FEDERAL REGISTER

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PART I

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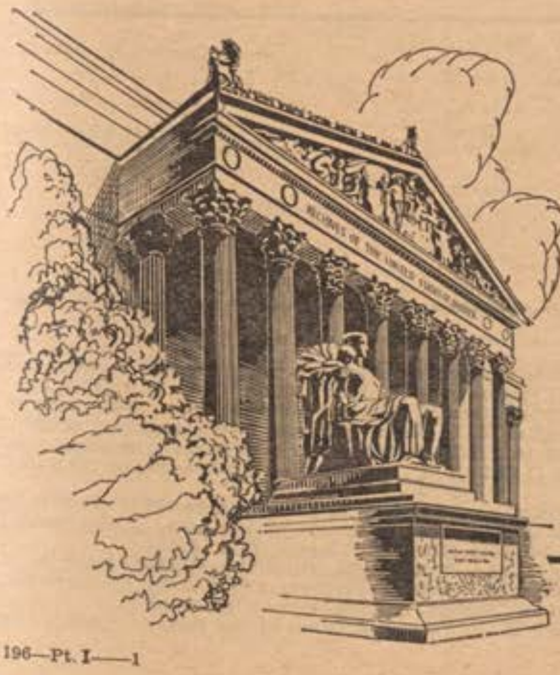

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List of CFR Parts Affected

(Codification Guide)

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

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

Rules and Regulations

Title 7—AGRICULTURE

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

[Valencia Orange Reg. 141]

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

Limitation of Handling

§ 908.441 Valencia Orange Regulation 141.

(a) *Findings.* (1) 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, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was hold on October 7, 1965.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., October 10, 1965, and ending at 12:01 a.m., P.s.t., October 17, 1965, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 550,000 cartons;
(iii) District 3: Unlimited movement.

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

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

Dated: October 8, 1965.

F. L. SOUTHERLAND,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 65-10864; Filed, Oct. 8, 1965; 11:27 a.m.]

[Lemon Reg. 182]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.482 Lemon Regulation 182.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such lemons as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held, the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 5, 1965.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., October 10, 1965, and ending at 12:01 a.m., P.s.t., October 17, 1965, are hereby fixed as follows:

(i) District 1: Unlimited movement;
(ii) District 2: 148,800 cartons;
(iii) District 3: 38,585 cartons.

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

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

Dated: October 7, 1965.

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

[F.R. Doc. 65-10820; Filed, Oct. 8, 1965; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 65-AL-16]

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

Designation of Control Zone and Transition Area

The purpose of these amendments to Part 71 of the Federal Aviation Regulations is to designate a temporary control zone and a temporary transition area at Amchitka, Alaska.

This action involves, in part, the designation of navigable airspace outside the United States. Therefore, it is promulgated in consonance with Article 12 and Annex 11 to the Convention on International Civil Aviation, and the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Substantial military operations presently being conducted in the Amchitka area are scheduled to terminate in December, 1965. Due to the extent of this activity and the frequently adverse weather conditions existing in this area, the Agency has determined that there is an immediate need to designate temporary controlled airspace wherein these operations would be subject to air traffic control. Since there is an immediate need for this controlled airspace and there is little or no nonparticipating traffic in this area, designation of the controlled airspace will have little effect upon other aviation operations.

For the reasons stated above, the Administrator finds that a situation exists requiring immediate action in the interest of safety and that notice and public procedure hereon are impracticable, and that good cause exists for making these amendments effective on less than 30 days' notice.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective from the date of publication in the FEDERAL REGISTER through December 31, 1965, as hereinafter set forth.

1. In § 71.171 (29 F.R. 17581), the Amchitka, Alaska, control zone is designated as follows:

Within a 5-mile radius of Amchitka AFB (latitude 51°23′ N., longititude 179°15′ E.); within 2 miles each side of the RBN 066° bearing extending from the 5-mile radius zone to 8 miles NE of the RBN; and within 2 miles each side of the extended centerline of the Amchitka AFB NE-SW runway extending from the 5-mile radius zone to 5.5 miles NE of the NE end of runway 7.

2. In § 71.181 (29 F.R. 17643), the Amchitka, Alaska transition area is designated as follows:

That airspace extending upward from 700 feet above the surface within a 29-mile radius of Amchitka AFB (latitude 51°23′ N., longitude 179°15′ E.).

(Secs. 307(a) and 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510) and Executive Order 10854 (24 F.R. 9565)

Issued in Washington, D.C., on October 4, 1965.

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

[F.R. Doc. 65-10744; Filed, Oct. 8, 1965; 8:45 a.m.]

[Airspace Docket No. 65-WE-27]

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

Alteration of Control Zones, Revocation of Transition Area and Control Area Extension, Alteration and Designation of Transition Areas

On July 8, 1965, a notice of proposed rule making was published in the FEDERAL REGISTER (30 F.R. 8635) stating that the Federal Aviation Agency proposed to alter the controlled airspace in the NAF China Lake, George AFB, Palmdale, and Edwards AFB, Calif., terminal areas.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 9, 1965, as hereinafter set forth.

1. In § 71.171 (30 F.R. 11716), the Palmdale, Calif., control zone is amended to read:

PALMDALE, CALIF.

Within a 5-mile radius of AF Plant No. 42, Palmdale, Calif. (latitude 34°37′45″ N., longitude 118°04′54″ W.), within 2 miles each side of the Palmdale VORTAC 045° radial, extending from the 5-mile radius zone to 9 miles NE of the VORTAC, and within 2 miles each side of the Palmdale VORTAC 079° radial, extending from the 5-mile radius zone to 6.5 miles E of the VORTAC, from 0600 to 2200 hours, local time, daily.

2. In § 71.171 (29 F.R. 17596), the Edwards AFB, Calif., control zone is amended to read:

EDWARDS AFB, CALIF.

Within an 8-mile radius of Edwards AFB (latitude 34°54′20″ N., longitude 117°52′55″ W.)

3. In § 71.171 (29 F.R. 17639), the Victorville, Calif., control zone is amended to read:

VICTORVILLE, CALIF.

Within a 5-mile radius of George AFB, Victorville, Calif. (latitude 34°35′45″ N., longitude 117°22′55″ W.); within 2 miles each side of the George AFB VOR 350° and 005° radials extending from the 5-mile radius zone to 9 miles N of the VOR, and within 1.5 miles NW and 2.5 miles SE of the George AFB VOR 045° radial extending from the 5-mile radius zone to 8.5 miles NE of the VOR.

4. In § 71.165 (29 F.R. 17560), the Burbank, Calif., control area extension is revoked.

5. In § 71.181 (29 F.R. 17668), the Hector, Calif., transition area is revoked.

6. In § 71.181 (29 F.R. 17687), the Palmdale, Calif., transition area is amended to read:

PALMDALE, CALIF.

That airspace extending upward from 700 feet above the surface within 2 miles S and 7 miles N of the Palmdale VORTAC 298° radial extending from the VORTAC to 18 miles NW; within 6 miles S and 12 miles N of the Palmdale VORTAC 298° and 118° radials extending from 11 miles NW to 13 miles SE of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 35°36′30″ N., longitude 118°45′00″ W., to latitude 35°44′00″ N., longitude 117°53′00″ W., to latitude 36°07′00″ N., longitude 117°53′00″ W., to latitude 36°07′00″ N., longitude 117°35′00″ W., to latitude 35°36′00″ N., longitude 117°26′00″ W., to latitude 35°25′00″ N., longitude 117°26′00″ W., to latitude 35°25′00″ N., longitude 117°16′52″ W., to latitude 35°15′56″ N., longitude 117°16′52″ W., to latitude 35°15′56″ N., longitude 117°06′30″ W., to latitude 35°34′30″ N., longitude 116°29′40″ W., to latitude 35°34′30″ N., longitude 116°23′30″ W., to latitude 35°28′35″ N., longitude 116°18′45″ W., to latitude 35°21′30″ N., longitude 116°13′00″ W., to latitude 34°43′00″ N., longitude 116°13′00″ W., thence W along latitude 34°43′00″ N., to the SE boundary of V-21, thence along the SE boundary of V-21 to latitude 34°30′00″ N., thence W along latitude 34°30′00″ N., to longitude 118°20′00″ W., thence N along longitude 118°20′00 W., to the S boundary of V-137, thence W along the S boundary of V-137 to longitude 118°45′00″ W., thence to point of beginning.

7. In § 71.181 (29 F.R. 17643), the following transition area is added:

NAF CHINA LAKE, CALIF.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the NAF China Lake TACAN 350° radial extending from 8 miles to 12 miles N of the TACAN and within 2 miles each side of the NAF China Lake TACAN 148° radial extending from 8 miles to 11 miles SE of the TACAN.

8. In § 71.181 (29 F.R. 17643), the following transition area is added:

EDWARDS AFB, CALIF.

That airspace extending upward from 700 feet above the surface within a 15-mile radius of Edwards AFB (latitude 34°54′20″ N., longitude 117°52′55″ W.), within 2 miles SE and 8 miles NW of the Edwards AFB TACAN 058° radial extending from the 15-mile radius area to 13.5 miles NE of the TACAN.

9. In § 71.181 (29 F.R. 17643), the following transition area is added:

DAGGETT, CALIF.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Barstow-Daggett Airport (latitude 34°51′20″ N., longitude 116°47′10″ W.); within 2 miles each side of the 050° bearing from Barstow-Daggett Airport extending from the 3-mile radius area to 6 miles NE of the airport, and within 2 miles each side of the 090° bearing from the Barstow-Daggett Airport extending from the 3-mile radius area to 6.5 miles E of the airport.

10. In § 71.181 (29 F.R. 17703), the Victorville, Calif., transition area is amended to read:

VICTORVILLE, CALIF.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of George AFB (latitude 34°35′45″ N., longitude 117°22'55" W.), and within 3 miles each side of the George AFB VOR 360° radial extending from the 12-mile radius area to 17 miles N of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on September 29, 1965.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 65-10745; Filed, Oct. 8, 1965; 8:45 a.m.]

[Airspace Docket No. 64-WE-49]

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

Revocation of Control Area Extension and Designation of Transition Area; Correction

On August 28, 1965, there were published in the FEDERAL REGISTER (30 F.R. 1134) amendments to Part 71 of the Federal Aviation Regulations, which altered the controlled airspace in the Elko, Nev., terminal area.

Subsequent to the publication of these alterations, it was noted that in the description of the Elko transition area a segment of the transition area boundary was incorrectly described. Therefore, action is taken herein to correct this discrepancy.

Since this amendment is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the effective date of the final rule as initially adopted may be retained.

In consideration of the foregoing, effective immediately, Airspace Docket No. 64-WE-49 (30 F.R. 1134) is hereby amended as follows:

In the description of the Elko, Nev., transition area "that airspace extending from the 12-mile radius area E of Elko bounded on the N by a line 5 miles S of and parallel to the Wells, Nev., VOR 256° radial", "that airspace extending from the 12-mile radius area W of Elko bounded on the N by a line 5 miles SE of and parallel to the Battle Mountain, Nev., VOR 062° radial", and "that airspace extending upward from the 9,500 feet MSL S of Elko, extending from the 12-mile radius area bounded on the E by a line 5 miles W of and parallel to the Elko VORTAC 154° radial" are deleted and "that airspace extending from the 12-mile radius area E of Elko bounded on the N by a line 4 n.m. S of and parallel to the Wells, Nev., VOR 256° radial", "that airspace extending from the 12-mile radius area W of Elko bounded on the N by a line 4 n.m. SE of and parallel to the Battle Mountain, Nev., VOR 062° radial", and "that airspace extending upward from the 9,500 feet MSL S of Elko, extending from the 12-mile radius area bounded on the E by a line 4 n.m. W of and parallel to the Elko VORTAC 154° radial" are substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on September 29, 1965.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 65-10746; Filed, Oct. 8, 1965; 8:45 a.m.]

[Airspace Docket No. 65-WE-100]

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

Alteration of Control Zone

The purpose of this amendment to § 71.171 of the Federal Aviation Regulations is to alter the time of designation of the Modesto, Calif., control zone.

The Modesto control zone is presently designated from 0630 to 2200 hours, local time, daily. The Modesto tower hours of operation have been changed to 0600 to 2200 hours, local time, daily. Therefore, action is taken herein to redesignate the Modesto control zone with effective hours coincident with those of the control tower.

Since this amendment is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (29 F.R. 17618), the Modesto, Calif., control zone is amended as follows:

"0630 to 2200 hours, local time, daily" is deleted and "0600 to 2200 hours, local time, daily" is substituted therefor.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a) Federal Aviation Act of 1958, as amended; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Los Angeles, Calif., on September 30, 1965.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 65-10747; Filed, Oct. 8, 1965; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 30—FOREIGN TRADE STATISTICS

Miscellaneous Amendments

In a notice of proposed rule making in the FEDERAL REGISTER on July 27, 1965 (30 F.R. 9318), there were published amendments to the Foreign Trade Statistics Regulations (15 CFR Part 30) proposed to be promulgated by the Director of the Bureau of the Census under authority contained in sections 301-306 of Title 13, United States Code (76 Stat. 951). After due consideration of comments submitted to the Director of the Bureau of the Census, the amendments as originally published in the FEDERAL REGISTER of July 27, 1965, are hereby adopted.

These amendments will eliminate requirements for filing Shipper's Export Declarations for commodities valued less than $100 shipped to Canada and to nonforeign areas for which a validated export license is not required; will raise the present $50 exemption on mail shipments to $100; and will clarify the procedure to be followed by exporters and carriers in establishing with Customs the basis for exemptions from Shipper's Export Declaration filing requirements.

No changes are being made in the existing requirements of § 30.21 that for merchandise exempt from Shipper's Export Declaration filing requirements carriers shall enter on the manifest a notation as to the basis for such exemptions.

Effective date. These amendments are effective on the date of publication.

Section 30.1(b) is amended by changing $50 to $100 so that the amended paragraph reads as follows:

§ 30.1 General statement of requirement for Shipper's Export Declarations.

* * * * *

(b) Shipper's Export Declarations shall be filed for merchandise moving as described above regardless of the method of transportation, except that for shipments by mail export declarations are required only for shipments valued $100 or more from one business concern to another business concern and for all shipments by mail requiring a validated export license (except technical data). Instructions for the filing of Shipper's Export Declarations for vessels, aircraft, railway cars, etc., when sold foreign appear in § 30.33 of this chapter. Exemptions from these requirements and exceptions to some of the provisions of these regulations for particular types of transactions will be found in subparts C and D of this part.

Section 30.50 is revised to read as follows:

§ 30.50 Procedure for shipments exempt from the requirements for Shipper's Export Declarations.

Where an exemption from the requirement for the filing of a Shipper's Export Declaration is provided in this subpart, a notation describing the basis for the exemption shall be made on the bill of lading, air waybill, or other loading document for carrier use, with a reference to the number of the section in this part where the particular exemption is provided so that the carrier at the time of lading, and the Collector at the time of exportation, may verify that no declaration is required. If none of the above named documents are used, the person transporting the merchandise must be prepared to identify to the Collector of Customs at the port of exportation, at the time of exportation but prior to departure, any merchandise which is exempted from the requirement for the filing of a Shipper's Export Declaration and explain to the Collector the basis for the exemption.

Section 30.54(a)(2) is amended by changing $50 to $100 so that the amended section reads as follows:

§ 30.54 Special exemptions for mail shipments.

(a) * * *

(2) The shipment is valued less than $100.

* * * * *

Section 30.55 is amended by deleting in its opening sentence the words "having no commercial value or otherwise not requiring statistical documentation" and by the addition of a new paragraph (h) so that the introductory text and paragraph (h) read as follows:

§ 30.55 Miscellaneous exemptions.

Shipper's Export Declarations are not required for the following kinds of shipments:

* * * * *

(h) Shipments (except shipments requiring a validated export license) to Canada, to the United States possessions, and between the United States and Puerto Rico, where the value of the commodities classified under a single Schedule B number and shipped on the same exporting carrier from one exporter to one importer does not exceed $100: *Provided*, That in order to adequately maintain factors for estimating the statistics on under $100 shipments, the Bureau of the Census may from time to time require the complete enumeration of such shipments for selected periods.

§§ 30.56, 30.57 [Amended]

4. Sections 30.56(e) and 30.57(c) are amended by the deletion of the words "Canada and" so that the exemption will apply only to Mexico.

Section 30.56(e) is amended to read as follows:

§ 30.56 Conditional exemptions.

* * * * *

(e) Shipments to Mexico valued less than $50, provided that the shipment is moving by means of transportation other than water (except ferry) or air.

5. Section 30.57(c) is amended to read as follows:

§ 30.57 Information on export declarations for shipments of types of goods covered by § 30.56 not conditionally exempt.

* * * * *

(c) In those cases where shipments to Mexico valued less than $50 and moving by means of transportation other than water (except ferry) or air are made under a bill of lading or require a validated export license, and a Shipper's Export Declaration is consequently required, the Shipper's Export Declaration must contain all the information normally required for any exportation, unless the provisions of paragraph (a) of this section apply.

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

I concur: True Davis.
September 21, 1965.
Assistant Secretary of the Treasury.

[F.R. Doc. 65-10794; Filed, Oct. 8, 1965; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER E—CLAIMS

PART 750—NAVY GENERAL CLAIMS

PART 753—NAVY FOREIGN CLAIMS

Miscellaneous Amendments

Scope and purpose. Sections 750.41, 753.29, and 753.30 are amended to conform to the current delegation of authority vested in the Secretary of Defense. Corresponding amendments to the Manual of the Judge Advocate General will be distributed to Navy and Marine Corps commands in due course.

1. Section 750.41 is amended by revising paragraph (b)(11) to read as follows:

§ 750.41 Approval of claims.

* * * * *

(b) *Military Claims Act cases.* * * *

(11) Foreign Claims Commissions to the extent authorized by current Department of Defense notice published in the FEDERAL REGISTER.

* * * * *

2. Section 753.29 is amended by revising paragraph (a) to read as follows:

§ 753.29 Claims arising in specified foreign countries.

(a) *Under NATO statuts of forces and similar agreements.* The United States has ratified the NATO Status of Forces Agreement (TIAS 2846, 4 UST 1792) and has entered into, and contemplates entering into, other similar agreements with foreign countries. Article VIII of the NATO Status of Forces Agreement and certain provisions of other agreements are inconsistent with the continued unrestricted use of the Foreign Claims Act and its implementing regulations in certain countries. It is, therefore, directed that the directives of the cognizant area commander be consulted and that claims not be referred to foreign claims commissions until it has been determined that such action is not inconsistent with the provisions of the aforementioned agreements and their implementing directives. The current Department of Defense notice directs that, where a single service has been assigned responsibility for claims in a country or area, all claims arising under the Foreign Claims Act (10 U.S.C. 2734) and the Military Claims Act (10 U.S.C. 2733) shall normally be settled and paid by claims commissions or other claims settlement authorities appointed by, or by designee of, the Secretary of that military department in accordance with the department's regulations. In countries in which the NATO Status of Forces Agreement or a similar agreement is in force, accidents which may give rise to a tort claim against the United States arising from acts or omissions of naval personnel, or members of the civilian component of the naval service, including claims for death or personal injury, resulting from the navigation or operation of a ship, or from the loading, carriage or discharge of its cargo, will be investigated and reports will be made in accordance with the instructions promulgated by the cognizant naval commander.

* * * * *

3. Section 753.30 is revised to read as follows:

§ 753.30 Claims generated by other than Department of the Navy personnel.

(a) *Cross-servicing.* See § 753.29 in regard to areas for which single-service responsibility has been assigned and methods for processing of claims. The regulations implementing the Military Claims Act (10 U.S.C. 2733) are contained in Part 750 of this chapter and will be followed, as far as applicable, in the settlement of claims under that Act by Foreign Claims Commissions.

(b) *Civilian employees of the Department of Defense other than employees of military departments.* The current Department of Defense notice provides that all Foreign Claims Commissions are designated to settle and pay claims for damage caused by a civilian employee of the Department of Defense other than an employee of a military department.

(R.S. 161, secs. 2733, 2734, 70A Stat. 153, 154, as amended, secs. 113(a) 202 (sec. 133(d)), 76 Stat. 512, 517; 5 U.S.C. 22, 10 U.S.C. 133(d), 2733, 2734, 2734a, 2734b)

Dated: October 4, 1965.

By direction of the Secretary of the Navy.

[SEAL] R. H. HARE,
Rear Admiral, U.S. Navy, Acting Judge Advocate General of the Navy.

[F.R. Doc. 65-10743; Filed, Oct. 8, 1965; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER A—GENERAL

[CGFR 65-44]

PART 3—COAST GUARD DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

Subpart 3.15—Third Coast Guard District

CAPTAIN OF PORT ESTABLISHED AT ALBANY, N.Y.

A Captain of the Port Office at Albany, N.Y., is established. It is located in the

Federal Building, Albany, N.Y., 12207, and the rule designated 33 CFR 3.15–50 in this document describes the Captain of the Port area which will be under the jurisdiction of the Albany Captain of the Port.

By virtue of the authority vested in me as Commandant, U.S. Coast Guard, by section 632 in Title 14, U.S. Code, and Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), and 167–17, dated June 29, 1955 (20 F.R. 4976), as well as the laws cited with the rule below, the following change is prescribed, which shall be effective on date of publication in the FEDERAL REGISTER, and Subpart 3.15 is amended by inserting after § 3.15–35 a new section reading as follows:

§ 3.15–50 **Albany Captain of the Port.**

(a) The Albany Captain of the Port Office is located in Albany, N.Y.

(b) The Albany Captain of the Port area comprises all the navigable waters of the United States and contiguous land areas within the following boundaries:

On the east, the 73°39' W. longitude; on the south, the 41°33' N. latitude; on the west, the 74°10' W. longitude; and on the north, the 42°48' N. latitude.

(Sec. 3, 60 Stat. 238, sec. 633, 63 Stat. 545; 5 U.S.C. 1002, 14 U.S.C. 633. Treasury Department Orders 120, July 31, 1950, 15 F.R. 6521; 167–17, June 29, 1955, 20 F.R. 4976)

Dated: September 30, 1965.

[SEAL] W. D. SHIELDS,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[F.R. Doc. 65–10779; Filed, Oct. 8, 1965; 8:48 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER A—GENERAL

PART 101–5—CENTRALIZED SERVICES IN FEDERAL BUILDINGS

Subpart 101–5.3—Federal Employee Health Services

FEDERAL EMPLOYEE HEALTH SERVICES

The following material sets forth revised procedures under which Federal employee health services are provided to occupying agencies in Federal buildings.

1. The table of contents for Part 101–5 is revised to provide for a change of entry for § 101–5.304, as follows:

Subpart 101–5.3—Federal Employee Health Services

Sec.

AUTHORITY: The provisions of this Subpart 101–5.3 are issued under section 205(c), 63 Stat. 390; 40 U.S.C. 486(c); ch. 865, 60 Stat. 903; 5 U.S.C. 150.

2. Subpart 101–5.3 is amended by the revision of §§ 101–5.300, 101–5.301, 101–5.303, 101–5.304, 101–5.305, and 101–5.307. Sections 101–5.302 and 101.306 are unaffected. As amended, the subpart reads as follows:

§ 101–5.300 **Scope of subpart.**

This Subpart 101–5.3 states the objective, guiding principles, criteria, and general procedures in connection with the establishment and operation of Federal employee health services in buildings managed by GSA.

§ 101–5.301 **Applicability.**

This Subpart 101–5.3 is applicable to all Federal agencies which occupy space in or are prospective occupying agencies of a building or group of adjoining buildings managed by GSA.

§ 101–5.302 **Objective.**

It is the objective of GSA to provide or arrange for appropriate health service programs in all Government-owned and leased buildings, or groups of adjoining buildings, which it manages where the building population warrants, where other Federal medical facilities are not available, and, where the number of the occupying agencies indicating a willingness to participate in such a program on a reimbursable basis makes it financially feasible.

§ 101–5.303 **Guiding principles.**

The following principles will control the scope of the health services to be provided in keeping with the objective:

(a) Employees who work in groups of 300 or more, counting employees of all departments or agencies who are scheduled to be on duty at one time in the same building or group of buildings in the same locality will constitute the minimum number of employees required to warrant the establishment of a health service of a scope specified in § 101–5.304.

