867	81	10774	73	10963, 11040, 11136, 11185
<b>31 CFR</b>		<b>43 CFR</b>		74	11036
100	11020	23	11236	11040, 11042, 11044, 11045, 11244	
505	10759	Ch. II	10660	<b>49 CFR</b>	
<b>32 CFR</b>		PUBLIC LAND ORDERS:		172	10858
103	10889	1230 (modified by PLO 4852)	10955	173	10858
237a	10889	3342 (revoked in part by PLO 4859)	11022	392	10859
561	10847	3735 (see PLO 4857)	10956	393	10859, 10906
1499	11234	3736 (see PLO 4857)	10956	501	11126
1811	11125	4348 (see PLO 4852)	10955	571	11241, 11242
<b>33 CFR</b>		4850	10900	1033	10661, 10907, 11023, 11183
52	10899	4851	10900	1048	10662
117	10758, 11020, 11021	4852	10955	PROPOSED RULES:	
207	11235	4853	10955	571	10911
PROPOSED RULES:		4854	10956	575	11245
82	10696	4855	10956	Ch. X	10959
117	10774, 10775, 11034	4856	10956	<b>50 CFR</b>	
		4857	10956	32	11024
		4858	11022	33	10773, 11237
		4859	11022	80	10647
		4860	11023	PROPOSED RULES:	
		4861	11023	32	11244
		4862	11237		
		4863	11237		