(b) As an exception to (a), health services of the scope specified in § 101–5.304 may be provided for employees who work in groups of less than 300 where the employing department or agency determines that working conditions involving unusual health risks warrant such provision.

(c) Treatment and medical care in performance-of-duty cases will be provided to employees as set forth in the Federal Employees' Compensation Act (5 U.S.C. 751 et seq.).

(d) The maximum permissible reimbursable cost of a health service will be $15.00 per year per employee served, unless special industrial conditions or other abnormal health or accident risks exist which warrant an additional allowance. In the case of small agency population to be served (300 to 1,000), the permissible reimbursable cost per year per employee may be adjusted upward to an amount necessary to meet the cost of a minimum health service.

§ 101–5.304 **Type of occupational health services.**

The type of occupational health services made available to occupying agencies will be as follows:

(a) Emergency diagnosis and first treatment of injury or illness that become necessary during working hours and that are within the competence of the professional staff and facilities of the health service unit, whether or not such injury was sustained by the employee while in the performance of duty or whether or not such illness was caused by his employment. In cases where the necessary first treatment is outside the competence of the health service staff and facilities, conveyance of the employee to a nearby physician or suitable community medical facility may be provided at Government expense at the request of, or on behalf of, the employee.

(b) Preemployment examinations of persons selected for appointment.

(c) Such inservice examinations of employees as the occupying agency determines to be necessary (in addition to fitness-for-duty examinations) and the resources of the health service staff and facilities wil permit.

(d) Administration, in the discretion of the responsible health service unit physician, of treatments and medications (1) furnished by the employee and prescribed in writing by his personal physician as reasonably necessary to maintain the employee at work, and (2) prescribed by a physician providing medical care in performance-of-duty injury or illness cases under the Federal Employees' Compensation Act.

(e) Preventive services within the competence of the professional staff (1) to appraise and report work environment health hazards as an aid in preventing and controlling health risks; (2) to provide health education to encourage employees to maintain personal health; and (3) to provide specific disease screening examinations and immunizations.

(f) In addition, employees may be referred, upon their request, to private physicians, dentists, and other community health resources.

§ 101–5.305 **Agency participation.**

At the time the space requirements for a building or a group of adjoining buildings are developed by GSA, the prospective occupying agencies will be canvassed by GSA to determine if they wish to participate in the occupational health services program. Each agency desiring to participate in the program will be requested to furnish GSA with a written commitment, signed by an authorized official, that it is prepared to reimburse GSA, or such other agency as is designated pursuant to § 101–5.105(b), on a yearly per capita basis for each of its employees housed in the building or buildings covered by the program.

§ 101–5.306 **Economic feasibility.**

(a) The studies by GSA which lead to the development of space requirements and the determinations made as the result thereof will constitute the feasibility studies and the Administrator's determination contemplated by § 101–5.104.

(b) Each determination to provide health services will be governed by the principles stated in § 101–5.303 and will be in consonance with the general standards and guidelines furnished Federal agencies by the Public Health Service of the Department of Health, Education, and Welfare.

§ 101–5.307 Public Health Service.

(a) The only authorized contact point for assistance of and consultation with the Public Health Service is the Federal Employee Health Programs, Division of Hospitals, Public Health Service, Washington, D.C., 20201. Other Federal agencies may be designated by the GSA Regional Administrator, pursuant to § 101–5.105(b) to operate occupational health services. Designated agencies should contact the Public Health Service directly on all matters dealing with the establishment and operation of these services.

(b) Public Health Service should be consulted by the designated agency on such matters as types, amounts, and approximate cost of necessary equipment; the scope of the services to be provided if it is affected by the amount of space and number of building occupants; types and amounts of supplies, materials, medicines, etc., which should be stocked; and the approximate cost of personnel staffing in cases where this method of operation is chosen, etc. PHS should also be asked to develop and monitor standards under which each health unit would be operated.

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated: October 5, 1965.

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

[F.R. Doc. 65–10778; Filed, Oct. 8, 1965; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3838]

[Sacramento 078668]

CALIFORNIA

Partly Revoking Public Land Order No. 1461

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. Public Land Order No. 1461 of August 6, 1957, withdrawing public lands for use of the Forest Service as an administrative site, is hereby revoked so far as it affects the following described lands:

MOUNT DIABLO MERIDIAN

T. 9 N., R. 22 E.,
Sec. 11, S½S½S½SE¼SW¼NE¼.

Containing 1.25 acres in Alpine County.

2. This order shall not otherwise become effective to change the status of the lands until 10 a.m. on November 9, 1965. On and after that date and hour the lands shall become subject to disposition under the public land laws, including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 9, 1965, shall be considered as simultaneously filed at that time. Those filed thereafter shall be considered in the order of filing.

The State of California has waived the preference right of application provided it by R.S. 2276 (43 U.S.C. 852).

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, Calif.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 4, 1965.

[F.R. Doc. 65–10763; Filed, Oct. 8, 1965; 8:46 a.m.]

[Public Land Order 3839]

[New Mexico 0557005]

NEW MEXICO

Withdrawal for Protection of National Forest Watershed

By virtue of the authority vested in the President, and pursuant to Executive Order 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands in the Cibola National Forest are hereby withdrawn from appropriation under the mining laws (Ch. 2, Title 30 U.S.C.), but not from leasing under the mineral leasing laws, for protection of the Bernalillo watershed:

CIBOLA NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

T. 12 N., R. 4 E.,
Sec. 1 lots 1 to 10 incl., SW¼NE¼, S½NW¼, SW¼ and W½SE¼;
Sec. 2, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SE¼ and NW¼SE¼;
Sec. 12, lots 1 to 4 incl., W½NE¼, NW¼;
Sec. 14, lots 5, 6, 7 and NE¼NE¼.
T. 12 N., R. 5 E.,
Sec. 6, lots 9, 10, 13, 17, 18 and 19;
Sec. 7, NW¼ (unsurveyed).

The areas described aggregate 1,869.70 acres.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 4, 1965.

[F.R. Doc. 65–10764; Filed, Oct. 8, 1965; 8:46 a.m.]

[Public Land Order 3840]

[New Mexico 0557726]

NEW MEXICO

Partly Revoking Public Water Reserve No. 21, New Mexico No. 1

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive Order of June 24, 1914, creating Public Water Reserve No. 21, New Mexico No. 1, is hereby revoked so far as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 4 N., R. 7 W.,
Sec. 12, NW¼NW¼.

The area described contains 40 acres.

2. This revocation is made in furtherance of an exchange under section 8 of the Act of June 28, 1934 (48 Stat. 272), as amended by section 3 of the Act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), by which the offered lands will benefit a Federal land program. This restoration is therefore not subject to the provisions of R.S. 2276 as amended (43 U.S.C. 852), granting the State of New Mexico a preference right of application to select the lands or any portion thereof.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 4, 1965.

[F.R. Doc. 65–10765; Filed, Oct. 8, 1965; 8:46 a.m.]

[Public Land Order 3841]

[Wyoming 031669]

WYOMING

Withdrawal for National Forest Recreation Areas

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. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the U.S. mining laws (Chap. 2, Title 30, U.S.C.), in aid of programs of the Department of Agriculture:

SIXTH PRINCIPAL MERIDIAN

SHOSHONE NATIONAL FOREST

Sinks Canyon Winter Sports Area

T. 32 N., R. 100 W.,
Sec. 19, lots 2 and 3.

Louis Beach Picnic Ground

T. 30 N., R. 101 W.,
Sec. 1, lots 8 and 9;
Sec. 12, lot 1.

Louis Lake Campground

T. 30 N., R. 101 W.,
Sec. 12, lots 3, 4, and 5.

Louis Lake Boat Site

T. 30 N., R. 101 W.,
Sec. 12, lot 6.

Blue Ridge Lookout Observation

T. 31 N., R. 101 W.,
Sec. 23, SW¼SW¼NW¼.

Sinks Canyon Winter Sports Area

T. 32 N., R. 101 W.,
Sec. 24, E½E½NE¼ and E½NE¼SE¼.

Camp Edwin B. Branson

T. 32 N., R. 101 W.,
Sec. 24, E½SW¼NE¼, W½SE¼NE¼, S½SE¼NW¼NE¼, and S½SW¼NE¼NE¼.

Worthen Meadow Recreation Area

T. 32 N., R. 101 W.,
Sec. 32, SW¼, S½NW¼, and SW¼NE¼.

Fremont County Youth Camp

T. 32 N., R. 101 W.,
Sec. 33, NE¼SW¼SE¼, NW¼SE¼SE¼, W½NE¼SE¼SE¼, S½S½SW¼NE¼SE¼, and S½S½SE¼NW¼SE¼.

Brown Mountain Campground

T. 46 N., R. 103 W.,
Sec. 23, NE¼SW¼SE¼, NW¼SE¼SE¼, S½SE¼NW¼SE¼, and S½SW¼NE¼SE¼.

East Fork Campground

T. 43 N., R. 104 W.,
Sec. 8, W½SE¼SE¼ and E½SW¼SE¼.

Dead Indian Hill Observation

T. 55 N., R. 104 W.,
Sec. 16, S½NE¼SE¼.

Frank Hammitt Memorial

T. 56 N., R. 104 W.,
Sec. 30, S½SW¼SW¼SW¼;
Sec. 31, N½NW¼NW¼NW¼.

East Entrance Observation

T. 58 N., R. 104 W.,
Sec. 15, NW¼SW¼SE¼.

Twin Lakes Observation

T. 58 N., R. 104 W.,
Sec. 21, E½NW¼SE¼SE¼ and W½NE¼SE¼SE¼.

East Summit Observation

T. 58 N., R. 104 W.,
Sec. 28, S½NE¼NW¼SE¼ and N½SE¼NW¼SE¼.

Gardner Headwall Observation

T. 58 N., R. 104 W.,
Sec. 29, NE¼SE¼SW¼.

West Summit Observation

T. 58 N., R. 104 W.,
Sec. 31, SE¼SE¼NE¼NW¼, SW¼SW¼NW¼NE¼, NW¼NW¼SW¼NE¼, and NE¼NE¼SE¼NW¼.

Ridgetop Observation

T. 58 N., R. 104 W.,
Sec. 31, E½SW¼SW¼SW¼NW¼, W½SW½SE¼SW¼NW¼, NE¼NW¼NW¼SW¼, E½NW¼NW¼NW¼SW¼, W½NW¼NE¼NW¼SW¼, and SE¼SW¼SW¼NW¼.

Reef Creek Campground

T. 56 N., R. 105 W.,
Sec. 7, N½NW¼SW¼, not to include HES 90.

Island Lake Campground

T. 57 N., R. 105 W.,
Sec. 3, SE¼SW¼SW¼;
Sec. 10, NW¼NE¼NW¼, S½NE¼NW¼, and NW¼NW¼.

Long Lake Observation

T. 57 N., R. 105 W.,
Sec. 11, SE¼NE¼NE¼.

Horse Creek Campground

T. 43 N., R. 106 W.,
Sec. 30, W½NW¼NW¼.

Double Cabin Administrative Site and Recreation Area

T. 44 N., R. 106 W.,
Sec. 3, E½NW¼NW¼, NE¼NW¼, E½SW¼NW¼, SE¼NW¼, E½NW¼SW¼, NE¼SW¼, NW¼SE¼, and W½NE¼.

Clearwater Picnic Ground

T. 52 N., R. 106 W.,
Sec. 19, NE¼SW¼, N½NW¼SE¼, and S½S½SW¼NE¼.

Elk Fork Campground

T. 52 N., R. 106 W.,
Sec. 21, N½NE¼SW¼, S½SE¼NW¼, S½NW¼SE¼NW¼, and E½NE¼NW¼SW¼.

Wapiti Campground

T. 52 N., R. 106 W.,
Sec. 21, NW¼SW¼NE¼, S½SW¼NW¼NE¼, NE¼SE¼NW¼, S½SE¼NE¼NW¼, NE¼NW¼SE¼NW¼, SE¼SW¼NE¼NW¼, NE¼SW¼NE¼NW¼, and NW¼SE¼NE¼NW¼.

Big Game Campground

T. 52 N., R. 106 W.,
Sec. 22, S½SE¼NW¼, N½NE¼SW¼, NW¼NW¼SE¼, SW¼SW¼NE¼ except that area withdrawn as the Wapiti Administrative Site.

Horse Creek Picnic Ground

T. 52 N., R. 106 W.,
Sec. 23, N½SE¼NW¼, S½S½NE¼NW¼, and NW¼SW¼NE¼.

Hanging Rock Campground

T. 52 N., R. 106 W.,
Sec. 24, N½SE¼SW¼ and N½S½SE¼SW¼.

Slipper Rock

T. 52 N., R. 106 W.,
Sec. 24, SE¼NW¼SW¼, E½SW¼NW¼SW¼, and W½SW¼NE¼SW¼.

Clay Butte Lookout

T. 57 N., R. 106 W.,
Sec. 1, SW¼SW¼;
Sec. 11, NE¼NE¼;
Sec. 12, NW¼NW¼.

Beartooth Butte Observation

T. 57 N., R. 106 W.,
Sec. 7, S½NE¼NE¼NW¼ and N½SE¼NE¼NW¼.

Beartooth Falls Observation

T. 57 N., R. 106 W.,
Sec. 7, NE¼SW¼NW¼.

Lake Creek Observation

T. 57 N., R. 106 W.,
Sec. 8, SW¼SE¼SW¼.

North Absaroka Observation

T. 57 N., R. 106 W.,
Sec. 11, E½NE¼SE¼SW¼ and W½NW¼SW¼SE¼.

Pilot Peak Observation

T. 57 N., R. 106 W.,
Sec. 14, E½NE¼SW¼NE¼ and W½NW¼SE¼NE¼.

Clarks Fork Overlook

T. 57 N., R. 106 W.,
Sec. 17, SE¼SE¼NW¼NE¼, SW¼SW¼NE¼NE¼, NE¼NE¼SW¼NE¼, and NW¼NW¼SE¼NE¼.

Lake Creek Campground

T. 57 N., R. 106 W.,
Sec. 17, E½SW¼NW¼.

Hunter Peak Campground

T. 57 N., R. 106 W.,
Sec. 27, E½SW¼SE¼;
Sec. 34, NE¼NW¼NE¼, not to include HES 96.

Horse Creek Campground

T. 43 N., R. 107 W.,
Sec. 25, E½NE¼NE¼.

Henry Ford Observation

T. 52 N., R. 107 W.,
Sec. 20, N½NE¼SW¼SW¼ and S½SE¼NW¼SW¼.

Rex Hale Campground

T. 52 N., R. 107 W.,
Sec. 21, NW¼NE¼SE¼ and NE¼NW¼SE¼.

Fire Fighters Memorial

T. 52 N., R. 107 W.,
Sec. 21, W½NE¼SE¼SW¼ and E½NW¼SE¼SW¼.

Mummy Cave Archeological Area

T. 52 N., R. 107 W.,
Sec. 21, E½NE¼SE¼;
Sec. 22, W½NW¼SW¼.

Newton Creek Campground and Picnic Site

T. 52 N., R. 107 W.,
Sec. 28, NW¼SW¼NW¼ and SW¼NW¼NW¼;
Sec. 29, N½SE¼NE¼ and S½NE¼NE¼.

Crazy Creek Campground

T. 57 N., R. 107 W.,
Sec. 10, NE¼NE¼NE¼ and S½NE¼NE¼.

Fox Creek Campground

T. 57 N., R. 107 W.,
Sec. 30, NW¼SW½NE¼, S½SW¼NE¼, SW¼SE¼NE¼, N½NW¼SE¼, NE¼SE¼, and NE¼SE¼SE¼.

Eagle Creek Campground

T. 52 N., R. 108 W.,
Sec. 17, SE¼SW¼, S½SW¼SE¼, and NW¼SW¼SE¼.

Buffalo Bill Scout Camp

T. 52 N., R. 108 W.,
Sec. 22, S½SW¼SE¼ and S½N½SW¼SE¼;
Sec. 27, N½NW¼NE¼.

Chimney Rock Observation

T. 52 N., R. 108 W.,
Sec. 25, NW¼NW¼NW¼.

Falls Campground

T. 43 N., R. 109 W.,
Sec. 7, E½NE¼NE¼, SE¼NE¼, and NE¼SE¼;
Sec. 8, W½W½NW¼, N½NE¼SW¼, and S½NW¼SW¼.

Falls Observation

T. 43 N., R. 109 W.,
Sec. 8, S½NE¼SW¼ and N½SE¼SW¼.

Tie Hack Memorial

T. 43 N., R. 109 W.,
Sec. 34, W½SW¼SE¼NW¼ and E½SE¼SW¼NW¼.

Pahaska Campground

T. 52 N., R. 109 W.,
Sec. 2, S½SW¼SW¼;
Sec. 3, S½SE¼ and SE¼SE¼SW¼;
Sec. 10, N½NE¼NE¼;
Sec. 11, N½S½NW¼ and N½NW¼.

Cody Peak Observation

T. 52 N., R. 109 W.,
Sec. 11, SW¼NW¼NE¼.

Sleeping Giant Winter Sports Area

T. 52 N., R. 109 W.,
Sec. 11, W½SE¼, W½SE¼SE¼, SW¼NE¼SE¼, and S½SW¼NE¼.

Sleeping Giant Campground

T. 52 N., R. 109 W.,
Sec. 12, SE¼SW¼NW¼, W½SW¼SE¼NW¼, and N½NE¼NW¼SW¼.

Wind River Turnout

T. 43 N., R. 110 W.,
Sec. 1, S½SE¼NW¼SW¼, S½SW¼NE¼SW¼, N½NW¼SE¼SW¼, and N½NE¼SW¼SW¼.

Brooks Lake Recreation Area

T. 44 N., R. 110 W.,
Sec. 24, S½SE¼;
Sec. 25, NE½, W½NW¼, N½NE¼NW¼, S½SE¼NW¼, N½SW¼, and N½S½SW¼.

Togwotee Pass Observation

T. 44 N., R. 110 W.,
Sec. 28, NW¼NW¼. This withdrawal is limited to that portion of sec. 28, NW¼NW¼, located south of the Shoshone-Teton National Forest boundaries.

Wind River Lake Picnic Ground

T. 44 N., R. 110 W.,
Sec. 28, NE¼SE¼ and N½SE¼SE¼.

The areas described aggregate 3,504.48 acres, in Fremont and Park Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

[F.R. Doc. 65-10766; Filed, Oct. 8, 1965; 8:47 a.m.]

[Public Land Order 3842]

[Idaho 015127]

IDAHO

Powersite Classification No. 454 (Snake River, Idaho)

By virtue of the authority contained in the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 1950 Reorganization Plan No. 3 (64 Stat. 1262; 5 U.S.C. 133z-15, note), subject to existing valid rights, the following described lands are hereby classified as powersites so far as title to such lands and interests therein remain in the United States:

BOISE MERIDIAN

T. 8 S., R. 14 E.,
Sec. 17, lots 9, 10, and 11;
Sec. 19, lot 8;
Sec. 20, lots 8 and 9;
Sec. 33, lots 9 and 10.
T. 9 S., R. 14 E.,
Sec. 4, lot 19;
Sec. 10, lot 8.
T. 9 S., R. 15 E.,
Sec. 6, lots 21, 22, and 23;
Sec. 9, lots 15 and 16;
Sec. 10, lot 14.
T. 9 S., R. 17 E.,
Sec. 33, lot 3.
T. 11 S., R. 20 E.,
Sec. 4, lot 3;
Sec. 6, lot 1.

The areas described aggregate 160.98 acres, in Gooding and Twin Falls Counties.

This classification shall be subject to the provisions of section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 4, 1965.

[F.R. Doc. 65-10767; Filed, Oct. 8, 1965; 8:47 a.m.]

[Public Land Order 3843]

[Colorado 0125422]

COLORADO

Withdrawal for Protection of Recreation and Archaeologic Values

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:

Subject to valid existing rights the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (Ch. 2, Title 30, U.S.C.), for protection of their public recreation and archaeologic values:

NEW MEXICO PRINCIPAL MERIDIAN

T. 36 N., R. 18 W.,
Sec. 22, NW¼SE¼.
T. 36 N., R. 19 W.,
Sec. 29, W½SW¼.
T. 37 N., R. 19 W.,
Sec. 25, S½SW¼;
Sec. 36, lot 2.
T. 38 N., R. 19 W.,
Sec. 2, lots 6 and 7.
T. 37 N., R. 20 W.,
Sec. 11, SE¼NE¼ and NE¼SE¼.

SIXTH PRINCIPAL MERIDIAN

T. 2 N., R. 77 W.,
Sec. 26, NW¼NW¼;
Sec. 27, N½NE¼.
T. 18 S., R. 72 W.,
Sec. 30, lots 2 and 3.
T. 5 S., R. 86 W.,
Sec. 1, lots 5, 6, 7, and S½NW¼;
Sec. 2, lots 11, 12 and 13.

And those portions of lot 8 of sec. 1, T. 5 S., R. 86 W., and Tract 50 A., in T. 4 S., R's 85 and 86 W., and T. 5 S., R's 85 and 86 W., lying south of the south right-of-way boundary of U.S. Highway 6 and 24, as shown on sheet 2 of 2 of Colorado State Highway Department Permit Colorado 018828.

The areas described aggregate 879.27 acres.

The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

OCTOBER 4, 1965.

[F.R. Doc. 65-10768; Filed, Oct. 8, 1965; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14307]

PART 73—RADIO BROADCAST SERVICES

Skywave Transmission on Class I-B Clear Channels; Correction

In the matter of amendment of §§ 73.182, 73.185, and 73.190 (skywave transmission on Class I-B clear channels).

In the Appendix to the Report and Order in the above-entitled proceeding adopted September 29, 1965 (FCC 65-870), the third sentence of amended § 73.185(i) should read, and is hereby corrected to read, as follows: "The distance is 825 miles."

Released: October 6, 1965.

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

[F.R. Doc. 65-10788; Filed, Oct. 8, 1965; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Ravalli National Wildlife Refuge, Mont.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER. The limited time ensuing from the date of the adoption of the Federal migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

The public hunting of ducks, geese, coots and gallinules on the Ravalli National Wildlife Refuge, Mont., is permitted from October 9, 1965, through January 6, 1966, but only on the area designated by signs as open to hunting.

This open area comprising 680 acres is delineated on a map available at refuge headquarters, Stevensville, Mont., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1002 Northeast Holladay, Portland, Oreg., 97208.

Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 6, 1966.

JOHN D. FINDLAY,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 28, 1965.

[F.R. Doc. 65-10826; Filed, Oct. 8, 1965; 8:49 a.m.]

PART 32—HUNTING

Ravalli National Wildlife Refuge, Montana

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

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked pheasants on the Ravalli National Wildlife Refuge, Mont., is permitted from October 31 through November 28, 1965, but only on the area designated by signs as open to hunting. This open area, comprising 680 acres, is delineated on a map available at refuge headquarters, Stevensville, Mont., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1002 Northeast Holladay, Portland, Oreg., 97208.

Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 28, 1965.

JOHN D. FINDLAY,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 29, 1965.

[F.R. Doc. 65-10827; Filed, Oct. 8, 1965; 8:49 a.m.]

PART 32—HUNTING

Ravalli National Wildlife Refuge, Montana

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

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

Archery hunting of deer on the Ravalli National Wildlife Refuge, Mont., is permitted from October 9 through November 28, 1965, but only on the area designated by signs as open to hunting. This open area, comprising 680 acres, is delineated on a map available at refuge headquarters, Stevensville, Mont., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1002 Northeast Holladay, Portland, Oreg., 97208.

Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special condition:

(1) No overnight camping or open fires are permitted on the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 28, 1965.

JOHN D. FINDLAY,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 29, 1965.

[F.R. Doc. 65-10828; Filed, Oct. 8, 1965; 8:49 a.m.]

PART 32—HUNTING

Desert Game Range, Nevada

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

§ 32.22 Special regulations; upland game birds; for individual wildlife refuge areas.

NEVADA

DESERT GAME RANGE

Public hunting of turkeys on the Desert Game Range, Nev., is permitted from October 9 through November 14, 1965, but only on the area in State Game Management Area 26 designated by signs as open to hunting. This open area comprising 100,000 acres is delineated on a map available at the refuge headquarters, Las Vegas, Nev., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 1002 Northeast Holladay, Portland, Oreg., 97208.

Hunting of turkeys is permitted in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 14, 1965.

JOHN D. FINDLAY,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 29, 1965.

[F.R. Doc. 65-10829; Filed, Oct. 8, 1965; 8:49 a.m.]

PART 32—HUNTING

PART 33—SPORT FISHING

Certain National Wildlife Refuges

On page 10108 of the FEDERAL REGISTER of August 13, 1965, there were published notices of proposed amendments to §§ 32.11, 32.21, 32.31, and 33.4 of Title 50, Code of Federal Regulations. The purpose of these amendments is to provide for public hunting of upland game on Bombay Hook National Wildlife Refuge and Desert Game Range, Delaware and Nevada; and public hunting of migratory game birds, upland game and big game, and sport fishing on Ravalli National Wildlife Refuge, Mont., as legislatively permitted.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed amendments. No comments, suggestions, or objections have been received. The proposed amendments are hereby adopted without change.

Since these amendments benefit the public by relieving existing restrictions on hunting and fishing, they shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 10, 45 Stat. 1224; 16 U.S.C. 715i; sec. 4, 48 Stat. 451, as amended; 16 U.S.C. 718d)

1. Section 32.11 is amended by the addition of the following area to those where hunting of migratory game birds is authorized:

§ 32.11 List of open areas; migratory game birds.

* * * * *

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

2. Section 32.21 is amended by the addition of the following areas to those where hunting of upland game is authorized:

§ 32.21 List of open areas; upland game.

* * * * *

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

NEVADA

DESERT GAME RANGE

3. Section 32.31 is amended by the addition of the following area to those where hunting of big game is authorized:

§ 32.31 List of open areas; big game.

* * * * *

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

4. Section 33.4 is amended by the addition of the following area to those where sport fishing is authorized:

§ 33.4 List of open areas; sport fishing.

* * * * *

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

JOHN A. CARVER, Jr.,
Under Secretary of the Interior.

OCTOBER 7, 1965.

[F.R. Doc. 65-10825; Filed, Oct. 8, 1965; 8:49 a.m.]

PART 32—HUNTING

Pathfinder National Wildlife Refuge, Wyo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER. The limited time ensuing from the date of the adoption of the Federal migratory game bird regulations to and including the establishment of State hunting seasons makes it impracticable to give public notice of proposed rule making

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

WYOMING

Pathfinder National Wildlife Refuge

The public hunting of ducks and coots on the Pathfinder National Wildlife Refuge, Wyo., is permitted from October 9 through November 17, 1965, inclusive. Public hunting of geese on the refuge is permitted from October 9 through October 31, 1965, inclusive, and from November 25, 1965, through January 15, 1966, inclusive. The hunting of waterfowl is permitted only on those areas designated by signs as open to hunting. This open area, comprising 3,760 acres, is delineated on maps available at refuge headquarters, Laramie, Wyo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex., 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of waterfowl subject to the following special condition:

(1) Blinds—The construction of permanent blinds or pits is not permitted. Portable blinds may be used but not left on the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1966.

CAREY H. BENNETT,
Acting Regional Director, Albuquerque, N. Mex.

SEPTEMBER 29, 1965.

[F.R. Doc. 65-10852; Filed, Oct. 8, 1965; 11:23 a.m.]

Proposed Rule Making

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Parts 201, 206, 251, 287]

CHARGES AND FEES FOR CERTAIN SERVICES

Notice of Proposed Rule Making

Notice is hereby given, pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) and section 204, Merchant Marine Act, 1936 (49 Stat. 1987, as amended; 46 U.S.C. 1114); that the Maritime Administration and the Maritime Subsidy Board are considering the establishment of charges or fees set forth below to recover the costs of rendering certain services, in accordance with the provisions of the Act of May 27, 1935 (15 U.S.C. 189a), the Act of May 15, 1936 (15 U.S.C. 189), the Act of December 19, 1942 (5 U.S.C. 606), and the Act of August 31, 1951 (5 U.S.C. 140), as implemented by the Bureau of the Budget Circular No. A-25, dated September 23, 1959, and Department of Commerce Administrative Order No. 203-5, dated September 7, 1961:

[General Order 106]

PART 251—APPLICATION FOR SUBSIDIES AND OTHER DIRECT FINANCIAL AID (CONSTRUCTION)

1. A new section is hereby added to this part reading as follows:

§ 251.31 Charges for processing applications for authorization to transfer ownership of ships built with construction-differential subsidy.

(a) Applications for an amendment or addendum to construction-differential subsidy contracts to provide for the sale of a vessel built under Title V, Merchant Marine Act, 1936, as amended, to a buyer who assumes the obligations under said contracts, shall be filed with the Secretary, Maritime Subsidy Board, Washington, D.C., 20235.

(b) *Fee.* Each such application shall be accompanied by the sum of $200, which sum will be retained to recover the cost of processing the application.

[General Order 105]

PART 206—MISCELLANEOUS FEES

Subpart C—Applications for Sale of Subsidized Vessel

2. A new subpart is hereby added to this part reading as follows:

§ 206.20 Charges for processing applications.

(a) Applications by owners for the sale of subsidized vessels to a private party where appraisal is made for the Maritime Administration by an independent vessel appraiser shall be filed with the Secretary, Maritime Subsidy Board, Washington, D.C., 20235.

(b) *Fee.* Each such application shall be accompanied by the sum of $400, which sum will be retained to recover the cost of processing the application.

[General Order 41, 3d Rev., Amdt. 1]

PART 201—RULES OF PRACTICE AND PROCEDURE

Subpart U—Charges for Orders, Notices, Rulings, Decisions

3. A new subpart is hereby added to this part reading as follows:

§ 201.186 Charges for documents.

(a) Copies of orders, notices, rulings, decisions (initial and final) issued by Hearing Examiners, the Maritime Subsidy Board and the Maritime Administration in all docketed proceedings may be obtained by parties other than those involved in docketed proceedings by requesting to be placed on the (monthly) mailing list.

(b) *Fees.* (1) Each request to be placed on the mailing list for one year shall be accompanied by the sum of $15, which sum will be retained to recover the cost of processing.

(2) A subscriber on the mailing list will automatically receive copies of all orders, notices, rulings and initial and final decisions without charge.

(3) Single copies of initial and/or final decisions may be obtained upon request to Secretary, Maritime Subsidy Board, Washington, D.C., 20235. Such request shall be accompanied by the sum of $1.00, which sum will be retained to recover the cost of processing the request.

[General Order 38, 2d Rev., Amdt. 1]

PART 287—ESTABLISHMENT OF CONSTRUCTION RESERVE FUNDS

4. A new paragraph is hereby added to § 287.4 of this part reading as follows:

§ 287.4 Application to establish fund.

* * * * *

(c) *Fee.* Each such application shall be accompanied by the sum of $225, which sum will be retained to recover the cost of processing the application.

Consideration will be given to any data, views, or arguments regarding the foregoing proposed charges and fees, which are submitted in writing, in triplicate to the Secretary, Maritime Administration, Washington, D.C., 20235, by close of business on November 8, 1965.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: October 1, 1965.

By order of the Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 65-10742; Filed, Oct. 8, 1965; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 235, 241]

[Docket 16545]

REINVESTMENT OF GAINS DERIVED FROM THE SALE OR OTHER DISPOSITION OF FLIGHT EQUIPMENT AND UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Notice of Proposed Rule Making

OCTOBER 5, 1965.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 235 of the Economic Regulations (14 CFR Part 235) by redefining "gain" therein to exclude transactions involving (1) sale of flight equipment to one person and purchase of like equipment from another person, (2) investment of insurance proceeds in like flight equipment, and (3) exchange of like flight equipment where cash or other consideration is received. This proposal, under which such transactions would be treated as substitutions of assets, would be effective as of the effective date of section 406(d) of the Federal Aviation Act and of the predecessor Civil Aeronautics Act (April 6, 1956). It is also proposed to amend Part 241 (14 CFR Part 241) to conform the accounting regulations to the policy adopted.

The principal features of the proposed amendments are described in the attached Explanatory Statement, and the proposed amendments to Part 235 are set forth below. The amendments are proposed under the authority of sections 204, 406, and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 763, 766, as amended; 49 U.S.C. 1324, 1376, 1377).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428. All relevant matter in communications received on or before November 19, 1965, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Part 235 of the Economic Regulations was adopted by the Board in 1959 to implement the provisions of section 406(d) of the Federal Aviation Act of 1958 (Economic

Regulations No. ER-276, effective August 10, 1959, 24 F.R. 5600). Section 406(d) provides essentially that in determining subsidy the Board shall not offset against subsidy a carrier's gains from the disposition of flight equipment if the gains have been reinvested in flight equipment within a reasonable time as prescribed by the Board. Part 235 sets forth the form of notice and type of evidence of reinvestment that the statute requires a carrier to submit to the Board in order to obtain the benefits of section 406(d).

In promulgating Part 235, the Board dealt with cases involving the question whether section 406(d) is applicable to transactions resulting in the replacement of flight equipment with equipment of the same type; i.e., sale of flight equipment to one person and purchase of like equipment from another person, exchange of flight equipment of the same type, and replacement of lost or destroyed flight equipment covered by insurance. The Board concluded that section 406(d) was applicable to the sale and purchase transaction but that exchange of like flight equipment and replacement in kind by an insurer did not produce gains protected by the statute. Accordingly, in a transaction involving the sale and purchase of like flight equipment, subsidy would not have been reduced by the amount of the "gain" and the carrier's investment would have been increased to reflect the purchase price of the replacement equipment, subject to such investment not being recognized for subsidy purposes if not consistent with section 406(b) of the Act. As to exchanges of like flight equipment and replacements in kind by an insurer, the transactions have been treated as substitutions of assets with no gain realized. ER-276 left for later determination in appropriate proceedings the questions whether section 406(d) is applicable to (1) an air carrier's investment of insurance proceeds in flight equipment of the same type as the lost equipment in cases where the insurer does not exercise his option to replace the equipment in kind or (2) an exchange of flight equipment of the same type involving receipt of additional cash or other consideration.

In this proceeding, we propose to reconsider our determination in ER-276 with respect to sale and purchase of like flight equipment, to dispose of the two matters left open specifically in ER-276 (i.e., investment of insurance proceeds in like flight equipment and exchange of like flight equipment with receipt of additional consideration), and to treat all the transactions involving replacement of flight equipment with like equipment as substitutions of assets that give rise to no gains under section 406(d).

We propose to change our previous decision with respect to sale and purchase of like flight equipment because, upon considering the elements of the three types of transactions involving the replacement of flight equipment with equipment of the same type, we conclude that the transactions are all essentially the same and should be treated in the same manner. When an air carrier sells flight equipment and invests the proceeds in equipment of the same type, it simply substitutes assets. When a carrier uses insurance proceeds to replace destroyed flight equipment with equipment of the same type, the carrier is merely restored to its previous position. When a carrier receives additional consideration in an exchange of like equipment, it has no gain, but a substituted asset of lesser value; and there is no reinvestment under section 406(d). Therefore, in considering the treatment to be given to replacements obtained with insurance proceeds and by exchange, it became necessary to reconsider our previous conclusion with respect to replacement by sale and purchase. In our opinion, none of such transactions should occasion an inflation of investment and a consequent increase in subsidy due to increased depreciation expense and return on investment.

The expressed purpose of section 406(d) was to encourage reequipment programs by subsidized air carriers. We do not believe it was the intent of Congress to increase subsidy needs on the basis of inflated book values resulting from mere exchanges of flight equipment of the same type. It is our opinion that, in effect, all these transactions involving replacements with like equipment are equivalent to an exchange of flight equipment for equipment of the same type and that section 406(d) is not applicable to such transactions. We therefore propose to amend the definition of "gain" in § 235.1(e) to provide that no gain shall be considered as realized in transactions in which flight equipment is replaced by like equipment.

Inasmuch as no gain would be considered as realized, the Board would not deduct from the carrier's subsidy as "other revenue" the proceeds in excess of the depreciated cost of the replaced equipment. For the same reason, the replacement equipment would be treated as a substitution of assets. It is proposed that, (1) in the case of a sale of flight equipment to one person and purchase of like equipment from another, the replacement equipment be recognized at its purchase price minus the excess of the sale price over the net book value of the equipment sold; (2) in the case of investment of insurance proceeds in like flight equipment, the replacement equipment be recognized at its purchase price minus the excess of the insurance proceeds over the net book value of the lost or destroyed equipment; and (3) in the case of an exchange of like flight equipment where additional cash or other consideration is received, the replacement equipment be recognized at the net book value of the replaced equipment minus the additional consideration received.

Since the resolution of the issues of investment of insurance proceeds in like flight equipment and exchange of like flight equipment with receipt of additional consideration was specifically left for later determination when Part 235 was issued, the amendment proposed herein would be effective retroactively to the effective date of Part 235. While Part 235 did not make a similar reservation with regard to the sale and purchase of like equipment, we propose to treat all the transactions alike; and accordingly, in the case of sales and purchases of like equipment we also propose that the amendment be effective as of the date of the original Part 235. Comment is requested as to such proposal, with special reference to the extent to which particular transactions were entered into in reliance upon our earlier interpretation.

Comment is also specifically invited as to the question whether the transactions here involved would be eligible for exclusion from "other revenue" pursuant to section 406(d) in the event that it were to be concluded that such transactions involving like equipment gave rise to "gains" as distinguished from "substitutions of assets"; and all persons are hereby placed on notice that this proceeding encompasses that issue and that the Board may, in its final determination, decide that the transactions in issue involve gains, and that such gains are not excludable from "other revenue" for the purpose of subsidy determinations provided for by section 406(b).

It should also be noted that, under the proposed amendment, it is not intended that the term "like flight equipment" be limited to aircraft bearing the identical designation (e.g., replacement of a DC-3 by a DC-3; or a CV-340 by a CV-340, etc.). It is intended that aircraft be deemed "like" for the purpose of the proposed amendment if they are substantially similar in terms of operating characteristics and public convenience. Replacement of piston-powered aircraft by turboprop or turbojet aircraft would not be deemed a replacement by "like" equipment.

The Board contemplates that amendments to the accounting requirements of Part 241 to provide information necessary for the implementation of the final policy adopted herein will be issued at the same time as the final amendments to Part 235. It should be noted that the proposed amendment of Part 235 is not intended to affect the provisions of section 5-3(e)(8) of Part 241 of the regulations with respect to exchanges of flight equipment of different types.

Proposed rule. It is proposed to amend § 235.1(e) of Part 235 of the Economic Regulations (14 CFR Part 235) to read as follows:

(e) "Gain" means the amount by which the total proceeds (less applicable expenses and taxes) realized from the sale or other disposition of one or more units of flight equipment in a single transaction exceeds the total depreciated cost of the units of flight equipment sold or disposed of in that transaction: *Provided, however*, That no gain shall be considered as realized in transactions in which flight equipment is replaced by like flight equipment, whether such replacement results from sale and purchase, exchange with or without receipt of additional cash or other consideration, or recovery from the carrier's insurer on account of the loss or destruction of flight equipment where the insurer or the insured carrier replaces such equipment. For purposes of this proviso, "like flight equipment" shall include flight equipment which is substantially similar in respect to capacity, speed, range, and cost characteristics and pressurization. For example, Convair 340, Convair 440, and Martin 404 aircraft are considered to be like equipment.

[F.R. Doc. 65-10799; Filed, Oct. 8, 1965; 8:49 a.m.]

[Docket No. 16544]

[14 CFR Part 298]

CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Use of Aircraft With a Maximum Certificated Takeoff Weight of Over 12,500 Pounds When the Maximum Passenger Capacity Thereof Does Not Exceed Twelve (12) Persons

OCTOBER 5, 1965.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment of Part 298 of its Economic Regulations to permit air taxi operators to use aircraft having a maximum certificated takeoff weight of over 12,500 pounds and less than 25,000 pounds, provided that the maximum passenger capacity thereof does not exceed twelve (12) persons.

The basis for the proposed amendment is discussed in the Explanatory Statement. The amendment is proposed under the authority of sections 204 and 416 of the Federal Aviation Act of 1958 (72 Stat. 743, 771; 49 U.S.C. 1324, 1386).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428. All relevant matter in communications received on or before November 8, 1965, will be considered by the Board. Copies of all such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board:

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Since the promulgation of the exemption for air taxi operators in 1952 (14 CFR Part 298), air taxi operators have been authorized to utilize aircraft having a maximum takeoff weight not in excess of 12,500 pounds with no limitation on the passenger load capacity. When first promulgated, this aircraft weight limitation adequately met the needs of the air taxi industry since less than 10 percent of the air taxi operators then used aircraft having a maximum takeoff weight of more than 6,000 pounds. In the few instances where larger aircraft were required to meet unique or special conditions, the Board has exempted air taxi operators from the weight limitations of Part 298.[1]

It now appears that a number of small jet aircraft have been certificated by the Federal Aviation Agency for air operations within the United States and could be made available for use by air taxi operators, but for the maximum gross-weight of aircraft limitation in Part 298.[2] A table of some of these jet aircraft appears below:

Name of aircraft	Maximum gross takeoff weight (pounds)	Passenger capacity (number)
Lear Jet 23	12,500	6
Aero Commander 1121	16,800	9
Hansa (German) (not yet certificated. Certification program in progress.)	18,100	12
Sabreliner NA-265	18,650	7
Hawker-Siddeley HS-125 (English)	20,500	8
Mystere 20 (French)	24,750	8-10

Although the above aircraft have a maximum gross takeoff weight of up to 24,750 pounds, it is significant that none has a capacity of more than 12 passengers and thus they appear suited for air taxi operations. However, except with respect to the Lear Jet 23, the air taxi operators are precluded from their use because of the weight limitations in Part 298.

The ratio of fuel weight to aircraft weight of the small jet aircraft is considerably greater than the ratio of fuel to aircraft weight of the piston-powered air taxi equipment. The additional fuel load of the small jet aircraft increases the maximum gross takeoff weight without a like increase in payload potential.

The Board has heretofore noted that the air taxis have become an integral part of the national air transportation system.[3] The trend toward greater use of air taxis by the traveling public can be traced, in part, to the increased speed in point-to-point jet travel offered by the scheduled carriers. In comparison with the greater speed of jet travel, the airline passenger may find the slower means of surface transportation between major airports and the smaller communities to be both time-consuming and inconvenient. Thus, he may seek to fly all the way via a combination of scheduled route carrier and air taxi service. The traveler, particularly the business executive adjusted to the stepped-up pace of jet transportation, may also find the piston-powered air taxi equipment inadequate for his needs. Likewise, an individual or business firm may need to charter small fast aircraft with limited passenger capacity which are not now being used by any air carrier. Thus, there may well be a public need for the use of small jet aircraft by air taxi operators.

In order to maintain and develop a viable industry it is necessary to permit the air taxi operators to avail themselves of new developments in aircraft design and manufacture in their particular field. The utilization of new small jet aircraft appears to be a step forward in the growth and development of the air taxi industry, which will enable the operators to provide improved service to smaller communities throughout the Nation.

We do not believe that the proposed rule would adversely affect the operations of the certificated route carriers. When the air taxi category was first established in 1952, the subsidized local service carriers were operating, almost exclusively, DC-3 aircraft weighing approximately 25,000 pounds. At that time the 12,500 pound limitation was considered necessary to minimize the effect of competition offered by the air taxis, since the maximum gross takeoff weight of an aircraft was considered a reliable index of its payload capacity. This criterion can no longer be relied upon in view of the greater fuel requirement of the jets, which decreases considerably their payload capacity. Moreover, the local service carriers are gradually replacing their DC-3 fleets with faster and heavier equipment, including jets, weighing upwards of 35,700 pounds. Therefore, increasing the weight allowance under Part 298, as proposed herein, would not decrease the weight spread between "large" and "small" aircraft as provided for in current Part 298. Also, because of the nature of the equipment used, the air taxi operator does not pose a significant competitive threat to the certificated route operator. The small equipment which the air taxi operator uses is less attractive to the passenger and more expensive per seat mile to operate than the equipment used by the certificated route carrier. Thus, the cost of operation of these small aircraft would appear to preclude their being operated except at higher fares than those charged by the certificated route carriers.

In view of the above, the Board proposes a partial relaxation of the 12,500-pound maximum certificated takeoff weight limitation now found in Part 298. Thus, we would provide for an alternative definition of "large aircraft" applicable to turbojet aircraft[4] in terms of

[1] Schaefer Air Service, Inc., Order E-22294, June 11, 1965; Aspen Airways, Inc., Order E-21761, Feb. 4, 1965; Mineral County Airlines, Inc., doing business as Hawthorne Nevada Airlines, Order E-20943, June 15, 1964; American Air Taxi, Inc., Order E-13429, Jan. 27, 1959; South Central Airlines, Inc., Order E-21037, July 7, 1964.

[2] Recently, Reading Aviation Service, Inc., filed with the Board an application for an exemption from the provisions of Part 298 in order to use the Aero Commander 1121 (small jet aircraft) in air taxi operations (docket 16297). Action on this application is being deferred pending the outcome of the instant rule making proceeding.

[3] EDR-82, dated Apr. 5, 1965, 30 F.R. 4636 (p. 4, mimeographed notice).

[4] Part 298 defines "large aircraft" but contains no comparable definition of the term "small aircraft." Thus, any aircraft which does not come within the definition of "large aircraft" is, by exclusion, a small aircraft which can be used in air transportation by an air taxi operator within the meaning of Part 298.

maximum passenger load capacity with a maximum takeoff weight of less than 25,000 pounds. This would permit air taxi operators the option of using aircraft which have either (1) a gross maximum takeoff weight of not more than 12,500 pounds without limitation as to the payload capacity of the aircraft (the present rule); or (2) a maximum passenger capacity of not more than 12 persons with a limitation as to the maximum gross takeoff weight of the aircraft of 25,000 pounds (the proposed rule).

Under Part 135 of the Federal Aviation Regulations (14 CFR Part 135), current safety regulations applicable to air taxi operators relate to aircraft with a maximum certificated takeoff weight of 12,500 pounds or under. In proposing to grant economic authority to air taxi operators to operate heavier aircraft, we do not, of course, deal with the question of what safety regulations should be applied. This is a matter for the Federal Aviation Agency to determine.

Proposed rule. It is proposed to amend Part 298 of the Economic Regulations (14 CFR Part 298) as follows:

1. Amend § 298.2 by redefining the term "large aircraft" and defining "maximum passenger capacity." As amended, § 298.2 reads in part as follows:

§ 298.2 Definitions.

* * * * *

"Large aircraft" means an aircraft whose maximum certificated takeoff weight is greater than 12,500 pounds: *Provided, however*, That a turbojet aircraft whose maximum certificated takeoff weight is greater than 12,500 pounds but less than 25,000 pounds shall not be considered a "large aircraft" for purposes of this part if its maximum passenger capacity does not exceed twelve (12) persons.

"Maximum passenger capacity" means the maximum passenger capacity listed in the applicable FAA type certificate date sheet (including supplemental type certificates).

* * * * *

2. Amend § 298.11(i) to read as follows:

§ 298.11 Exemption authority.

Air taxi operators are exempt from the following provisions of Title IV of the Act:

* * * * *

(i) Subsection 412(a): *Provided*, That air taxi operators shall not be relieved from filing with the Board a true copy, or, if oral, a true and complete memorandum of every contract or agreement (whether enforceable by provisions of liquidated damages, penalties, bonds or otherwise) affecting air transportation, between any air taxi operator and any person (excluding air carriers) who operates large aircraft for compensation or hire.

3. Amend § 298.21 by revising paragraphs (a), (b), and (c) to read as follows:

§ 298.21 Scope of service authorized.

(a) *General scope.* Except as prohibited by paragraphs (b), (c), (d), and (f) of this section, the exemption authority provided to air taxi operators by this part shall extend to the direct air transportation of persons, property and mail (subject to the limitations imposed in §§ 298.3(a) and 298.13 of this part) in aircraft (1) having a maximum takeoff weight of 12,500 pounds or less or (2) having a maximum passenger capacity of not more than twelve (12) persons and a maximum takeoff weight of less than 25,000 pounds.

(b) *General limitations.* An air taxi operator is prohibited from providing air transportation, or holding out to the public expressly or by course of conduct, that it provides such transportation regularly or with a reasonable degree of regularity (1) within the State of Hawaii except as provided in paragraph (e) of this section; (2) between any points where scheduled helicopter passenger service, or community center and inter-airport service, is provided by the holder of a certificate of public convenience and necessity either in accordance with such certificate or pursuant to exemption order of the Board; and (3) except as provided in paragraph (e) of this section, between any points where an air carrier certificated by the Board to provide unlimited route-type air transportation of persons, property, and mail provides scheduled daily transportation with aircraft having (i) a maximum takeoff weight of 12,500 pounds or less, or (ii) a maximum passenger capacity of not more than twelve (12) persons and a maximum takeoff weight of less than 25,000 pounds.

(c) *Air taxi service in Alaska.* No service in air transportation shall be offered or performed by an air taxi operator between points both of which are in the State of Alaska, or one of which is in Alaska and the other in Canada, unless the air taxi operator also holds authority from the State of Alaska to operate aircraft (1) of a maximum takeoff weight not over 12,500 pounds, or (2) of a maximum passenger capacity of not more than twelve (12) persons and a maximum takeoff weight of less than 25,000 pounds, as a common carrier in intrastate commerce, or has applied to the Board for, and received, special exemption authority (see Subpart D of part 302 of the Procedural Regulations): *Provided*, That the operator is prohibited from rendering the above authority service in air transportation, or holding out to the public expressly or by course of conduct that it renders such service, regularly or with a reasonable degree of regularity. Air taxi operators may also transport over postal routes Nos. 78150 and 78151 or such other designation as may be assigned thereto, and over postal routes designated by the Postmaster General as "gratuitous routes," such mail as may be tendered by the Postmaster of Alaska for transportation over such routes: *Provided*, That the foregoing restrictions on frequency of service in air transportation shall not apply to the carriage of such mail.

4. Amend § 298.22(a) to read as follows:

§ 298.22 Operation of large aircraft.

(a) *Prohibition of operation of large aircraft in air transportation.* Nothing in this part shall be construed as authorizing the operation of large aircraft as defined herein by air taxi operators in air transportation.

* * * * *

[F.R. Doc. 65-10798; Filed, Oct. 8, 1965; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 65]

[Reg. Docket No. 1511; Notice 65-25]

MECHANIC CERTIFICATES AND ASSOCIATED RATINGS

Knowledge, Experience, and Skill Requirements

The Federal Aviation Agency is considering amending Part 65 of the Federal Aviation Regulations to permit a student at a mechanic school certificated under Part 147 of the Federal Aviation Regulations to take the oral and practical tests required for a mechanic certificate or rating before he passes each section of the required written test or meets the applicable experience requirements.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Agency, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553. All communications received on or before December 13, 1965, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Present § 65.75(b) prohibits an applicant for a mechanic certificate or rating from taking the oral and practical tests before he passes each section of the written test, even though he may have the basic skill necessary to pass the oral and practical tests first. Compliance with this requirement creates a problem for students of certificated mechanic schools since, in most cases, they must wait until after graduation in order to take the prescribed tests. Furthermore, since an applicant must pass each section of the written test before taking the oral and practical tests, additional delay is created while he waits for the results of the written test. In cases where a student fails one or more sections of the written test, further delay is created while he retakes those sections. These delays keep the graduate, in many cases, from obtaining timely employment after graduation since most employers require that a prospective mechanic hold an appropriate mechanic certificate and rating before they will consider hiring him.

Training given to students in a certificated mechanic school is closely controlled, and students are progressively tested throughout each phase of a curriculum. During the final phase of the student's instruction he is tested by the school on those subjects and projects covered in the appropriate FAA written, oral, and practical tests.

Under this proposed amendment, a new section would be added to permit a student with a satisfactory record of progress at a mechanic school to take the required oral and practical tests before he graduates. This would allow a qualified student to obtain a mechanic certificate with a minimum delay after graduation. To insure that an applicant has current knowledge and skills when a mechanic certificate is issued to him § 65.71(a)(3) requires that all of the prescribed tests for a mechanic certificate and associated ratings must be passed within a period of 24 months. Permitting a qualified student to take the oral and practical tests before passing each section of the required written test would not change this requirement.

Present § 65.75(a) would be amended to clarify the requirement that an applicant for a mechanic certificate must meet the applicable experience requirements of § 65.77 before he takes the required written test. This requirement has applied in the past for all mechanic certificate applicants; however, when present Part 65 was recodified from the applicable Civil Air Regulations the language of § 65.75(a) did not specifically include this experience prerequisite. In addition, two other changes to the Part are included in this proposal. Present § 65.71(c) would be deleted since the last date for recognition of credit for tests passed before May 29, 1962, has passed. Present § 65.75(a) lists the price of the study guide "Airframe and Powerplant Mechanics Examination Guide" as 20 cents. This publication was revised in June 1963 and is now available (FAA Advisory Circular AC No. 65-2) from the U.S. Government Printing Office at a price of 30 cents.

In consideration of the foregoing, it is proposed to amend Part 65 as follows:

1. By striking out paragraph (c) of § 65.71.

2. By amending paragraph (a) of § 65.75 to read as follows:

§ 65.75 Knowledge requirements.

(a) Each applicant for a mechanic certificate or rating must, after meeting the applicable experience requirements of § 65.77, pass a written test covering the construction and maintenance of aircraft appropriate to the rating he seeks, the regulations in this subpart, and the applicable provisions of Parts 43 and 91 of this chapter. The basic principles covering the installation and maintenance of propellers are included in the powerplant test. A study guide for the written test, "Airframe and Powerplant Mechanics Examination Guide," FAA Advisory Circular AC No. 65-2, is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, at a price of 30 cents.

* * * * *

3. By adding a new § 65.80 to read as follows:

§ 65.80 Certificated mechanic school students.

A student enrolled at a mechanic school certificated under Part 147 of this chapter may be authorized by an FAA inspector to take the oral and practical tests prescribed by § 65.79 before he meets the applicable experience requirements of § 65.77 or passes each section of the written test prescribed by § 65.75, if an authorized representative of the mechanic school shows that the student has made satisfactory progress at the school and has made adequate preparation to take the oral and practical tests.

These amendments are proposed under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422).

Issued in Washington, D.C., on October 4, 1965.

C. W. WALKER,
Acting Director,
Flight Standards Service.

[F.R. Doc. 65-10748; Filed, Oct. 8, 1965; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 131]

[No. 34463]

UNITED STATES SAFETY APPLIANCE STANDARDS (RAILROAD)

Revision of Safety Appliance Standards Pertaining to Box and Other House Cars

At a session of the Interstate Commerce Commission, Division 3, held at its Office in Washington, D.C., on the 28th day of September A.D. 1965.

It appearing, that on August 18, 1964, the Commission, Division 3, served notice pursuant to the provisions of section 4(a) of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1003), and the authority of section 12 of Title 45 United States Code, that the Commission has under consideration the revision of the U.S. Safety Appliance Standards with the view of eliminating the requirement that roof running boards be installed on box or other house cars, and inviting interested parties to present their views;

It further appearing, that upon the presentation of views, and after prehearing conference held May 12, 1965, the elimination of the roof running board, if approved, would require concurrent relocation of certain other safety appliances and the construction of certain end platforms and ladders and possibly other appliances not now required, that consideration of these additional matters is necessary to the proper disposition of this proceeding, and that the notice given to the public in this matter must be modified so as to apprise fully all interested persons of all matters under consideration herein;

It further appearing, that the revision of the standards raises a problem whether the existing cars with roof running boards will be excepted from the application of the revised standards or will require some modification to comply with such standards, and that this problem must be considered within the scope of this proceeding, and the public so apprised;

It is ordered, That the issues in this proceeding, while confined to box or other house cars, be, and they are hereby, broadened to include the following questions pertaining to the requirements on cars to be placed in service in the future:

(1) Elimination of the requirement for roof running boards.

(2) Elimination of the requirement for latitudinal extensions and roof handholds.

(3) Elimination of the requirement for high end ladders.

(4) Require the installation of:

(a) Short side ladders or separate ladder treads at four corners.

(b) End platforms to extend to within 6 inches minimum 8 inches maximum between short ladder end stiles, "A" and "B" ends, or require that the end platform shall be no less than 8 inches wide and no more than 5 feet 2 inches and no less than 5 feet long.

(c) Horizontal handhold on ends between ladders.

(d) Short end ladders or separate ladder treads at four corners.

(5) Lower or change the location of the handbrake.

It is further ordered, That the question of requiring modification of existing box or house cars, over a period of years in the future, so as to make them conform to the requirements herein considered, if such requirements are changed as to cars placed in service in the future, shall also be an issue in this proceeding.

It is further ordered, That this proceeding be set down for hearing at a time and place hereinafter to be determined.

And it is further ordered, That notice of this proceeding shall be given to persons of interest and to the general public by posting a copy of this order in the Office of the Secretary of the Commission at Washington, D.C., for public inspection, and by filing a copy with the Director of the Division of the Federal Register for publication in the FEDERAL REGISTER.

By the Commission, Division 3.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 65-10770; Filed, Oct. 8, 1965; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. S-316]

ROBERT O. BERG

Notice of Loan Application

Robert O. Berg, Lynnwood, Wash., has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 49.8-foot registered length wood vessel to engage in the fishery for salmon, king crab and halibut.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic injury or hardship.

H. E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

OCTOBER 7, 1965.

[F.R. Doc. 65-10822; Filed, Oct. 8, 1965; 8:49 a.m.]

[Docket No. A-332]

PERRY C. AND JULIA R. COBURN

Notice of Loan Application

Perry C. and Julia R. Coburn, Ketchikan, Alaska, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 44.1-foot wood vessel to engage in the fishery for salmon.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised August 11, 1965) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C., 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making determination that the contemplated operations of the vessel will or will not cause such economic injury or hardship.

H. E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

OCTOBER 7, 1965.

[F.R. Doc. 65-10823; Filed, Oct. 8, 1965; 8:49 a.m.]

[Docket No. Sub-B-15]

BOAT PAT-SAN-MARIE, INC.

Notice of Motion To Modify Decision

Boat Pat-San-Marie, Inc., under date of December 5, 1964, applied for a fishing vessel construction differential subsidy to aid in the construction of a 100-foot overall steel vessel to engage in the fishery for scallops, groundfish and flounder. Following hearing on notice, the presiding officer entered his initial decision in the matter on February 8, 1965, approving the subsidy sought upon the terms and conditions more fully set out in that initial decision, and this decision became final. Applicant has now filed its motion to amend its application, to substitute for the plans and specifications for its proposed fishing vessel those approved in the matter of the subsidy request of Boat Ouingondy, Inc., Docket No. Sub-B-17.

If no objection, protest, or response to applicant's motion shall be filed and served within thirty days from the date of this publication, the presiding officer will in due course enter his order approving applicant's subsidy request as amended.

H. E. CROWTHER,
Acting Director,
Bureau of Commercial Fisheries.

OCTOBER 7, 1965.

[F.R. Doc. 65-10824; Filed, Oct. 8, 1965; 8:49 a.m.]

Bureau of Land Management

ADMINISTRATIVE ASSISTANT, MOUNTAIN HOME, IDAHO, JOB CORPS CONSERVATION CENTER

Delegation of Authority Regarding Contracts and Leases

Pursuant to Sec. 2(a) of Bureau Order No. 698, as amended (30 F.R. 1879), the Administrative Assistant, Mountain Home, Idaho, Job Corps Conservation Center, is authorized to enter into contracts and leases as set forth in section 1(b)(5) of said order.

The above delegation shall become effective upon publication in the FEDERAL REGISTER.

DONALD B. SNYDERS,
Center Director.

OCTOBER 1, 1965.

[F.R. Doc. 65-10769; Filed, Oct. 8, 1965; 8:47 a.m.]

Office of the Secretary

WILLIAM A. ALEXANDER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 16, 1965.

Dated: September 16, 1965.

W. A. ALEXANDER.

[F.R. Doc. 65-10753; Filed, Oct. 8, 1965; 8:46 a.m.]

RALPH F. BOVIER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of September 29, 1965.

Dated: September 29, 1965.

R. F. BOVIER.

[F.R. Doc. 65-10754; Filed, Oct. 8, 1965; 8:46 a.m.]

JAMES S. BROADDUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No Change.
(2) No Change.
(3) No Change.
(4) No Change.

This statement is made as of September 27, 1965.

Dated: September 27, 1965.

JAMES S. BROADDUS.

[F.R. Doc. 65-10755; Filed, Oct. 8, 1965; 8:46 a.m.]

MARK V. BURLINGAME

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) Add: American Can Co.
(3) None.
(4) None.

This statement is made as of September 22, 1965.

Dated: September 22, 1965.

M. V. BURLINGAME.

[F.R. Doc. 65-10756; Filed, Oct. 8, 1965; 8:46 a.m.]

GEORGE F. HRUBESKY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) Vice-President—Power Generation and Engineering.
(2) Baldwin Lima Hamilton taken over by Armour.
(3) None.
(4) None.

This statement is made as of September 28, 1965.

Dated: September 28, 1965.

G. F. HRUBESKY.

[F.R. Doc. 65-10757; Filed, Oct. 8, 1965; 8:46 a.m.]

LOWELL E. HUNT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 27, 1965.

Dated: September 27, 1965.

LOWELL E. HUNT.

[F.R. Doc. 65-10758; Filed, Oct. 8, 1965; 8:46 a.m.]

JOE T. INNIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 27, 1965.

Dated: September 27, 1965.

JOE T. INNIS.

[F.R. Doc. 65-10759; Filed, Oct. 8, 1965; 8:46 a.m.]

LAYTON E. KINCANNON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) *Stocks sold:* None. *Stocks bought:* Phillips Petroleum Co., Shamrock Oil & Gas Co., Susan Thomas, Inc., Weis Markets, Inc.
(3) No change.
(4) No change.

This statement is made as of September 16, 1965.

Dated: September 16, 1965.

LAYTON E. KINCANNON.

[F.R. Doc. 65-10760; Filed, Oct. 8, 1965; 8:46 a.m.]

MAXWELL S. McKNIGHT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 30, 1965.

Dated: September 30, 1965.

MAXWELL S. MCKNIGHT.

[F.R. Doc. 65-10761; Filed, Oct. 8, 1965; 8:46 a.m.]

HARRY J. PECKHEISER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) Sold shares of Tri-Continental Corp.
(3) None.
(4) None.

This statement is made as of September 21, 1965.

Dated: September 21, 1965.

H. J. PECKHEISER.

[F.R. Doc. 65-10762; Filed, Oct. 8, 1965; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Order 2-A; Amdt. 1]

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Organization and Functions

The following amendment was issued by the Secretary of Commerce effective October 1, 1965. This material amends the material appearing at 30 F.R. 9070-9071 of July 20, 1965.

Sections 4 and 5 of Department Order 2-A, of July 13, 1965, are amended as follows:

1. A new paragraph 4.03 is added to read as follows:

.03 The Office of Radio Frequency Management together with its personnel, funds, records and property is transferred to the Administration effective October 1, 1965.

2. Subparagraph 5.01e is amended to read as follows:

e. Provide nautical, aeronautical, and telecommunication charts and related publications and services;

3. A new subparagraph 5.01i is added to read as follows:

i. Acquire, analyze, and disseminate data and perform basic and applied research on the propagation of electromagnetic waves, on the nature of electromagnetic noise and interference, and on methods for the more efficient use of the electromagnetic spectrum for telecommunication purposes and prepare and issue predictions of electromagnetic wave propagation conditions, and warnings of disturbances in those conditions; and

4. The present subparagraph 5.01i is renumbered as subparagraph 5.01j and is amended to read as follows:

j. Perform research and development relating to the oceans and inland waters, the lower and upper atmosphere, the space environment, the earth, and the use of the electromagnetic spectrum for telecommunications purposes, as may be necessary or desirable to develop an understanding of the processes and phenomena involved; and research and development relating to the observation, communication, processing, correlation, analysis, dissemination, storage, retrieval, and use of environmental data as may be necessary or desirable to permit the Administration to discharge its responsibilities.

Effective date: October 1, 1965.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 65-10785; Filed, Oct. 8, 1965; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16546]

CALEDONIAN AIRWAYS

Temporary Inclusive Tour Authority Investigation; Notice of Hearing

Pursuant to Board order E-22743 notice is hereby given, in conformance with the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on October 18, 1965, at 10 a.m., e.d.s.t. in Room 726, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Robert L. Park.

Dated at Washington, D.C., October 5, 1965.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 65-10781; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket No. 15504]

TRANSPORTES AEREOS NACIONALES, S.A.

Renewal Case; Notice of Hearing

In the matter of the application of Transportes Aereos Nacionales, S.A., for renewal and amendment of its foreign air carrier permit so as to authorize the foreign air transportation of persons, property, and mail between the coterminal points Tegucigalpa and San Pedro Sula, Honduras; and intermediate point or points in Honduras; the intermediate point San Salvador, El Salvador; the intermediate point Belize, British Honduras; and the terminal point Miami, Fla.

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 October 27, 1965, at 10 a.m. e.d.s.t. in Room 911, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Leslie G. Donahue.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on July 29, 1965, 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., October 4, 1965.

[SEAL] LESLIE G. DONAHUE,
Hearing Examiner.

[F.R. Doc. 65-10782; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket No. 16175]

UNITED ARAB AIRLINES

Notice of Hearing

In the matter of the application of United Arab Airlines for a foreign air carrier permit authorizing it to engage in foreign air transportation in both scheduled and nonscheduled service of passengers, property, and mail between the terminal point London, England, the intermediate service and/or traffic point Shannon, Ireland, the intermediate service and/or traffic point Gander, Newfoundland, and the terminal point New York, N.Y., in both directions.

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 October 21, 1965, at 10 a.m., e.d.s.t. in Room 1027, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Leslie G. Donahue.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on July 1, 1965, 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., October 4, 1965.

[SEAL] LESLIE G. DONAHUE,
Hearing Examiner.

[F.R. Doc. 65-10783; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket No. 11083 etc.; Order No. E-22739]

CERTAIN MILITARY MAIL

Order Regarding Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 1965; Dockets 11083, 11106, 11131, 11155, 11181, 11205.

On May 19, 1965, the Board adopted Order E-22180 directing Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., and the Postmaster General to show cause why the Board should not issue an order applying the standard mileages applicable to priority mail service in transatlantic and transpacific service to military ordinary mail service in those areas. The Show Cause Order proposed the adoption of the standard mileages established in Order E-21514, November 19, 1964, and also provided that a standard mileage of 4,843 miles would apply between San Francisco or Seattle and Tokyo.

On June 1, 1965, Northwest Airlines, Inc., objected to the show cause order, on technical grounds, stating that the mileages for Northwest beyond, but by way of, Tokyo in Order E-21514 were not the sum of the mileages Seattle to Tokyo to the point beyond. Northwest also objected to the 4,843 standard mileage between the West Coast and Tokyo stating that this mileage is not a constant but is subject to change when schedules change.

Subsequent to the adoption of Show Cause Order E-22180, the Board on September 28, 1965, issued Order E-22700, which revised the standard mileages for transatlantic and transpacific priority mail service and in effect cured the problem Northwest had with the mileages for points beyond Tokyo shown in Order E-21514. This will necessitate a technical change in the show cause order so as to refer to the revised standard mileages in Order E-22700. The matter of the West Coast-Tokyo-mileages is not substantive because any change in the West Coast-Tokyo mileage applicable to military ordinary mail would first be effected by a change in the standard mileages applicable to transatlantic and transpacific priority mail service and in turn be adopted applicable to military ordinary mail.

The Board, upon consideration of the record, the objection and answer of Northwest Airlines and the answer of the Postmaster General, hereby reaffirms and makes final the findings and conclusions set forth In Order E-22180, as modified herein. The effective date of this order will be July 1, 1965, to conform with the effectiveness of the revised standard mileages applicable to transatlantic and transpacific priority mail.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof,

It is ordered, That:

1. Ordering paragraph 1(c) of Order E-15182, May 4, 1960, is amended to read as follows:

(c) The rates established in these proceedings will be applied to the mail ton-miles carried each month by each carrier in the class of service to which these rates are applicable. The mail ton-miles shall be computed on the basis of the standard mileages between points established pursuant to Order E-22700, September 28, 1965;

2. Ordering paragraph 1(c) of Order E-15463, June 29, 1960, is amended to read as follows:

(c) The rates established in these proceedings will be applied to the mail ton-miles carried each month by each carrier in the class of service to which these rates are applicable. The mail ton-mile shall be computed on the basis of the standard mileages between points established pursuant to Order E-22700, September 28, 1965; *Provided; however*, That mail ton-miles between San Francisco or Seattle and Tokyo shall be computed on the basis of a standard mileage of 4,843 miles;

3. This order be effective July 1, 1965; and

4. This order shall be served on Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary*.

[F.R. Doc. 65-10784; Filed, Oct. 8, 1965; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15419, 15420; FCC 65R-368]

CENTRAL BROADCASTING CORP. AND WCRB, INC.

Memorandum Opinion and Order

In re applications of Central Broadcasting Corp., Ware, Mass., Docket No. 15419, File No. BPH-4243; WCRB, Inc., Springfield, Mass., Docket No. 15420, File No. BPH-4319; for construction permits.

1. In a Memorandum Opinion and Order, FCC 65R-26, released January 26, 1965, the Review Board held in abeyance action on a joint petition for approval of an agreement looking toward dismissal of Central's application and grant of WCRB's application. The purpose of that action was to permit the parties "to establish the value of the non-monetary items specified in the joint agreement." Central's stockholder Roberts would receive partial reimbursement of the out-of-pocket expenses incurred in the preparation and prosecution of Central's application and the right to purchase, at $10 per share, 15 shares (15 percent) of WCRB stock. The Board specifically noted that no proof had been submitted "as to the current or market value of the 15 shares of stock in WCRB" and concluded that "therefore, the value of the stock cannot be ascertained and it is not possible for the Board on the basis of the information presently before it to determine whether consideration to be received for Central's dismissal exceeds the aggregate expenses incurred by Central in prosecution of its application."

2. On February 25, 1965, Central and WCRB submitted additional information in support of their joint petition. The Board, in a Memorandum Opinion and Order, FCC 65R-177, released May 19, 1965, concluded that it was still unable to find that the agreement "does not involve a consideration in excess of the legitimate and prudent expenses incurred by Roberts in the prosecution of the application." The current or market value of the stock, the Board held, was not established by the meager facts furnished by Central and WCRB, standing alone, and without regard to "(a) WCRB's financial condition after giving effect to the issuance of the construction permit" and "(b) offers to persons other than Roberts to purchase such a 15 percent interest." The Board allowed the provisions for cash reimbursement of Roberts' substantiated expenses to the extent of $2,250 but disallowed provisions for Roberts' option and for the employment of Roberts as a consultant for WCRB. The Board stated therein at paragraph 5:

> If this meets with the petitioners' approval, the publication ordered below shall be effected; upon a showing of compliance with the publication requirement, the agreement will be approved to the extent indicated herein, and the application of Central Broadcasting Corp. will be dismissed. Whether the application of WCRB, Inc. will be granted is dependent upon whether any application is filed for the community of Ware in response to the publication required herein. Should petitioners not be willing to accept the foregoing disposition, they are to inform the Board of their decision within 5 days after release of this opinion. If the parties choose to withdraw the agreement and proceed with the hearing, compliance with the ordering clause below relative to publication of local notice will not be necessary.

3. Now before the Board is a petition for reconsideration, filed by Central and WCRB on June 1, 1965.[1] This petition seeks only that the Board modify its order of May 19, 1965, to the extent of allowing the "option" and "consultant" provisions of the agreement. No action is requested regarding the Board's approval of the reimbursement provisions. Since it is not stated in the petition that our failure to grant the requested modification will result in the withdrawal of the entire agreement, we shall treat the subject petition only as a partial request for reconsideration and, until specifically notified of such withdrawal, we shall assume that the publication previously ordered will be effected regardless of the disposition of this petition for reconsideration.

4. In support of its request, petitioners have included a projected balance sheet as of commencement of operations of WCRB, Inc.; also the affidavits of Kaye, president of WCRB, and Blackburn, an independent business broker, wherein conclusions are drawn from such balance sheet which indicate that the WCRB stock would have little value, if any, even in 4 years time. In the latter affidavit, Blackburn states that during the first year WCRB "will have to borrow at least $25,000 to meet cash operating losses. Thus, at the close of the first year's operation, the corporation's net deficit position will be approximately $36,000." These statements, upon which critical reliance is placed by petitioners in the instant pleading, must be contrasted with the averments contained in WCRB's application. Their construction costs were listed at $4,427.11 and operating costs for the year at $47,919.24. These would be met, according to the application and attached Exhibit III-1, by existing capital of $1,000, a loan from Charles River Broadcasting Co., of $5,000, and by first year revenues of $48,099. Thus, the application estimates a slight operating profit at the end of the first year while the instant petition indicates a "net deficit position" of $36,000. The further projections of Blackburn are based on this statement of "net deficit position."

5. When the discrepancy between the estimates in WCRB's application and those contained in the instant petition were pointed up by the Broadcast Bureau in its "Comment," petitioners replied that their recent experience with FM Station WCRQ, Providence, R.I., also wholly owned by Charles River, had caused them to revise their "views" to reflect such "new experience." WCRQ, which was purchased by Charles River in August 1964, has been operating in recent months at a loss according to a profit and loss statement for the first 4 months of 1965, included with the petition. The pleadings do not indicate the source of the additional funds which may be required by WCRB during its first year of operation. Nor has WCRB sought to amend its financial plan to reflect such new estimates. Were WCRB to amend its application to reflect the showing advanced by it in support of the appraised value of its stock, a serious question would be presented as to its financial qualifications. Inasmuch as it has not so amended its application, the showing made by it in support of the appraisal of its stock cannot be regarded as reliable.

6. Under the circumstances the Board is unable to determine the essential facts on which to reach a conclusion as to the market value of the WCRB stock. Our denial of the instant petition will leave intact our approval of the reimbursement portion of the subject agreement as well as our order of publication of local notice. If the parties choose to withdraw the agreement and proceed with the hearing, compliance with the ordering clause relative to publication of local notice will not be necessary.

Accordingly, it is ordered, This 5th day of October 1965, that the petition to accept late filed pleading, filed by WCRB, Inc., and Central Broadcasting Corp. on July 21, 1965, is granted; that the petition for reconsideration, filed by WCRB, Inc., and Central Broadcasting Corp. on June 1, 1965, is denied; and that further opportunity be afforded for other persons to apply for the facilities specified

[1] Also before the Board are the Broadcast Bureau's comment, filed on June 23, 1965, and a reply, filed by the petitioners on July 21, 1965. The reply was due on July 20, 1965; petitioners attribute their delay in filing to a duplication problem and have petitioned the Board to accept the late filed pleading. That petition will be granted.

in the application of Central Broadcasting Corp.

Released: October 6, 1965.

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

[F.R. Doc. 65-10789; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket Nos. 15668, 15708; FCC 65M-1298]

CHICAGOLAND TV CO. AND CHICAGO FEDERATION OF LABOR AND INDUSTRIAL UNION COUNCIL

Order Regarding Procedural Dates

In re applications of Frederick B. Livingston and Thomas L. Davis, doing business as Chicagoland TV Co., Chicago, Ill., Docket No. 15668, File No. BPCT-3116; Chicago Federation of Labor and Industrial Union Council, Chicago, Ill., Docket No. 15708, File No. BPCT-3439; for construction permits for new television broadcast station (Channel 50).

In effectuation of agreements reached and rulings made at hearing conferences of May 28 and October 1, 1965, and to establish an orderly procedure for the further conduct of this proceeding;

It is ordered, This 6th day of October 1965, that:

(1) On or before November 1, 1965, the applicants herein shall file any petition for leave to amend application, and attendant amendment, which in their judgment they are required or permitted to submit pursuant to any order or action of the Commission or any subordinate authority;

(2) On or before December 1, 1965, the applicants will exchange copies of additional or supplemental hearing exhibits which, in their judgment, they are required or permitted to submit pursuant to any order or action of the Commission or any subordinate authority; that Federation will exchange its exhibits directed to the 47 U.S.C. 310(a) (4) issue; and any additional exhibits proposed by either party relating to the programing of existing or proposed stations in Chicago will be exchanged, or, if already exchanged, will be identified and an exhibit number assigned thereto;

(3) On December 15, 1965, at 10 a.m., in the offices of the Commission at Washington, D.C., hearing sessions herein shall resume, at which time the parties exhibits exchanged pursuant to paragraph 2, supra, shall be offered into evidence, and any objections to the receipt of such exhibits shall be entertained;

(4) On or before December 29, 1965, the parties shall give notification of the identity of the witness they wish produced for cross-examination (In light of events transpiring since the parties previously were ordered to give such notificaton, any earlier notification is set aside, and the notification herein specified shall include all witnesses whom a party desires to have produced.) ; and,

(5) Hearing sessions for the cross-examination of witnesses shall commence on January 11, 1966.

Released: October 6, 1965.

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

[F.R. Doc. 65-10789; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket No. 15614; FCC 65M-1296]

MARSHALL BROADCASTING CO.

Order Continuing Hearing

In re application of Marshall Broadcasting Co., Marshall, Mich., Docket No. 15614, File No. BPH-4327; for construction permit.

The Hearing Examiner having under consideration a motion filed October 4, 1965, by applicant, requesting continuance of the October 7, 1965, hearing herein without date;

It appearing, That it will be necessary for applicant to substitute, by submission of a proper amendment to be filed not later than by October 15, 1965, a prior commitment by one of its stockholders in regard to applicant's financial qualifications, a matter resulting in some further delay; and

It further appearing, That counsel for the Commission's Broadcast Bureau has indicated that a reasonable continuance will not be opposed and has orally advised the Hearing Examiner, on October 5, 1965, that he has no objection to immediate consideration of the subject motion; and

It further appearing, That it is appropriate to establish a date certain for commencement of hearing, that Broadcast Bureau counsel will be unavailable during the period October 20 through November 5, 1965, and that the Hearing Examiner is already committed in the early part of November;

It is ordered, This 5th day of October 1965, that the subject motion is granted to the extent that it requests continuance of the hearing and that hearing herein, now scheduled to commence on October 7, 1965, is continued to 10 a.m., November 15, 1965.

Released: October 6, 1965.

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

[F.R. Doc. 65-10791; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket No. 16124; FCC 65R-366]

WEST CENTRAL OHIO BROADCASTERS, INC.

Memorandum Opinion and Order Amending Issues

In re application of West Central Ohio Broadcasters, Inc., Xenia, Ohio, Docket No. 16124, File No. BP-15468; for construction permit.

1. West Central Ohio Broadcasters, Inc. (West Central) is an applicant for a construction permit for a standard broadcast station in Xenia, Ohio. Greene Information Center, Inc. (Greene) properly filed a petition to enlarge issues on August 16, 1965.[1]

2. Greene seeks addition of an issue to determine West Central's financial qualifications.[2] West Central's amended application lists estimated cost of construction at $18,250.00 and first year operation at $30,000.00, a total of $48,250.00. The applicant further indicates that commitments to it amount to $37,225.00 and projected advertising revenue for the first year is $36,000.00.

3. On the basis of the new test of financial qualifications enunciated by the Commission in Ultravision Broadcasting Co. FCC 65-581, 5 RR 2d 343, and its subsequent Clarification, FCC 65-595, 5 RR 2d 349, and since West Central's application was designated for hearing by Order released July 27, 1965, FCC 65-683, the financial issue must be added.[3] The new standard (requiring financial ability to construct and operate for a year's time) must be met by all applicants designated for hearing after July 2, 1965. In this instance, it is clear that in order to meet the new standard on the basis of its present financial plans, West Central must rely on expected revenue.[4]

4. Greene also seeks addition of a nondisclosure issue. It claims West Central has failed to disclose pertinent matter involving the assumption of a $10,000 debt and the composition of the corporate structure. As to the first instance of alleged nondisclosure, Greene relies on conjecture and surmise only, merely questioning "whether [Ernest J.] Rogers has assumed the liability of $10,000 for [Harry B.] Miller or as to whether Mr. Miller owes Mr. Rogers (his father-in-law) this amount." It questions also what consideration was given to Mr. Rogers for release of a mortgage. The pleadings indicate nothing more specific. As a second allegation, Greene claims West Central makes no mention of an original stockholder, Albert L. Branden-

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[1] Also before the Board are: (1) An amendment to the petition, filed Aug. 17, 1965, by Greene; (2) an opposition, filed Sept. 7, 1965, by West Central; (3) comments, filed Sept. 7, 1965, by the Broadcast Bureau; and (4) a reply, filed Sept. 17, 1965, by Greene.

[2] In addition Greene questions whether two of the West Central principals (Miller and Rogers) personally can meet their financial commitments. The allegation fails for lack of the specificity required by section 1.229(c) of the Commission's Rules.

[3] We recognize that the Commission did not designate the financial issue against West Central. However, this may have been due to the proximity in time between the date of Ultravision and the date of the designation order.

[4] An applicant must "establish the validity of the estimate" of potential advertising revenues, where those revenues are used to show ability to operate for the first year. The Broadcast Bureau proposes to allow West Central 60 days to file an amendment. Whether such an amendment should be allowed is, in the first instance, for the Examiner to determine.

burg, in amendments filed. The relevance of this allegation to the issue requested is not, however, explained, except for the mere statement that the amendments to the application make no mention of this issue. With respect to both allegations of Greene in support of its request for a non-disclosure issue the standard of § 1.229(c) of the Commission's rules governs: "[S]uch motions [to enlarge issues] * * * shall contain specific allegations of fact sufficient to support the action requested." See KFOX, Inc. (KFOX), FCC 65R-143, 5 RR 2d 32, 36; Spanish International Television Co., FCC 64R-239, 2 RR 2d 853. The misrepresentation and nondisclosure objections fall far short of meeting these requirements.

Accordingly, it is ordered, This 4th day of October 1965, that the petition to enlarge the issues, filed August 16, 1965, by Greene Information Center, Inc., is granted to the extent indicated herein and is denied in all other respects; and that the issues in this proceeding are enlarged by addition of the following issues:

(a) To determine as to the applicant, West Central Broadcasting Co., Inc., the basis of (1) estimated construction costs, and (2) estimated operating expenses for the first year of operation; and

(b) In the event that the applicant, West Central Broadcasting Co., Inc., will depend upon operating revenues during the first year of operation to meet fixed costs and operating expenses, to determine the basis of such applicant's estimated revenues for the first year of operation.

(c) To determine, in light of the evidence adduced, whether the applicant has demonstrated a reasonable likelihood of construction and continuing operation of its proposed station in the public interest.

Released: October 5, 1965.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 65-10792; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket Nos. 15841-15843; FCC 65M-1294, 74406]

WTCN TELEVISION, INC. (WTCN-TV) ET AL.

Memorandum Opinion and Order Continuing Hearing

In re applications of WTCN Television, Inc. (WTCN-TV), Minneapolis, Minn., Docket No. 15841, File No. BPCT-2850; Midwest Radio-Television, Inc. (WCCO-TV), Minneapolis, Minn., Docket No. 15842, File No. BPCT-3292; United Television, Inc. (KMSP-TV), Minneapolis, Minn., Docket No. 15843, File No. BPCT-3293; for construction permits.

1. The Broadcast Bureau filed a motion on October 4, 1965, requesting continuance of the evidentiary hearing now scheduled for October 11, 1965, in the above-entitled proceeding. The Bureau suggests that the continuance be for a period of approximately three months.

2. The Bureau pleads that an important question has been presented relating to the possible creation of a menace to air navigation. While some prior consideration has been given to the matter by the applicants, and discussions have been had with the officials of the Federal Aviation Agency, the Bureau additionally pleads that further explorations by the Broadcast Bureau and the applicants may conceivably resolve the question. Or, in the event that the matter goes to hearing, a more adequate record may be made upon which to base a decision.

3. As good cause has been demonstrated and in the public interest, the motion should be granted.

Accordingly, it is ordered, This 5th day of October 1965, that the motion is granted and the hearing now scheduled for October 11, 1965, be and the same is hereby rescheduled for January 18, 1966, 10 a.m., in the Commission's offices, Washington, D.C.

Released: October 5, 1965.

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

[F.R. Doc. 65-10793; Filed, Oct. 8, 1965; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

CITY OF LONG BEACH AND SEA-LAND OF CALIFORNIA, INC.

Notice of Agreements Filed for Approval

Notice is hereby given that the following agreements have 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(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., room 301; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

City of Long Beach, Post Office Box 570, Long Beach, Calif., 90801.

Agreement No. T-1870 between the city of Long Beach (Long Beach) and Sea-Land of California, Inc. (Sea-Land) is a nonexclusive preferential assignment of certain wharf and contiguous wharf premises (designated at Berth 232), two cranes and facilities located thereon. Sea-Land is also granted an option, with the right of first refusal, for a nonexclusive preferential assignment of wharf and contiguous wharf premises (designated Berth 233). The premises will be used as a marshaling and warehouse area; as a truck terminal and depot; and for other uses in connection with loading and unloading Sea-Land's vessels. Long Beach retains the right to make temporary assignments with other parties for use of the premises, including the cranes, subject to Long Beach's terminal tariff, provided such use does not interfere with Sea-Land's operations. As rental Sea-Land will pay Long Beach all tariff charges, including dockage, wharfage, crane rental, wharf demurrage, wharf storage, and other charges subject to a minimum annual payment of $303,000 and a maximum payment of $346,000. In the event Sea-Land exercises its option to lease Berth 233, the minimum payment will be $400,000 and the maximum payment $450,000. Sea-Land agrees that if it should publish a schedule or tariff of separate terminal charges for the services it performs or facilities it furnishes, all such charges shall be identical to the charges published in Long Beach's terminal tariff. If the total cost of the facilities does not conform to the estimated costs, the minimum and maximum annual rental shall be adjusted accordingly. In consideration of Sea-Land's maintenance of the cranes, secondary users thereof will pay Sea-Land an agreed upon sum as compensation for Sea-Land's cost for power, repairs, operating costs, etc.

Dated: October 6, 1965.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 65-10786; Filed, Oct. 8, 1965; 8:48 a.m.]

[Docket No. 65-36]

BLUE RIBBON LINE, LTD.

General Rate Increase in the New York/U.S. Virgin Islands Trade; Notice of Investigation and Suspension

It appearing, that there have been filed with the Federal Maritime Commission by Blue Ribbon Lines, Ltd., tariff schedules naming increased rates on general commodities in the New York/U.S. Virgin Islands trade to become effective September 30, 1965, designated as follows:

BLUE RIBBON LINE, LTD.

LOCAL FREIGHT TARIFF NO. 2, FMC-F NO. 2

Fourth revised pages 19 through 21, inclusive.

Second revised pages 22 through 39, inclusive.

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[1] Board Member Nelson dissenting from enlargement of issues.

It further appearing, that upon consideration of the said schedules and protest thereto by the Government of the U.S. Virgin Islands there is reason to believe that the rate increases if permitted to become effective, may have a damaging effect upon the economic well-being of the U.S. Virgin Islands;

It further appearing, that, the Commission is of the opinion that these tariff revisions should be made the subject of a public investigation and hearing to determine whether they are unjust, unreasonable, or otherwise unlawful under the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, and that the effective date of the said increased rates should be suspended pending such investigation;

Now therefore it is ordered, That, an investigation be, and it is hereby, instituted into and concerning the aforementioned tariff revisions with a view to making such findings and orders in the premises as the facts and circumstances shall warrant;

It is further ordered, That all tariff matter prefixed with the "diamond" symbol on the aforementioned tariff pages be, and it is hereby suspended and that the use thereof be deferred to and including January 29, 1966, unless otherwise authorized by the Commission; and that the rates, fares, charges, rules, regulations and/or practices heretofore in effect and which were to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension, may be changed until the period of suspension has expired or until this investigation and suspension proceeding has been disposed of, whichever first occurs, unless otherwise authorized by the Commission:

It is further ordered, That there shall be filed immediately with the Commission by Blue Ribbon Line, Ltd., a consecutively numbered supplement to the aforesaid tariff, which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described, and shall state that the aforesaid rates are suspended and may not be used until the 30th day of January 1966, unless otherwise authorized by the Commission; and that the matter heretofore in effect, and which was to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension may be changed until the period of suspension has expired, or until this investigation and suspension proceeding has been disposed of, whichever first occurs, unless otherwise authorized by the Commission;

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Domestic Regulation of the Federal Maritime Commission;

It is further ordered, That (I) the investigation herein ordered be assigned for public hearing by the Chief Examiner, before an examiner of the Commission's Office of Hearing Examiners, at a date and place to be announced; (II) Blue Ribbon Line, Ltd., be, and it is hereby made respondent in this proceeding; (III) a copy of this order shall forthwith be served upon said respondent; (IV) the said respondent be duly notified of the time and place of the hearing herein ordered; and (V) this order and notice of the said hearing be published in the FEDERAL REGISTER.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(n) (46 CFR § 502.73) with copy to respondent.

By the Commission.

[SEAL] THOMAS LISI,
Secretary.

[F.R. Doc. 65-10749; Filed, Oct. 8, 1965; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-1825]

MASSACHUSETTS INVESTORS TRUST

Application for Order Exempting Sale by Open-End Company of Its Shares at Other Than Public Offering Price in Exchange for Assets of Closely Held Company

OCTOBER 5, 1965.

Notice is hereby given that Massachusetts Investors Trust ("applicant"), 200 Berkeley Street, Boston, Mass., a Massachusetts Trust which is registered under the Investment Company Act of 1940 ("Act") as an open-end diversified investment company, has filed an application pursuant to section 6(c) of the Act. Applicant requests an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of its shares at net asset value for substantially all of the cash and securities of Linker & Herbert, Inc. ("Company"). Since the sale of applicant's stock will be other than at the public offering price, which normally includes sales charges, an exemption is deemed necessary. All interested persons are referred to the application as filed with the Commission for a statement of the representations therein which are summarized below.

As of June 24, 1965, the net assets of applicant amounted to approximately $2,101,000,000, and the net assets of the company amounted to approximately $500,000.

The Company, a Delaware corporation whose shares are held by two shareholders, is engaged in investing its funds in securities. Pursuant to an agreement between applicant and the Company, substantially all the assets of the Company will be transferred to applicant in exchange for stock of applicant which will be distributed to shareholders of the Company upon liquidation. Neither the Company nor any shareholders thereof have any present intention of redeeming the shares of the applicant which they acquire.

The application states (1) that the amount of stock of applicant to be delivered to the Company will be determined on the basis of the values on the business day preceding the closing by dividing the net asset value per share of applicant into the value of the assets of the Company and (2) that provision is made for an adjustment for potential federal income taxes payable upon the realization of appreciation of the securities of the Company to the extent that the appreciation of the securities of the Company proportionately exceed the appreciation of the securities of applicant at the time of closing. Applicant does not anticipate that such an adjustment will be required in view of the fact that the securities of the Company have a net unrealized depreciation of approximately 7 percent of their cost and the securities of the applicant have a net unrealized appreciation of approximately 140 percent of their cost. Applicant presently intends to sell subsequent to acquisition approximately 27 percent of the assets of the Company to be acquired.

The Agreement and Plan of Reorganization has been approved by the shareholders of the Company, and the trustees of applicant have authorized the filing of this application.

Notice is further given that any interested person may, not later than October 25, 1965, 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 (air mail 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.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 65-10780; Filed, Oct. 8, 1965; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 62]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 6, 1965.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protest must be specific as the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 116063 (Sub-No. 79 TA), filed October 4, 1965. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, Post Office Box 270, Fort Worth, Tex., 76111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible vinegar*, in bulk, in tank vehicles, from Oakland, Calif., to Chicago, Ill., for 180 days. Supporting shipper: Mr. Vernon R. Kennerson, Manager, Vinegar Sales, Standard Brands Inc., 921 98th Avenue, Oakland 3, Calif. Send protests to: Ralph Bezner, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 816 T & P Building, Fort Worth, Tex., 76102.

No. MC 117119 (Sub-No. 271 TA), filed October 4, 1965. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. Applicant's representative: John H. Joyce, 26 North College, Fayetteville, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Macon, Marshall, Carrollton, and Moberly, Mo., to points in Florida, Georgia, Alabama, North Carolina, South Carolina, Virginia, West Virginia, Kentucky, and Tennessee (except points in the Memphis commercial zone), for 180 days. Supporting shipper: F. M. Stamper Co., 1221 Locust Street, St. Louis 3, Mo. Send protests to: D. R. Partney, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, New Federal Office Building, Little Rock, Ark.

No. MC 125722 (Sub-No. 11 TA), filed October 4, 1965. Applicant: GREAT WESTERN PACKERS EXPRESS, INC., Box 16886, 5151 York Road, Denver, Colo., 80216. Applicant's representative: George W. Plavec, Box 16886, Denver, Colo., 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products*, as defined by the Commission, from the plantsite of the Rath Packing Co., at Sidney, Nebr., to Los Angeles, Calif., for 150 days. Supporting shipper: The Rath Packing Co., Post Office Box 330, Waterloo, Iowa, 50704. Send protests to: Paul A. Naughton, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo., 80202.

No. MC 127554 (Sub-No. 1 TA), filed October 4, 1965. Applicant: STANLEY E. FOLTZ, Mathias, W. Va. Applicant's representative: Thomas J. Wilson, Clark, Wilson & Bradshaw, 92 North Liberty Street, Harrisonburg, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured agricultural feed*, in vehicles equipped with bulk feed bodies with auger unloading device from power takeoff, from Broadway, Va., and points within 2 miles thereof, to points in Hardy County, W. Va., within 5 miles of West Virginia Highway 259, and within 5 miles of Rio, W. Va., with no return movement for compensation, for 180 days. Supporting shipper: Caroline Farms Division, Textron, Inc., Broadway, Va., Mr. James Moyers, area manager. Send protests to: H. Forrest White, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 531 Hawley Building, Wheeling, W. Va., 26003.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 65-10771; Filed, Oct. 8, 1965; 8:47 a.m.]

FEDERAL POWER COMMISSION

[Project No. 2540]

GREEN MOUNTAIN POWER CORP.

Notice of Application for License for Constructed Project

OCTOBER 4, 1965.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Green Mountain Power Corp. (correspondence to: Glen M. McKibben, President, Green Mountain Power Corp., 1 Main Street, Burlington, Vt.) for license for constructed Project No. 2540, known as the West Danville Project, located on Joe's Brook (a tributary to the Passumpsic River which, in turn, is a tributary to the Connecticut River) in the County of Caledonia, Vt.

The existing project consists of: (1) A concrete gravity overflow section type dam about 50 feet long with an average height of 12 feet, including a 33-foot spillway section and 2 feet of flashboard at the crest; (2) a reservoir at elevation 1,551 feet having an area of about 419 acres; (3) headworks at the south end of the dam consisting of a reinforced concrete intake basin about 40 feet long and 13 feet wide with an 8-foot waterway; (4) a water conduit consisting of a 5-foot diameter wood stave penstock 1,325 feet long with a wood stave surge tank 10 feet in diameter and 30 feet high; (5) a wood frame powerhouse housing a turbine rated at 1,700 horsepower connected to a generator with a name plate rating of 1,000 kilowatts; and (6) an outdoor 6.6/34.5 kilovolt substation.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is November 12, 1965. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE, *Secretary*.

[F.R. Doc. 65-10773; Filed, Oct. 8, 1965; 8:47 a.m.]

[Docket No. RI66-94]

KATEX OIL CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, Effective Subject to Refund

OCTOBER 4, 1965.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however*, That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 15, 1965.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI66-94	Katex Oil Co., 1404 South Cedar, Borger, Tex.	2	1	Phillips Petroleum Co.[1] (West Panhandle Field, Gray County, Tex.) (R.R. District No. 10).	$1,141	9-7-65	[2]10-8-65	[3]10-9-65	[7]9.0	[4][5][6]10.0	

[1] Phillips resells the gas after processing in its Gray Gasoline Plant under its Rate Schedule No. 262 to Northern Natural Gas Co. The effective rate under Phillips' Rate Schedule No. 262 is 18.93 cents per Mcf subject to refund in Docket No. RI60-226.
[2] The stated effective date is the first day after expiration of the required statutory notice.
[3] The suspension period is limited to 1 day.
[4] Periodic rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] Includes 1.0 cent per Mcf charged by seller for transporting gas to Phillips' gathering system.
[7] Subject to a deduction of 0.4466 cent per Mcf for sour gas. (Filing does not reflect any deduction for sour gas. Area is basically a sweet gas area.)

APPENDIX A

Katex Oil Co. (Katex) requests that its proposed rate increase be permitted to become effective as of October 1, 1965. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Katex's rate filing and such request is denied.

Katex proposes an increased rate of 10.0 cents per Mcf for a wellhead sale to Phillips Petroleum Co. (Phillips), the plant operator, who gathers and processes the gas in its Gray Gasoline Plant and resells the residue gas after processing to Northern Natural Gas Co. Phillips' resale of the gas is made under its FPC Gas Rate Schedule No. 262 at a current rate of 18.93 cents per Mcf, which is in effect subject to refund in Docket No. RI60-226. Although Katex's proposed rate does not exceed the area increased rate ceiling of 11.0 cents per Mcf for Texas Railroad District No. 10 as set forth in the Commission's Statement of General Policy No. 61-1, as amended, it is suspended for one day from October 8, 1965, the date of expiration of the statutory notice, because the sale related thereto is considered to be for non-pipeline quality gas. We consider the area rate ceiling to be applicable to sales of residue gas at the outlet of the plant which is the point of delivery to the pipeline company.

[F.R. Doc. 65-10774, Filed, Oct. 8, 1965; 8:47 a.m.]

[Docket No. CP66-82]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application

OCTOBER 4, 1965.

Take notice that on September 23, 1965, Montana-Dakota Utilities Co. (Applicant), 831 Second Avenue South, Minneapolis, Minn., 55402, filed in Docket No. CP66-82 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant seeks authorization to: (1) Construct approximately 242 miles of 12¾-inch O.D. natural gas transmission main beginning at a point on the existing 12¾-inch O.D. transmission main between Riverton and Worland in Fremont County, Wyo., and terminating at a point on the existing Black Hills transmission main in Butte County, S. Dak.; (2) construct a gas measurement and pressure regulating station, including telemetering facilities, at the intake of the proposed new transmission line in Fremont County, Wyo.; (3) construct a gas measurement and pressure regulating station, including telemetering facilities, at the terminus of the proposed new transmission line in Butte County, S. Dak.

Applicant states that the proposed facilities are for the purpose of transporting gas purchased in the Wind River Basin area of Wyoming to existing markets and for injection of gas to underground storage in its Baker storage field in Montana. Applicant further states that the purchase and transportation of gas from the Wind River Basin is necessary for maintaining system supply and deliverability to its existing customers and to serve the continued growth of system peak day and annual market requirements.

The estimated cost of the facilities is $6,089,460 which would be financed through internally generated funds and interim bank loans.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before October 27, 1965.

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

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 65-10775; Filed, Oct. 8, 1965; 8:47 a.m.]

[Docket No. CP66-83]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

OCTOBER 4, 1965.

Take notice that on September 23, 1965, Panhandle Eastern Pipe Line Co. (Applicant), Post Office Box 1348, Kansas City 41, Mo., filed in Docket No. CP66-83 an application pursuant to section 7(c) of the Natural Gas Act requesting a certificate of public convenience and necessity authorizing the exchange of natural gas with Transwestern Pipeline Co. (Transwestern) pursuant to an agreement between Applicant and Transwestern dated April 12, 1965, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the proposed exchange service can be rendered by utilizing available capacity in the existing facilities of both Transwestern and Applicant. Applicant further states that the exchange arrangement would provide for greater utilization of existing facilities, thereby eliminating the need for duplicate facilities and resulting in savings in cost which would benefit consumers.

No additional facilities would be necessary to implement the exchange in that the proposed interchange point located in Sherman County, Tex., has been authorized by Commission order issued June 29, 1965, in Docket Nos. CP65-362 and CP65-370.

Applicant states that the proposed exchange service would serve as a basis for taking into Applicant's system gas which it has contracted to purchase from Pan American Petroleum Corp. (Pan American). Pan American filed for its certificate on May 17, 1965, in Docket No. CI65-1212.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (157.10) on or before October 27, 1965.

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

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 65-10776; Filed, Oct. 8, 1965; 8:47 a.m.]

[Project No. 2542]

MISSOURI PUBLIC SERVICE CO.

Notice of Application for License for Constructed Project

OCTOBER 1, 1965.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Missouri Public Service Co. (correspondence to: John C. Mills III, 10700 East 50 Highway, Kansas City, Mo., 64138) for license for constructed Project No. 2542, known as the Osceola Hydroelectric Power Plant, located on the Osage River, in the Town of Osceola, St. Clair County, Mo.

The existing project consists of: A concrete gravity type dam 490 feet long with an average height of 28 feet; a powerhouse containing two generating units having a combined capacity of 1,935 horsepower; and appurtenant facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is November 22, 1965. The application is on file with the Commission for public inspection.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 65-10751; Filed, Oct. 8, 1965; 8:46 a.m.]

[Docket Nos. E-6611, etc.]

DEPARTMENT OF THE INTERIOR, BONNEVILLE POWER ADMINISTRATION

Request for Confirmation of Rate Schedules and Rate Schedule Provisions, and for Extension of Confirmation of Wholesale Rates and Charges

OCTOBER 1, 1965.

Pursuant to this notice, the Federal Power Commission invites the submission on or before October 29, 1965, of comments, protests or other representations relative to a general revision of the rates and rate structure of the Bonneville Power Administration (BPA), effective December 20, 1965.

Overall, the revised rates would increase BPA's revenues by the average annual amount of $4 million, principally from firm power and peaking power rate classifications Schedules E-5, F-5 and C-5, a modified transmission or at-site service providing firm, modified firm, and interruptible power. Also, BPA proposes to establish a new class of service, Schedule S-1 for sale of excess energy to purchasers within and outside the Pacific Northwest. No increase is proposed for interruptible power under BPA's Schedule H-4. During the period of January 1, through December 31, 1964, BPA's electric operating revenues from all classes of service totaled $76,262,000.

The Secretary of the Interior submitted the proposed rates and rate schedule provisions on September 3, 1965, on behalf of BPA, requesting confirmation and approval by the Commission pursuant to section 5 of the Bonneville Project Act (50 Stat. 731, 734-735, as amended 59 Stat. 546) and section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890). Copies of the proposed new Rate Schedules and General Rate Schedule Provisions are attached hereto as Exhibit A: Schedule E-5 Wholesale Firm Power Rate, Schedule F-5 Wholesale Firm Power Rate, Schedule C-5 Wholesale Firm Power Rate, Schedule R-2 Firm Power For Railroad Use, Schedule S-1 Wholesale Excess Energy Rate, Schedule H-4 Wholesale Energy Rate and General Rate Schedule Provisions.

Additionally, the Secretary seeks confirmation and approval, effective December 20, 1965, permitting continued application of rate schedules for the sale of provisional energy to industrial customers as approved heretofore in Docket No. E-6611; and rate schedules for the sale of electric power, in addition to space heating requirements, pursuant to contracts with the Cities of Coulee Dam and Grand Coulee, Washington, as approved heretofore in Docket No. E-6905. See order Confirming and Approving Amendment of Rate Schedule and Extending Confirmation and Approval of Rate Schedules and Rate Schedule Provisions issued December 17, 1964, United States Department of the Interior, Bonneville Power Administration, Docket Nos. E-6611, 6658, 6887, 6905, 6956 and 7059.

The proposed schedules as attached hereto, would be applicable to BPA's sales of power and energy from projects of the Bureau of Reclamation and Corps of Engineers, existing, under construction or authorized, together with the currently non-authorized Grand Coulee, Third Power Plant. Completed Projects include Bonneville, Grand Coulee, Hungry Horse, Detroit, McNary, Big Cliff, Lookout Point, Albeni Falls, Dexter, Chief Joseph, Chandler, The Dalles, Roza, Ice Harbor, Hills Creek, Cougar, Minidoka, Boise Diversion, Black Cougar, Anderson Ranch, and Palisades; Projects under construction include Green Peter, Foster, John Day, Lower Monumental, Little Goose, and Dworshak; and Projects now authorized include Libby, Lower Granite, Asotin, Strube, Lust Creek, Fremont, and Grand Coulee—Pump Turbines.

Under the proposed rate schedules BPA's basic rate for service for firm power would increase to $18.60 per kilowatt year at 100 percent load factor. Presently, the comparable charge at 100 percent load factor is $17.50 per kilowatt year. Recognizing the differing impact upon various purchasers due to individual load conditions and technical changes also being proposed in BPA's rate structure, BPA's filing provides 2 percent and 6 percent floor and ceiling stoppers on the amounts of rate increases for its E Schedule (all requirements customers) for the first 4 years. Additionally, the proffered filings provide developmental discounts for E Schedule customers whose ratios of utility earnings to utility net investment are below specified amounts: 5 percent purchase power discount for a ratio of less than 15 kwh/dollar plant net investment and 2 percent between 15 and 24 kwh/dollar plant net investment.

BPA's existing 11-month ratchet clauses applicable to E Schedule customers would be reduced from 70 percent to 50 percent and minimum charge provisions applicable to F Schedule customers would be replaced by a 70 percent ratchet. Billing demands for E, F, and

C Schedule customers would be predicated upon 60-minute rather than 30-minute integrated measured demands and generating utilities purchasing from BPA would be afforded the opportunity to purchase on a contract rather than computed demand basis. Other changes include revisions in power factor adjustment, simplification of rate form, and various discount provisions. Attention is invited to all details of the Schedules and General Rate Schedule Provisions attached hereto.

The subject filings do not contemplate further Commission approval of BPA's rates and charges under existing contracts with Portland General Electric Co., Puget Sound Power and Light Co., Pacific Power & Light Co., Mountain States Power Co., Washington Water Power Co., and California-Pacific Utilities Co.

In support of the proposed rate schedules as attached hereto, BPA urges that changes in the basic rate structure of BPA adopted in 1939 are needed to facilitate future sales of peaking capacity at economical costs, as well as the sale of surplus secondary energy; to adjust for additional costs of providing reservoir and storage facilities; to permit greater flexibility on purchasers' systems reflecting operation of other power resources, changes in load requirements, composition of electric loads and monthly power costs; to accommodate changing load patterns and area resource development; to insure the appropriate generating reserves on the BPA and other systems on an economical basis; and to achieve rate simplification and maximum economies in administrative costs.

Accompanying the proposed rate schedules is a payout analysis reflecting a 50-year system payout and revenue forecasts giving recognition to anticipated benefits to BPA from the Pacific Northwest-Pacific Southwest Intertie, The United States-Canadian Treaty for Joint Development of the Columbia River and the subject rate revisions.

In submitting the proposed schedules, the Secretary's letter of transmittal states in part as follows:

We request the Commission's approval of these rate schedules and schedule provisions to supersede in their entirety Bonneville Power Administration's Rate Schedules and Provisions effective December 20, 1964 (approved in Dockets No. E-6887 and -6956). Although we expect to review BPA's rates for the December 20, 1969, rate adjustment date, we request that Commission approval not be limited to the period ending December 20, 1969.

* * * * *

The proposed new rates have been discussed thoroughly by the Bonneville Power Administration with its customers. A draft was sent to all customers January 29, 1965, for review and comment. BPA held seven formally-scheduled meetings and numerous additional customer meetings with individuals and groups.

The proposed BPA Rate Schedules and General Rate Schedule Provisions are filed with the Commission and available for public inspection at the offices of the Commission, Washington, D.C. Comments, protests or other representations with respect thereto should be submitted in writing in triplicate addressed to the Secretary, Federal Power Commission, 441 G Street NW., Washington, D.C., 20426, on or before October 29, 1965.

GORDON M. GRANT,
Acting Secretary.

EXHIBIT A

BONNEVILLE POWER ADMINISTRATION

SCHEDULE E-5 WHOLESALE FIRM POWER RATE

(Effective December 20, 1965)

Section 1. *Availability*

This schedule is available for the purchase cf firm and interruptible power for resale, of firm power for irrigation or drainage pumping use by the purchaser, and incidental use by the purchaser for other purposes in either case.

Section 2. *Rate*

Subject to other provisions of this schedule, the monthly rates shall be as follows:

Demand Charge: 95 cents per kilowatt of billing demand.

Energy Charge: 1.25 mills per kilowatt-hour.

Section 3. *Billing Demand*

The billing demand shall be the higher of the following demands:

(a) The measured demand for the month, adjusted for power factor.

(b) 50 percent of the highest measured demand, after adjustment for power factor, during the preceding eleven months. This subsection (b) shall not apply to purchasers who use the power purchased hereunder solely for irrigation or drainage pumping for agricultural production and uses incidental thereto, and who do not resell any of the power so purchased.

Section 4. *Limitation*

(a) The amount payable in any month shall not be less than 90 percent of the billing which would result from application of the charges and provisions in this schedule to the entire firm power demand and energy requirements of the separate system to which the billing applies. The provisions of this subsection shall not apply to any system of the purchaser where the total power requirements of such system are used solely for irrigation or drainage pumping for agricultural production and uses incidental thereto.

(b) In determining the monthly billing under this section, the purchaser's "entire firm power demand and energy requirements" shall not include that part of the purchaser's system requirements supplied with firm power obtained from the Administrator separately under any exchange agreement, or obtained under any assignment or allocation agreement which the Administrator has approved or to which he is a party.

(c) The 90 percent specified in this section shall be modified by the Administrator during any period that he is unable to supply the entire firm power requirements of such separate system.

Section 5. *System Developmental Discount*

A predetermined discount will, if applicable, be applied each month of a calendar year to the charges for power purchased under this rate schedule. The amount of such discount will depend on the ratio of the total annual energy requirements of the purchaser's electric operations during the preceding calendar year to the average of the purchaser's depreciated investment in electric plant in service (excluding generating plant) at the end of each month during such year. The discount shall be:

Five percent if such ratio is less than 15 kilowatt-hours per dollar of net investment, or

Two percent if such ratio is 15 or more, but less than 25 kilowatt-hours per dollar of net investment.

No discount if such ratio is 25 kilowatt-hours or more per dollar of net investment.

Section 6. *Irrigation and Drainage Pumping Provisions*

(a) A discount of six-tenths mill ($0.0006) per kilowatt-hour will be applied to energy used by the purchaser or resold to customers of the purchaser for irrigation or drainage pumping for agricultural production and uses incidental thereto. The amount of such energy shall be increased by 10 percent for losses before the discount is applied provided, however, that such increased amount of energy shall not exceed total energy supplied by the Administrator to the purchaser's system. To qualify for the discount, the purchaser shall comply with the following provisions:

(1) Any energy on which the discount is claimed shall be metered separately by the purchaser if resold and, if practicable, metered separately, if used by the purchaser. If metering of such energy used by the purchaser is not practicable, the amount shall be determined in a manner satisfactory to the Administrator.

(2) The purchaser shall report the number of irrigation or drainage pumping kilowatt-hours delivered to each of its customers and used in its own operations, and such other pertinent data as the Administrator may reasonably request. Reports of such kilowatt-hours may be supplied from time to time during the irrigation or drainage pumping season, but the last report covering deliveries for resale shall be supplied within ten days after the purchaser makes the final billing to his customers for such season. The discount will be applied to the next power bill following receipt of each report.

(b) The portion of the purchaser's measured demand in any billing month attributable to energy to which the discount is applied shall, if determined in a manner satisfactory to the Administrator, and if reported by the purchaser within 10 days after the end of such month, be excluded in determining the billing demand stated in section 3(b) for such month; provided that the load factor determined from the remaining demand and the remaining kilowatt-hours used in such billing month shall not be greater than 70 percent.

Section 7. *Interruptible Power*

Interruptible power for resale may be purchased under this schedule in accordance with the provisions of section 1.4 of the General Rate Schedule Provisions.

The billing demand for the month for interruptible power shall be the measured demand adjusted for average power factor. The demand charge specified in section 2 hereof will be reduced by 10 cents per month per kilowatt of billing demand.

Section 8. *Power Factor Adjustment*

Except as hereafter provided, the adjustment for power factor shall be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor at which energy is supplied during such month is less than 0.95 lagging.

The Administrator may, if he considers it desirable, determine the average leading power factor. If leading power factor as well as lagging power factor is determined, the adjustment for power factor shall be made by increasing the measured demand for the month by 1 percent for each 1 percent or major fraction thereof by which the average power factor is less than 0.95 lagging or 0.95 leading, whichever is lowest.

The adjustment for power factor may be waived in whole or in part to the extent that the Administrator determines that an average power factor of less than 0.95 lagging or leading would in any particular case be beneficial to the Government. Unless otherwise specifically agreed, the Administrator may, if necessary to maintain acceptable operating conditions on the Government's system, curtail deliveries of power to the purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to the purchaser at such point of delivery or for such system is below 0.75 lagging or 0.75 leading.

Section 9. *Billing Modification*

The total amount payable for firm power under this schedule for all firm power so purchased in each of the calendar years 1966, 1967, 1968, and 1969 shall not be more than 106 percent, nor less than 102 percent, of the amount which would have been payable for each such year under the following modifications of this schedule (this schedule E-5 as so modified comprises, generally, the major provisions of Wholesale Power Rate Schedule E-4 effective, as amended, December 20, 1964); *Provided, however,* That for any purchaser qualifying for the System Developmental Discount pursuant to section 5 hereof, the quantity 106 percent shall be reduced by application of the percentage discount appropriate for such purchaser.

(a) Section 2. *Rate:* Substitute energy charge of 1 mill per kilowatt-hour for 1.25 mills per kilowatt-hour.

(b) Section 3. *Billing Demand:* Substitute 70 percent for 50 percent.

(c) Section 5. *System Developmental Discount:* Not to be applied.

(d) Section 6(a). *Irrigation and Drainage Pumping.* Substitute \$0.0004 per kilowatt-hour for \$0.0006 per kilowatt-hour.

(e) Increase all 60-minute measured demands by 1.1 percent.

An appropriate credit or charge shall be included with the last monthly bill of each calendar year for any required billing modification.

Section 10. *General Provisions*

Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act as amended and the applicable General Rate Schedule Provisions.

BONNEVILLE POWER ADMINISTRATION

SCHEDULE F-5 WHOLESALE FIRM POWER RATE

(Effective December 20, 1965)

Section 1. *Availability*

This schedule is available for the purchase of the following classes of power:

(a) Firm power on a computed or contract demand basis.

(b) Firm power, firm capacity, or both, on a contract demand basis in combination with the purchase of firm power under Schedule C-5.

(c) Firm capacity.

(d) Interruptible power.

Section 2. *Rate*

Subject to other provisions of this schedule, the monthly rate for power shall be as follows:

Demand Charge:

\$0.75 per kilowatt of billing demand.

Energy Charge:

First 300 kilowatt-hours per kilowatt of billing demand at 2.5 mills per kilowatt-hour,

All additional kilowatt-hours associated with the billing demand at 1.25 mills per kilowatt-hour.

Section 3. *Billing Demand and Billing Energy*

(a) The billing demand shall be the highest of the following demands:

(1) The contract demand, if specified in the contract.

(2) The measured demand for the month adjusted for power factor.

(3) The computed demand for the month, determined as provided in section 2.3 of the General Rate Schedule Provisions. Computed demand will be applicable only if the purchaser has firm resources other than power received from the Administrator, and if the contract provides for purchase of firm power on a computed demand basis.

(4) 70 percent of the highest computed demand, if applicable, during the preceding 11 months.

(5) 70 percent of the highest measured demand, after adjustment for power factor, during the preceding 11 months.

(b) If power is purchased on a contract demand basis for resale, the energy billed under this schedule shall be the amount specified in the contract.

Section 4. *Firm Capacity*

Firm capacity may be purchased under this schedule on a contract demand basis for supply during a contract year of 12 months as specified in the contract, or during a contract season of May 1 through September 30. Only billing demand factors (a)(1) and (a)(2) of section 3 will be applicable.

The charge for firm capacity shall be as follows:

(a) Contract year service:

\$9 per kilowatt per year of the larger of the contract demand or measured demand for the contract year. Interim bills will be rendered monthly at the rate of \$0.75 per kilowatt of billing demand.

(b) Contract season service:

\$5 per kilowatt per season of the larger of the contract demand or measured demand for the contract season. Interim bills will be rendered monthly at the rate of \$1 per kilowatt of billing demand starting with deliveries for May of each contract season.

If the Administrator restricts any demand in excess of the contract demand for the balance of a contract year or season, the annual charge shall be reduced by the kilowatt-months of restriction multiplied by the interim billing rate per kilowatt.

Contracts for the purchase of firm capacity shall include provisions for the advance delivery or for replacement by the purchaser of energy accompanying the delivery of such capacity.

Section 5. *Combination Firm Power Purchases*

Firm power, firm capacity, or both, may be purchased under this schedule on a contract basis in combination with the purchase of firm power on a contract or computed demand basis under Schedule C-5. Charges for purchases under this schedule shall be for the contracted amouts of firm power or capacity.

Section 6. *Interruptible Power*

Interruptible power may be purchased under this schedule in accordance with the provisions of section 1.4 of the General Rate Schedule Provisions. The billing demand for the month shall be factor (a)(2) of section 3 hereof.

Section 7. *Irrigation and Drainage Pumping Provisions*

A monthly discount of six-tenths mill (\$0.0006) per kilowatt-hour will be applied to energy resold to customers of the purchaser for irrigation and drainage pumping for agricultural production and uses incidental thereto. The amount of such monthly energy shall be increased by 10 percent for losses and multiplied by the ratio that monthly energy purchased under this schedule bears to total monthly energy requirements for the purchaser's system.

Any energy on which the discount is claimed shall be metered separately by the purchaser. The purchaser shall report such energy for each customer within 10 days after the close of the monthly billing period, and such other pertinent data as the Administrator may reasonably request. Purchasers may supply such data on other than a monthly basis if the data correspond with the purchaser's regular billing periods for billing such customers, and the assignable monthly energy on which the discount will be applied will be determined in a manner satisfactory to the Administrator.

The respective computed and measured demands used in determining the billing demand stated in sections 3(a)(4) and 3(a)(5) shall exclude an amount equal to the demand attributable to energy resold for irrigation and drainage pumping use as specified above multiplied by the same ratio used in determining the energy subject to discount during such month. Such attributable demand shall be determined in a manner satisfactory to the Administrator and reported within 10 days after the close of the monthly billing period.

The provisions of this section do not apply if firm power is purchased under this schedule in combination with purchase of firm power under Schedule C-5.

Section 8. *Power Factor Adjustment*

Except as hereafter provided, the adjustment for power factor wherever specified in this rate schedule shall be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor at which energy is supplied during such month is less than 0.85 lagging.

The Administrator may, if he considers it desirable, determine the average leading power factor. If leading power factor as well as lagging power factor is determined, the adjustment for power factor shall be made by increasing the measured demand for the month by 1 percent for each 1 percent or major fraction thereof by which the average power factor is less than 0.85 lagging or 0.95 leading, whichever results in the larger adjustment.

The adjustment for power factor may be waived in whole or in part to the extent that the Administrator determines that an average power factor of less than 0.85 lagging or 0.95 leading would in any particular case be beneficial to the government. Unless otherwise specifically agreed, the Administrator may, if necessary to maintain acceptable operating conditions on the Government's system, curtail deliveries of power to the purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to the purchaser at such point of delivery or for such system is below 0.75 lagging or 0.75 leading.

Section 9. *General Provisions*

Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act as amended and the applicable General Rate Schedule Provisions.

BONNEVILLE POWER ADMINISTRATION

SCHEDULE C-5 WHOLESALE FIRM POWER RATE

(Effective December 20, 1965)

Section 1. *Availability*

This schedule is avilable for the purchase of the following classes of power:

(a) Firm power, modified firm power, or a combination thereof on a contract demand basis.

(b) Firm power on a computed demand basis.

(c) Interruptible power.

Section 2. *Rate*

Subject to other provisions of this schedule, the monthly rate for power shall be as follows:

(a) Transmission system deliveries:
Firm at $1.55 per kw of billing demand
Modified firm at $1.50 per kw of billing demand
Interruptible at $1.45 per kw of billing demand

(b) At-site deliveries:
Firm at $1.284 per kw of billing demand
Modified firm at $1.243 per kw of billing demand
Interruptible at $1.20 per kw of billing demand

Section 3. *Billing Demand Factors*

The factors to be used, as hereinafter provided, in determining the billing demand for power purchased under this schedule are as follows:

(a) The contract demand.

(b) The measured demand for the month adjusted for power factor.

(c) The computed demand for the month, determined as provided in section 2.3 of the General Rate Schedule Provisions. Computed demand will be applicable only if the purchaser has firm resources other than power received from the Administrator, and if the contract between the purchaser and the Administrator provides for the purchase of firm power on a computed demand basis.

(d) The highest computed demand, if applicable, during the preceding 11 months.

(e) The highest measured demand, after adjustment for power factor, during the preceding 11 months.

Section 4. *Determination of Billing Demand on Purchases for Resale or Consumption by Purchaser*

The billing demand for the month for firm power shall be the highest of factors (a), (b), (c) if applicable, (d), and (e) of section 3 hereof.

The billing demand for the month for modified firm power shall be the highest of factors (a), (b), and (e) of section 3 hereof.

The billing demand for the month for interruptible power shall be factor (b) of section 3 hereof.

If more than one class of power is purchased, the measured demand for each class will be determined in the manner specified in the contract as provided in section 2.2 of the General Rate Schedule Provisions.

Section 5. *Combination Purchases*

Firm power may be purchased on a contract or computed demand basis under this schedule in combination with firm power or firm capacity purchased on a contract demand basis under Schedule F-5. When purchases are so combined:

(a) If computed demand is not a billing factor, the contract demand for firm power, or firm capacity, or both, purchased under Schedule F-5 shall be deducted from the largest sum of the 60-minute integrated demands for purchases under the C-5 and F-5 schedules for the month; the remainder shall be used in determining the billing demand for such month under this schedule.

(b) If computed demand is a billing factor, (1) the contract demand for firm power, firm capacity, or both, purchased under Schedule F-5 shall be deducted from the total measured demand and from the largest actual 60-minute integrated system demand of the purchaser for the month, and (2) the specified amount of firm energy purchased under Schedule F-5 shall be deducted from the actual average energy load of the purchaser for the month; the remainders shall be used in determining the billing demand for such month under this schedule.

The billing demand for the month for the firm power purchased hereunder shall be the highest of factors (a), (b), (c) if applicable, (d), and (e) of section 3 hereof.

Section 6. *Modified Firm Power*

Modified firm power may be purchased under this schedule in accordance with the provisions of section 1.2 of the General Rate Schedule Provisions.

Section 7. *Interruptible Power*

Interruptible power may be purchased under this schedule in accordance with the provisions of section 1.4 of the General Rate Schedule Provisions.

Section 8. *At-Site Power*

At-site power purchased for consumption by the purchaser shall be used within 15 miles of the powerplant. At least 90 percent of any at-site power purchased for resale shall be used within 15 miles of the powerplant.

At-site power will be made available at a Federal hydroelectric plant or at a point adjacent thereto, and at a voltage, all as designated by the Administrator. If deliveries are made from an interconnection with the Federal transmission system other than such adjacent point, the purchaser shall, in addition to the charge for power under this schedule, pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power at the generator bus at the hydroelectric plant, or at the adjacent point and voltage designated by the administrator.

The total amount of at-site firm power sold from any hydro plant shall not exceed the amount of such power determined by the Administrator to be available at such plant.

Section 9. *Power Factor Adjustment*

Except as hereafter provided, the adjustment for power factor wherever specified in this rate schedule shall be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor at which energy is supplied during such month is less than 0.85 lagging.

The Administrator may, if he considers it desirable, determine the average leading power factor. If leading power factor as well as lagging power factor is determined, the adjustment for power factor shall be made by increasing the measured demand for the month by 1 percent for each 1 percent or major fraction thereof by which the average power factor is less than 0.85 lagging or 0.95 leading, whichever results in the larger adjustment.

The adjustment for power factor may be waived in whole or in part to the extent that the Administrator determines that an average power factor of less than 0.85 lagging or 0.95 leading would in any particular case be beneficial to the Government. Unless specifically otherwise agreed, the Administrator may, if necessary to maintain acceptable operating conditions on the Government's system, curtail deliveries of power to the purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to the purchaser at such point of delivery or for such system is below 0.75 lagging or 0.75 leading.

Section 10. *General Provisions*

Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act as amended, and to the applicable General Rate Schedule Provisions.

BONNEVILLE POWER ADMINISTRATION

SCHEDULE R-2 FIRM POWER FOR RAILROAD USE

(Effective December 20, 1965)

Section 1. *Availability*

This schedule applies to at-site and transmission system firm power used by railroads primarily for traction purposes, delivered to railroads or to purchasers for resale to railroads. The points of delivery shall be so located that the capacity required for the estimated load at each point of delivery shall be not less than 7,500 kva, unless in any particular case the Administrator determines that it would be advantageous to the Government to supply a lower capacity.

Section 2. *Rate*

Energy shall be sold under this schedule at 4.25 mills per kilowatt-hour of net energy supplied adjusted for power factor as set forth below. Such net energy before adjustment for power factor will be determined as the aggregate number of kilowatt-hours delivered to the railroad or to the purchaser's system under this schedule at all points of delivery less the number of kilowatt-hours resulting from regenerative braking received by the Government at such points of delivery. The energy flowing in both directions will be metered separately as of each point of delivery.

Section 3. *Minimum Charge*

The net minimum charge under this schedule shall be $0.50 per month times the aggregate kva capacity of all the points of delivery.

Section 4. *Power Factor Adjustment*

Except as hereafter provided, the net energy before adjustment for power factor will be increased 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor of electric energy supplied during such month is less than 0.95 lagging.

The Administrator may, if he considers it desirable, determine the average leading power factor. If the leading power factor as well as lagging power factor is determined, the adjustment for power factor shall be made by increasing the net energy for the month by 1 percent for each 1 percent or major fraction thereof by which the average power factor is less than 0.95 lagging or 0.95 leading, whichever is lowest.

The adjustment may be waived in whole or in part to the extent that the Administrator determines that a power factor of less than 0.95 lagging or leading would in any particular case be beneficial to the Government. Unless specifically otherwise agreed, the Administrator may, if necessary to maintain acceptable operating conditions on the Government's system, curtail deliveries of power to the purchaser at a point of delivery or for a system at any time that the power factor for all classes of power delivered to the purchaser at such point of delivery or for such system is below 0.75 lagging or 0.75 leading.

Section 5. *General provisions*

Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act as amended, and to the applicable General Rate Schedule Provisions.

BONNEVILLE POWER ADMINISTRATION

SCHEDULE S-1 WHOLESALE EXCESS ENERGY RATE

(Effective December 20, 1965)

Section 1. *Availability*

This schedule is available for the purchase, both within and outside the Pacific Northwest, of such amounts of nonfirm energy as the Administrator determines he would have available for sale outside the Pacific Northwest in accordance with Public Law 88-552 assuming, only for the purpose of making such determination, that there is no market for such energy in the Pacific Northwest under this schedule. After making such determination, the Administrator will supply energy under this schedule, to the extent available, to meet the energy requirements of any Pacific Northwest customer as that term is defined in Public Law 88-552 before delivering any such energy outside the Pacific Northwest.

This schedule is not available at any time for the purchase of energy which the Administrator has a firm obligation to supply.

Section 2. *Delivery*

Delivery of energy under this schedule is not assured. The Administrator shall determine whether and when such energy will be delivered and the amount thereof.

Section 3. *Rate*

2.0 mills per kilowatt-hour.

Section 4. *General Provisions*

Sales of energy under this schedule shall be subject to the provisions of the Bonneville Project Act as amended and the applicable General Rate Schedule Provisions.

BONNEVILLE POWER ADMINISTRATION

SCHEDULE H-4 WHOLESALE ENERGY RATE

(Effective December 20, 1965)

Section 1. *Availability*

This schedule is available for purchase of nonfirm energy exclusive of excess energy made available under Schedule S-1 and interruptible power.

This schedule is also available for energy delivered (1) for emergency use under conditions set forth in section 6.1 of General Rate Schedule Provisions, and (2) for experimental, research, and testing purposes under conditions set forth in section 5.1 of General Rate Schedule Provisions.

Section 2. *Delivery*

The Administrator shall determine whether and when energy will be delivered under this rate schedule, and the amount thereof.

Section 3. *Rate*

2.5 mills per kilowatt-hour.

Section 4. *General provisions*

Sales of energy under this schedule shall be subject to the provisions of the Bonneville Project Act as amended and the applicable General Rate Schedule Provisions.

BONNEVILLE POWER ADMINISTRATION

GENERAL RATE SCHEDULE PROVISIONS

(Effective December 20, 1965)

1.1 *Firm Power:* Firm power is power which the Administrator assures will be continuously available to a purchaser to meet its load requirements except when operation of the Government's facilities used to serve the purchaser is suspended, interrupted, interfered with, or curtailed as made necessary by the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service sections of the General Contract Provisions of the contract.

1.2 *Modified Firm Power:* Modified firm power is firm power which the Administrator will make available to a purchaser on a contract demand basis subject to the following conditions:

(a) The Administrator may restrict the supply of modified firm power in an amount not to exceed 25 percent of the contract demand therefor in the event of unscheduled outages of facilities which are a source of power to the Administrator, or which he uses for delivery of power.

(b) The cumulative restrictions on the supply of modified firm power during any calendar year, expressed in kilowatt-hours, shall not exceed 500 times the contract demand for modified firm power.

(c) If the Administrator restricts the delivery of modified firm power, the restricted demand shall be substituted for the contract demand during the period of restriction. The Administrator shall not be obligated to supply modified firm power at a demand in excess of the restricted demand during any period of restriction.

(d) Delivery of firm power has priority over delivery of the curtailable portion of modified firm power.

1.3 *Firm Capacity:* Firm capacity is capacity which the Administrator assures will be available to a purchaser on a contract demand basis except when operation of the Government's facilities used to serve the purchaser is suspended, interrupted, interfered with, or curtailed as made necessary by the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service sections of the General Contract Provisions of the contract.

1.4 *Interruptible Power:* Interruptible power is nonfirm power which the Administrator may agree to make available under the applicable rate schedules upon the purchaser's request prior to delivery, subject to the following conditions:

(a) The Administrator may curtail delivery of interruptible power, in whole or in part, at any time. The Administrator will give as much notice of curtailment as possible.

(b) The purchaser may reduce the purchase of interruptible power, in whole or in part, at the end of any billing month. By prior agreement with the Administrator, the purchaser may increase or reduce the purchase of interruptible power during a billing month.

(c) If the Administrator curtails or agrees at the request of the purchaser either to curtail or to increase deliveries of interruptible power during any month:

(1) The specified rate per kilowatt of billing demand shall be prorated according to the ratio that the time in each portion of the month during which the same stipulations regarding deliveries were continuously in effect bears to the total time in the month, and

(2) The billing demand for interruptible power for each portion of the month shall be the measured demand during such portion of the month adjusted for the power factor for the entire month.

(d) If interruptible power is purchased for resale, the contract for purchase of such power shall provide for the separation of the demand and energy components thereof from any other class of power which may be delivered through the same point of delivery, and for the separate billing therefor.

2.1 *Contract Demand:* The contract demand shall be the number of kilowatts that the purchaser agrees to purchase and the Administrator agrees to make available. The Administrator may make deliveries at a rate in excess of the contract demand at the request of the purchaser, but shall not be obligated to continue such excess deliveries.

2.2 *Measured Demand:* Except where deliveries are scheduled as hereinafter provided, the measured demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands at which electric energy is delivered to a purchaser at a point of delivery during any billing period. Such largest 60-minute integrated demand shall be determined from measurements made as specified in the contract, or estimated by the Administrator when metering or other data are not available for such purpose. The Administrator, in determining the measured demand, will exclude any abnormal 60-minute integrated demands due to or resulting from (a) emergencies or breakdowns on, or maintenance of, the Government's facilities, and (b) emergencies on the purchaser's facilities, provided that such facilities have been adequately maintained and prudently operated as determined by the Administrator.

If the contract provides for delivery of more than one class of power to the purchaser at any point of delivery, the portion of each 60-minute integrated demand assigned to any class of power shall be determined as specified in the contract. The portion of the total measured demand so assigned shall constitute the measured demand for such class of power.

If the flow of electric energy to a purchaser's system through two or more points of delivery cannot be adequately controlled because such points are interconnected within the purchaser's system, or the purchaser's system is interconnected with one or more systems which are also interconnected directly or indirectly with the Government's system, the purchaser's measured demand for each class of power for such system for any billing period shall be the largest of the hourly amounts of such class of power which are scheduled for delivery to the purchaser.

2.3 *Computed Demand:* The computed demand for each month is the larger of the amount of peak capacity or average energy required by a purchaser to serve its system load in addition to the assured peak and energy capability of its system, determined in accordance with the provisions of this section.

A. *General Principles:*

1. The assured capability of each of the purchaser's system shall be determined and applied separately.

2. As used in this section "year" shall mean the 12-month period commencing July 1.

3. The critical period is that period, determined for the purchaser's system under adverse streamflow conditions adjusted for current water uses, assured storage operation and appropriate operating agreements, during which the purchaser would have the maximum requirement for peaking or energy after utilizing the firm capability of all resources available to its system in such a manner as to place the least requirement for capacity and energy on the Administrator.

4. Critical water conditions are those conditions of streamflow based on historical records, adjusted for current water uses, assured storage operation and appropriate operating agreements, for the year or years which would result in the minimum capabilities of the purchaser's firm resources during the critical period.

5. Prior to the beginning of each year the purchaser shall determine the assured capability of each of the purchaser's systems in terms of peaking and average energy for each month of each year or years which contain the critical period. The firm capability of all resources available to the purchaser's sys-

tem shall be utilized in such a manner as to place the least requirement for capacity and energy on the Administrator. Such assured capability shall be effective after review and approval by the Administrator.

6. As used herein, the capability of a firm resource shall include only that portion of the total capability of such resource which the purchaser can deliver on a firm basis to its load. The capabilities of all generating facilities which are claimed as part of the purchaser's assured capability shall be determined by test or other substantiating data acceptable to the Administrator. The Administrator may require verification of the capabilities of any or all of the purchaser's generating facilities. Such verification will not be required more often than once each year for operating plants, or more often than once each third year for thermal plants in cold standby status, if the Administrator determines that adequate annual preventive maintenance is performed and the plant is capable of operating at its claimed capability.

7. The purchaser shall at any time, if required by the Administrator, demonstrate the ability of its claimed hydro resources to develop the assured capability previously approved for the remainder of the critical period based on critical water conditions. If such ability cannot be demonstrated to the satisfaction of the Administrator, the purchaser's assured capability shall be reduced for the remainder of the critical period by the amount which cannot be developed, unless such deficiency is the result of operation required by firm obligations under contracts to which the Administrator is a party.

8. In determining assured capability, the aggregate capability of the purchaser's firm resources shall be appropriately reduced to provide adequate reserves.

B. *Determination of Assured Capability:* The purchaser's assured peaking and energy capabilities shall be the respective sums of (1) the capabilities of its hydro generating plants based on its most critical water conditions, (2) the capabilities of its thermal generating plants based on the most adverse fuel or other conditions reasonably to be anticipated, and (3) the firm capabilities of other resources made available under contracts prior to the beginning of the year, after deduction of adequate reserves. Assured capabilities for each month shall be determined separately for the first 10 days, the second ten days, and the remainder of such month if the purchaser does not have seasonal storage (subsequently defined), or for each month if the purchaser has seasonal storage. The capabilities of the purchaser's firm resources shall be determined as follows:

1. *Hydroelectric Generating Facilities:* The capability of each of the purchaser's hydro-generating plants shall be determined in terms of both peaking and average energy using critical water conditions. The average energy capability shall be that capability which would be available under the storage operation necessary to produce the claimed peaking capability

Seasonal storage shall mean storage sufficient to regulate all the purchaser's hydro resources in such a manner that when combined with the purchaser's thermal generating facilities, if any, and with firm capacity and energy available to the purchaser under contracts, a uniform computed energy demand for a period of one month or more would result.

A purchaser having seasonal storage shall, within 10 days after the end of each month in the critical period, notify the Administrator in writing of the assured energy capability to be applied tentatively to the preceding month; such notice shall also specify the purchaser's best estimate of its average system energy load for such month. If such notice is not submitted, or is submitted later than 10 days after the end of the month to which it applies, subject to the limitations stated herein, the assured energy capability determined for such month prior to the beginning of the year shall be applied to such month and may not be changed thereafter.

If notice has been submitted pursuant to the preceding paragraph, the purchaser shall, within 30 days after the end of the month, submit final specification of the assured energy capability to be applied to the preceding month; provided that the assured energy capability so specified shall not differ from the amount shown in the original notice by more than the amount by which the purchaser's actual average system energy load for such month differs from the estimate of that load shown in the original notice. If the assured energy capability for such month differs from that determined prior to the beginning of the year for such month, the purchaser, if required by the Administrator, shall demonstrate by a suitable regulation study based on critical water conditions that such change could actually be accomplished, and that the remaining balance of its total critical period assured energy capability could be developed without adversely affecting the firm capability of other purchasers' resources. The algebraic sum of all such changes in the purchaser's assured energy capability shall be zero at the end of the critical period or year, whichever is earlier. Appropriate adjustments in the assured peaking capability shall be made if required by any change in reservoir operation indicated by such revisions in the monthly distribution of critical period energy capability.

2. *Thermal generating facilities:* The capability of each of the purchaser's thermal generating plants shall be determined in terms of both peaking and average energy. Such capabilities shall be based on the most adverse fuel or other conditions reasonably to be anticipated. The effect of limitations on fuel supply due to war or other extraordinary situations will be evaluated at the time of occurrence, and appropriate changes will be made in the monthly plant capabilities by the Administrator.

3. *Other sources of power:* The assured capability of other resources available to the purchaser on a firm basis under contracts shall be determined prior to each year in terms of both peaking and average energy.

C. *Determination of Computed Demand:* The purchaser's computed demand for each billing month shall be the greater of:

1. The largest amount during such month by which the purchaser's actual 60-minute system demand, excluding any loads otherwise provided for in the contract, exceeds its assured peaking capability for such month, or period within such month, or

2. The largest amount for such month, or period within such month, by which the purchaser's actual system average energy load, excluding the average energy loads otherwise provided for in the contract exceeds its assured average energy capability.

The use of computed demand as one of the alternatives in determining billing demand is intended to assure that each purchaser who purchases power from the Administrator to supplement his own firm resources will purchase amounts of power substantially equivalent to the additional capacity and energy which the purchaser would otherwise have to provide on the basis of normal and prudent operations, viz. sufficient capacity and energy to carry the load through the most critical water or other conditions reasonably to be anticipated, with an adequate reserve.

Since the computed demand depends on the relationship of capability of resources to system requirements, the computed demand for any month cannot be determined until after the end of the month. As each purchaser must estimate his own load, and is in the best position to follow its development from day to day, it will be his responsibility to request scheduling of firm power, including any increase over previously established demands, on the basis estimated by him to result in the most advantageous purchase of the power to be billed at the end of the month.

Each contract in which computed demand may be a factor in determining the billing demand shall have attached to it as an exhibit a sample calculation of the computed demand of the purchaser for the period having the highest computed demand during the 12 months immediately preceding the effective date of the contract.

2.4 *Restricted Demand:* Deliveries of any class of capacity and energy in excess of the Administrator's contracted obligations to supply may be restricted by him at any time. Billing demands subsequent to the effective time of a restriction shall be determined as provided in the applicable rate schedule except that any higher billing demand established prior thereto which would otherwise be applicable shall be reduced to the amount of the restricted demand.

3.1 *Billing:* Unless otherwise provided in the contract, power made available to a purchaser at more than one point of delivery shall be billed separately under the applicable rate schedule or schedules. The contract may provide for combined billing under specified conditions and terms when: (a) delivery at more than one point is beneficial to the Government, or (b) the flow of power at the several points of delivery is reasonably beyond the control of the purchaser.

If deliveries at more than one point of delivery are billed on a combined basis for the convenience of the customer, a charge will be made for the diversity between the measured demands at the several points of delivery. The charge for the diversity shall be determined in a uniform manner and shall be specified in the contract.

4.1 *Application of Rates During Initial Operation Period:* For an initial operating period, not in excess of three months, beginning with the commencement of operation of a new industrial plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof the Administrator may agree (a) to bill for service to such new or reactivated plant facilities on the basis of the measured demand for each day, adjusted for power factor, or (b) if such facilities are served by a distributor purchasing power therefor from the Administrator, to bill for that portion of such distributor's load which results from service to such facilities on the basis of the measured demand for each day, adjusted for power factor. Any rate schedule provisions regarding contract demand, billing demand, and minimum monthly charge which are inconsistent with this section shall be inoperative during such initial operating period.

The initial operating period and the special billing provisions may, on approval by the Administrator, be extended beyond the initial three months' period for such additional time as is justified by the developmental character of the operations.

5.1 *Energy Supplied for Experimental, Research, and Testing Purposes:* In order to promote experimentation in new processing methods, in development of new types of load, and for research, the Administrator may sell, either for consumption by the purchaser or for resale, the electric energy used solely for such experimentation and research and uses incidental thereto in accordance with Wholesale Energy Schedule H-4.

Electric energy used solely for testing of new equipment or processes and uses incidental thereto also may be sold by the Administrator, either for consumption by the purchaser or for resale, in accordance with Wholesale Energy Schedule H-4.

6.1 *Energy Supplied for Emergency Use:* A purchaser taking firm power shall pay in accordance with Wholesale Energy Rate Schedule H-4 for any electric energy which has been supplied (a) for use during an emergency on the purchaser's system, or (b) following an emergency to replace energy secured from sources other than the Government during such emergency, except that mutual emergency assistance may be provided and settled under exchange agreements.

7.1 *Billing Month:* Meters will normally be read and bills computed at intervals of one month. A month is defined as the interval between meter-reading dates which normally will be approximately 30 days. If service is for less or more than the normal billing month, the monthly charges stated in the applicable rate schedule will be appropriately adjusted.

8.1 *Payment of Bills:* Bills for power shall be rendered monthly and shall be payable at the office of the Administrator. Failure to receive a bill shall not release the purchaser from liability for payment. Demand and energy billings under each rate schedule application shall be rounded to whole dollar amounts, by elimination of any amount of less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

Bills not paid in full on or before the close of business of the thirtieth day after the date of the bill shall bear an additional charge of two percent (2%) of the amount unpaid. Thereafter a further charge of one-half of one percent (½%) of the initial amount remaining unpaid shall be added on the first day of each succeeding calendar month until the amount due is paid in full. The provisions of this paragraph shall not apply to bills rendered under contracts with other agencies of the United States.

Remittances received by mail will be accepted without assessment of the delayed payment charges referred to above provided the postmark indicates the payment was mailed on or before the thirtieth day after the date of the bill. If the thirtieth day after the date of the bill is a Sunday or other nonbusiness day of the purchaser, the next following business day shall be the last day on which payment may be made without addition of the delayed payment charge.

The Administrator may, whenever a power bill or a portion thereof remains unpaid subsequent to the thirtieth day after the date of the bill, and after giving 30 days' advance notice in writing, cancel the contract for service to the purchaser, but such cancellation shall not affect the purchaser's liability for any charges accrued prior thereto.

9.1 *Change in Applicable Rate Schedule:* A change in the applicable rate schedule or applicable combination of schedules may be requested by the purchaser and, upon approval by the Administrator, shall be made by an appropriate amendment of the contract or by a new contract. Any approved change in the applicable rate schedule shall be made effective at the beginning of the first billing month following receipt of such request or at such later date as is stipulated in the contract. The billing factors established prior to the change in the applicable rate schedule or schedules shall be applied, if relevant, in computing bills after the change in the same manner as if they had been established under the newly applicable rate schedule or combination of schedules.

10.1 *Approval of Rates:* Schedules of rates and charges or modifications thereof, for electric energy sold by the Administrator shall become effective only after confirmation and approval by the Federal Power Commission.

11.1 *Average Power Factor:* The formula for determining average power factor is as follows:

$$\text{Average Power Factor} = \frac{\text{Kilowatt-hours}}{\sqrt{(\text{Kilowatt-hours})^2 + (\text{Reactive kilovolt-ampere-hours})^2}}$$

The data used in the above formula shall be obtained from meters which are ratcheted to prevent reverse registration.

When deliveries to a purchaser at any point of delivery include more than one class of power or are under more than one rate schedule, and it is impracticable to separately meter the kilowatt-hours and reactive kilovolt-ampere-hours for each class, the average power factor of the total deliveries for the month will be used, where applicable, as the power factor for each of the separate classes of power and rate schedules.

12.1 *Determination of Estimated Billing Data:* If the purchased amounts of capacity, energy, and the 60-minute demands for energy must be estimated from data other than metered or scheduled quantities, the Administrator and the purchaser will agree on billing data to be used in preparing the bill. If the parties cannot agree on the estimated billing quantities, a determination binding on both parties shall be made in accordance with the arbitration provisions of the contract.

13.1 *Temporary Curtailment of Contract Demand:* The Administrator may include in contracts with industrial purchasers, provisions for temporary curtailment of contract demand for firm and modified firm power by the purchaser. The reduction of charges for power so curtailed shall be applied in a uniform manner.

14.1 *General Provisions:* The Wholesale Rate Schedules and General Rate Schedule Provisions of the Bonneville Power Administration effective December 20, 1965, supersede in their entirety the Administration's Wholesale Power Rate Schedules and General Rate Schedule Provisions effective December 20, 1964.

[F.R. Doc. 65-10750; Filed, Oct. 8, 1965; 8:46 a.m.]

CUMULATIVE LIST OF CFR PARTS AFFECTED—OCTOBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during October.

FEDERAL REGISTER

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Saturday, October 9, 1965 • Washington, D.C.

PART II

Department of the Interior

Bureau of Land Management

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Programs and Objectives; Sales and Exchanges; Land Classification

Rules and Regulations

Title 43—PUBLIC LANDS: INTERIOR

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

SUBCHAPTER A—GENERAL MANAGEMENT

SUBCHAPTER B—LAND TENURE MANAGEMENT

[Circular 2201]

PART 1720—PROGRAMS AND OBJECTIVES

Subpart 1725—Program Policy

PART 2240—SALES AND EXCHANGES

Subpart 2243—Public Sales

PART 2410—LAND CLASSIFICATION

Subpart 2410—Land Classification; General

Subpart 2411—Procedures

On pages 2384–2392 of the FEDERAL REGISTER of February 20, 1965, there were published notices and texts of proposed additions to and revisions of Subchapters A and B of Chapter II, Title 43, Code of Federal Regulations.

These additions and revisions were:

1. Addition to Subchapter A of Part 1720—Programs and Objectives consisting of Subpart 1725—Progam Policy. This addition establishes basic policy of the Department of the Interior for the disposition and multiple use management of public lands administered by the Bureau of Land Management.

2. Revision of Subpart 2243, Part 2240, Subchapter B to provide regulations necessary to implement the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421–27), which authorizes the sale of public lands that are required for the orderly growth and development of a community or which are chiefly valuable for residential, commercial, agricultural (exclusive of land chiefly valuable for grazing and raising forage crops), industrial, or public uses or development.

3. Revision of Part 2410 to prescribe regulations containing criteria and procedures by which the Secretary will determine which of the public lands, including those situated in the State of Alaska, exclusively administered by him through the Bureau of Land Management, shall be: (a) Sold because they are (1) required for the orderly growth and development of a community, or (2) are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops), industrial, or public uses or development; or (b) retained, at least for the time being, in Federal ownership and managed for (1) domestic livestock grazing, (2) fish and wildlife development, (3) industrial development, (4) mineral production, (5) occupancy, (6) outdoor recreation, (7) timber production, (8) watershed protection, (9) wilderness protection, or (10) preservation of public values that would be lost if the land passed from Federal ownership.

Interested persons were invited to participate in the consideration of the proposed regulations by presenting their views, data, or arguments in writing on or before March 23, 1965, or by presenting their views orally or in writing at a public hearing held on March 25, 1965, in the auditorium of the Department of the Interior, Washington, D.C.

The February 20, 1965, notice also indicated that the Department might hold one or more public hearings in one or more of the Western States. Such hearings were held at: Twin Falls, Idaho, on April 9, 1965; Reno, Nev., on April 12, 1965; Phoenix, Ariz., on April 13, 1965; Albuquerque, N. Mex., on April 14, 1965; and Grand Junction, Colo., on April 16, 1965.

All comments received have been carefully considered. The following suggested changes are being incorporated into the regulations:

1. Section 1725.1 is revised to read as follows: "Pending classification authorized by the Classification and Multiple Use Act (78 Stat. 986, 43 U.S.C. 1411–18) or other available authority, all lands administered by the Secretary through the Bureau of Land Management will continue to be administered for multiple use and sustained yield of the several products and services obtainable therefrom."

2. The first paragraph of § 1725.2–1 is revised to include "scrip, lands, or other property" as forms of consideration for transfer of public lands out of Federal ownership.

3. The second sentence of § 1725.3–1 is revised to read as follows: "The Secretary or his delegate will authorize, under applicable authority, that use or combination of uses which will best achieve the objectives of multiple use, taking into consideration all pertinent factors, including, but not limited to, ecology, existing uses, and the relative values of the various resources in particular areas."

4. The words "States" and "local governments" are inserted between "of" and "public" in § 1725.3–2(b) in order to provide for coordination and cooperation with those entities, as well as others previously listed, in the conduct of multiple use management of public lands.

5. A new § 1725.3–3—Components of Multiple Use Management is added. This section defines the scope of the ten objectives of public land management listed in the Classification and Multiple Use Act.

6. The following sentence is added to paragraph (a) of § 2243.2–1: "The authority to make such sales shall expire on June 30, 1969, except that sales concerning which notice has been given in accordance with § 3 of the Act prior to June 30, 1969, may be consummated and patents issued in connection therewith after June 30, 1969." This is the language of section 7 of the Public Land Sale Act.

7. The third, fourth, and fifth sentences of § 2243.2–1(b) are revised to read as follows: "Sales of lands required for the orderly growth and development of a community will be deferred until local governmental comprehensive plans have been adopted and zoning regulations are in effect. Sales of lands not required for the orderly growth and development of a community may be made where, after consultation with appropriate local planning and governing officials, the authorized officers determine that adequate zoning regulations exist and the disposal would be consistent with the objectives of the local governments involved."

8. The second sentence of § 2410.1–1 (b) is revised to read as follows: "Long-term public needs will be weighed against more immediate or local needs. The tract will then be classified in a manner which will best promote the public interest."

9. To conform with the language of the Public Land Sale Act, the words "urban purposes or for intensive-use purposes" in § 2243.2–3(d)(1) are revised to read "the orderly growth and development of a community or are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops), industrial, or public uses or development."

10. Paragraph (a) of § 2243.2–4 is revised to permit the authorized officer to issue the notice required by section 2 of the Public Land Sale Act before the lands involved are formally classified.

11. Paragraph (b) of § 2243.2–6 is revised to add a cross-reference to the segregation provisions of § 2411.1–2(e).

12. Paragraph (c) of § 2243.2–6 is revised to indicate that where tracts of 2,560 acres or less are involved, the lands will be segregated by notation on the land office records of a proposed classification or classification for sale under the Public Land Sale Act.

13. The following sentence is added to § 2410.0–2: "Nothing in these regulations is meant to affect applicable State laws governing the appropriation and use of water, regulation of hunting and fishing, or exercise of any police power of the State." This addition is designed to make it clear that classifications made pursuant to these regulations do not affect the applicability of State laws.

14. The definition of "residential" in § 2410.0–5(a) is revised to read as follows: " 'Residential' refers to single or multifamily dwellings, or combination

thereof, and related community facilities, both seasonal and year-round."

15. The definition of "industrial" in § 2410.0–5(c) is revised to read as follows: "'Industrial' refers to the manufacture, processing, and testing of goods and materials, including the production of power. It does not refer to the growing of agricultural crops, or the raising of livestock, or the extraction or severance of raw materials from the land being classified, but it does include activities incidental thereto."

16. "Horseback riding" and "picnicking" are added to the activities listed under "outdoor recreation" in § 2410.0–5 (j).

17. The definition of "timber production" in § 2410.0–5(k) is revised to read as follows: "'Timber production' refers to the growth of trees in forests and woodlands."

18. The definition of "wilderness" in § 2410.0–5(m) is revised to read as follows: "'Wilderness' refers to areas in a native condition or reverted to a native condition, substantially free of man-made structures and human habitation."

19. The first sentence of § 2410.1–1(a) is revised to read as follows: "All classifications under the regulations of this part will give due consideration to ecology, priorities of use and the relative values of the various resources in particular areas." This is the language of section 1(b) of the Classification and Multiple Use Act.

20. Section 2410.1–2 has been revised to include only criteria for classifications for rentention for multiple use management under the Classification and Multiple Use Act. The scope of the uses for which lands so classified are to be managed are now set forth in the new § 1725.3–3.

21. Throughout § 2410.1–3 the words "urban or suburban purposes" have been substituted for "orderly growth and development of a community" except where the latter phrase is used with direct reference to the Public Land Sale Act. This makes it clear that lands needed for urban or suburban purposes may be sold under the Recreation and Public Purposes Act (44 Stat. 741), as amended (43 U.S.C. 869–869–4) and other appropriate laws, as well as the Public Land Sale Act.

22. The criteria for classification for homestead entry in § 2410.1–3(d)(4) and Indian allotment in § 2410.1–3(d)(6) have been revised by (1) eliminating reference to "American standards of living", (2) adding language to indicate that the availability of water will be determined under applicable State law and (3) that the expected return from agricultural development must be adequate to support the residents.

23. Paragraph (c) of § 2411.1–1 has been revised to require that copies of proposed decisions be sent to the District Advisory Board for the grazing district in which the lands are located.

24. The last sentence of § 2411.1–2(b) has been revised to read as follows: "The authorized officer will hold a public hearing on the proposal if (1) the proposed classification will affect more than 25,000 acres or (2) he determines that sufficient public interest exists to warrant the time and expense of a hearing."

25. The procedures for classifications for retention for multiple use management in § 2411.2 have been revised to conform with the comparable provisions for classifications for sale or other disposal in § 2411.1–2.

26. The period for supervisory review of classification decisions made pursuant to the procedures in Subpart 2411 has been reduced from sixty to thirty days. It is believed that this will expedite disposal actions and still permit adequate review of protests.

27. Throughout, the references to local governmental comprehensive plans and zoning regulations, as prerequisites to sale under the Public Land Sale Act, have been modified to read "adequate" local governmental comprehensive plans and "adequate" zoning regulations. Also, § 1725.2(a), under disposal policy, is modified to read as follows: "Encouragement and assistance will be extended to State, country, and local governments in master planning and zoning. They will be encouraged to utilize the best modern techniques for quality land utilization, including preservation of natural beauty and of open space values."

28. To clarify the policy to limit segregation as much as possible when classifying land for retention, a new § 2410.1–4(b)(2) provides "land shall not be closed to mining location unless the nonmineral uses be inconsistent with and of greater importance to the public interest than the continued search for a deposit of valuable minerals."

29. Paragraphs (c) and (d) of § 2243.5 have been revised to provide for oral, as well as sealed, bids when lands are sold through competitive bidding.

30. Miscellaneous editorial changes, corrections of typographical errors, and additions of legal citations have also been made.

The revised regulations are adopted as set forth below and will become effective upon publication in the FEDERAL REGISTER.

PART 1720—PROGRAMS AND OBJECTIVES

Part 1720, consisting of Subpart 1725, is added to read as follows:

Subpart 1725—Program Policy

AUTHORITY: The provisions of this Part 1720 issued under R.S. 2478, 43 U.S.C. 1201.

Subpart 1725—Program Policy

§ 1725.01 Purpose.

This subpart lists general and basic policies which will be followed in the implementation of the various public land disposal and management authorities administered by the Secretary of the Interior through the Bureau of Land Management.

§ 1725.1 Current administration.

Pending classification authorized by the Classification and Multiple Use Act (78 Stat. 986, 43 U.S.C. 1411–18) or other available authority, all lands administered by the Secretary through the Bureau of Land Management will continue to be administered for multiple use and sustained yield of the several products and services obtainable therefrom.

§ 1725.2 Disposal policy.

Public lands will be transferred out of Federal ownership in the most efficient manner possbile. This will be accomplished, where practicable, by the following procedures.

(a) Encouragement and assistance will be extended to State, County, and local governments in master planing and zoning. They will be encouraged to utilize the best modern techniques for quality land utilization, including preservation of natural beauty and of open-space values.

(b) Participation of the public and consultation with local government will be invited in the formulation of plans for transfers of public lands.

(c) Timely and orderly identification and disposition of lands needed for urban or suburban purposes, or chiefly valuable for residential, commercial, industrial, agricultural, or public purposes will be made.

(d) Practices and procedures will be utilized which will achieve appropriate dispositions with minimum administrative costs.

(e) Priorities will be established based upon availability of funds, urgency of needs for public lands, and resulting economies or effectiveness of Government operations.

§ 1725.2–1 Pricing policy.

The public land laws generally require as consideration for transfer of public lands out of Federal ownership, a fair return in the form of one or more of the following: Money, scrip, lands, or other property; development of the lands; or some public benefit, tangible or intangible. Where the law requires the Secretary to determine the return, such determination will be made in accordance with the following principles:

(a) Wherever the law does not provide otherwise, disposals to private persons and profit organizations will be made at not less than fair market values for the interests conveyed and through competitive bidding.

(b) Transfers to States and local government agencies for commercial, or industrial purposes will be through negotiated sale at fair market values.

(c) Transfer of land to States and local government agencies and to non-profit organizations to be developed for public purposes will be made at prices and other terms that will encourage and facilitate the accomplishment of the public purposes involved.

(d) Where development is required by law or regulation in lieu of less than full payment, there must be appropriate assurance that the development effort will be bona fide and substantial.

§ 1725.3 Management policy.

§ 1725.3–1 Priority of use for lands retained for multiple use management.

No overall priority is assigned by the Classification and Multiple Use Act or by the Secretary to any specific use. The Secretary or his delegate will authorize, under applicable authority, that use or combination of uses which will best achieve the objectives of multiple use, taking into consideration all pertinent factors, including, but not limited to, ecology, existing uses, and the relative values of the various resources in particular areas.

§ 1725.3–2 Intensity of use and management of lands retained for multiple use management.

The lands will be managed for optimum production of the various products and for those uses for which they are physically and economically suited. The following matters will be considered:

(a) Existing or future demand for the resource use, value, or commodity.

(b) Coordination and cooperation with the resource use and management programs of States, local governments, public organizations and private landowners.

(c) Consistency with national programs.

(d) Compatibility of the possible uses.

§ 1725.3–3 Components of multiple use management.

Section 1 of the Classification and Multiple Use Act lists ten objectives of public land management. The methods of management of the public lands will be governed by the provision of existing laws. The listed objectives as interpreted by the Secretary are as follows:

(a) *Domestic livestock grazing.* Management of public lands for domestic livestock grazing involves the protection, regulated use, and development of forage producing public lands and the management of livestock (cattle, sheep, horses, and goats) use to obtain a sustained yield of forage.

(b) *Fish and wildlife development and utilization.* Management of public lands for fish and wildlife development and utilization involves the protection, regulated use, and development of habitat on public lands and waters to obtain a sustained yield of fish and wildlife and provision and maintenance of public access to fish and wildlife resources.

(c) *Industrial development.* Management of public lands for industrial development involves the protection, regulated use, and development of public lands in a manner to facilitate the growth and stability of industry, whether off-site or on-site, long term or short term.

(d) *Mineral production.* Management of public lands for mineral production involves the protection, regulated use, and development of public lands in a manner to facilitate the extraction and processing of minerals, whether off-site or on-site, long term or short term.

(e) *Occupancy.* Management of public lands for occupancy involves the protection, regulated use, and development of lands as sites for economically and socially useful structures, either publicly or privately owned.

(f) *Outdoor recreation.* Management of public lands for outdoor recreation involves the protection, regulated use, and development of public lands having open-space values in a manner that will preserve those values and will make them available for appropriate recreation enjoyment by the public.

(g) *Timber production.* Management of public lands for timber production involves the protection, regulated use, and development of public forest and woodland areas to obtain a sustained yield of forest products.

(h) *Watershed protection.* Management of public lands for watershed protection involves the protection, regulated use, and development of any public lands in a manner to control runoff; to minimize soil erosion, siltation, and other destructive consequences of uncontrolled water flows; and to maintain and improve storage, yield, quality, and quantity of surface and subsurface waters.

(i) *Wilderness preservation.* Management of public lands for wilderness preservation involves the protection and regulated use of public lands which are in a roadless and primitive condition in a manner to preserve their essential wilderness character.

(j) *Preservation of public values.* Management of public land for preservation of public values that would be lost if the land passed from Federal ownership involves the protection, regulated use, and development of any public lands having unique or scarce characteristics or site values in a manner to insure their continued availability to the general public, either national or local, temporarily or permanently.

PART 2240—SALES AND EXCHANGES

Subpart 2243—Public Sales

Subpart 2243, Public Sales, is amended to change the caption of existing § 2243.1 to read: "Procedures under R.S. 2455"; existing § 2243.2 is renumbered § 2243.1–6; and the following sections are added:

§ 2243.01 Purpose.

(a) The regulations in §§ 2243.03—2243.1 implement R.S. 2455, as amended (43 U.S.C. 1171), which permits the sale of isolated tracts and tracts mountainous or too rough for cultivation.

(b) The regulations in § 2243.2 implement the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421–1427), which authorizes the sale of public lands that are required for the orderly growth and development of a community or which are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops), industrial, or public uses or development.

§ 2243.1 Procedures under R.S. 2455.

* * * * *

§ 2243.2 Procedures under the Public Land Sale Act of September 19, 1964.

§ 2243.2–1 General.

(a) *Authority.* The Public Land Sale Act authorizes and directs the Secretary to sell public lands that are classified under the Classification and Multiple Use Act (78 Stat. 986, 43 U.S.C. 1411–18) for sale after a determination that the lands are required for orderly growth and development of a community or are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for raising forage crops), industrial or public uses or development. Such lands shall be sold in tracts not exceeding 5,120 acres, to qualified governmental agencies at appraised fair market value, or to qualified individuals through competitive bidding at not less than the appraised fair market value. The authority to make such sales shall terminate June 30, 1969, except that sales for which notice has been given in accordance with section 3 of the Act, prior to June 30, 1969, may be consummated and patents issued in connection therewith after June 30, 1969.

(b) *Objectives.* (1) In the administration of the Public Land Sale Act the Secretary will place on the market, as soon as possible after needs are determined and the local zoning authority having jurisdiction enacts zoning regulations, public lands required for the orderly growth or development of a community or chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for raising forage crops), industrial or public uses or development and classified for sale under this Act pursuant to the regulations in Part 2410 of this chapter.

(2) Sale programs will be scheduled in a manner to make all actions consistent insofar as practicable with established or proposed State or local governmental programs and with State, county, and other local governmental comprehensive and detailed plans. Sales of lands required for the orderly growth and development of a community will not be made unless adequate local governmental comprehensive plans have been adopted and adequate zoning regulations are in effect. Sales of lands not required for the orderly growth and development of a community may be made where, the authorized officer determines that adequate zoning regulations exist and the disposal would be consistent with the objectives of the local governments involved.

(3) The authorized officers of the Bureau of Land Management will cooperate with State, county, and local govern-

mental agencies to facilitate the achievement of the objectives of these regulations.

(4) Reservations and restrictions in patents issued under the Act will be kept to the minimum necessary to carry out the requirements of the law, and to protect the public interest in the lands and their development, but in no case will restrictions be imposed to insure proper development of the lands after they have passed from Federal ownership.

(c) *Definitions.* As used in this section:

(1) The term "public land" means vacant, unappropriated, and unreserved public lands in Alaska, or public lands withdrawn by E.O. 6910 of November 26, 1934, as amended, or E.O. 6964 of February 5, 1935, as amended, and not otherwise withdrawn or reserved, or public lands within grazing districts established under section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315), and not otherwise withdrawn or reserved.

(2) The term "fair market value of the lands" means the dollar value of the lands as estimated by the authorized officer in accordance with approved Department of the Interior standards, taking into consideration all the terms and conditions of the transfer including restrictions to be inserted in the patent for the lands.

(3) The term "proper land office" means the land office of the Bureau of Land Management in the State or Land District in which the lands are situated. For lands in North Dakota or South Dakota, it means the land office in Billings, Mont.; for lands in Nebraska or Kansas, it means the land office at Cheyenne, Wyo.; for lands in Oklahoma, it means the land office at Santa Fe, N. Mex.; and for lands in other States it means the Bureau of Land Management, Washington, D.C., 20240.

(4) "Qualified governmental agency" means any of the following, including their lawful agents and instrumentalities, which are authorized under State law to own the land: (i) the State, county, municipality, or other local government subdivision within which the land is located and (ii) any municipality within convenient access to the lands, if the lands are within the same State as the municipality.

(5) "Qualified individual" means (i) any individual who is a citizen or otherwise a national of the United States (or who has declared his intention to become a citizen) aged 21 years or more; (ii) any partnership or association, each of the members of which is a qualified individual as defined in subdivision (i); and (iii) any corporation organized under the laws of the United States or of any State thereof, and authorized to hold title to real property in the State in which the land is located.

(6) The "Act" means the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427).

§ 2243.2-2 Lands subject to sale.

Only tracts of public land that are classified by the authorized officer, pursuant to the criteria and procedures in Part 2410 of this chapter for sale under the Act can be sold pursuant to the regulation in § 2243.2.

§ 2243.2-3 Petition; application; Bureau motion.

(a) The authorized officer may, either on his own motion or in response to a petition for classification, classify lands in accordance with the criteria of Part 2410, and offer them for sale under the provisions of this subpart.

(b) Applications, together with petitions required under Part 2410 (hereinafter called petition-applications) to have tracts classified and ordered into market under this section of the regulations, shall be made on forms approved by the Director, properly executed by the applicant and filed in the proper land office.

(c) Each petition-application, except those filed by a qualified governmental agency, must be accompanied by a nonrefundable service charge of $25.

(d) With every petition-application shall be submitted:

(1) A statement designed to show that the lands are needed for the orderly growth and development of a community or are chiefly valuable for residential, commercial, agricultural (exclusive of lands chiefly valuable for grazing and raising forage crops) industrial or public uses or development, plus information on the type of development contemplated, use to which the land is to be put, structures and other improvements which should be erected on the land, and approximate dates of need for the development.

(2) A statement by local planning or governing officials showing the nature of the zoning regulations, if any, which are in effect.

§ 2243.2-4 Notice; publication.

(a) Not less than 90 days before offering lands for sale under the Act, the authorized officer will notify the head of the governing body of the political subdivision of the State having jurisdiction over zoning in the geographic area within which the lands are located, to afford that body an opportunity to zone or rezone the land for use in accordance with local planning and development. In the absence of such political subdivision, notification will be sent to the Governor of the State. This notice may be a copy of a classification decision (either proposed or initial) issued pursuant to § 2411.1-1 of this chapter.

(b) Not less than 30 days before entering into an agreement with a governmental agency or the opening of bids, notice of offering of lands for sale shall be published in the FEDERAL REGISTER and an announcement published in a newspaper of general circulation in the area in which the lands are situated.

(c) Where lands are sold pursuant to notice prescribed in paragraph (b) of this section, the purchaser or purchasers of the lands will be required to pay the cost, if any, of publishing the announcement in the newspaper. Where more than one purchaser is involved in a transaction, the costs will be shared in such proportions as the authorized officer deems equitable.

§ 2243.2-5 Sales through competitive bidding; time, place, simultaneous bids.

If classified lands are offered through competitive bidding:

(a) The date, time, place and manner for submitting bids will be specified in the public notice required by § 2243.2-4 (b).

(b) Bids may be made by the principal or his agent.

(c) Sealed bids sent will be considered only if received at the place and prior to the hour fixed in the notice. Each bid shall be accompanied by certified check, post office money order, bank draft or cashier's check made payable to the Bureau of Land Management, for the amount of the bid plus cost of publication (as contained in the notice of sale) and must be enclosed in a sealed envelope which shall be marked as prescribed in the notice. In the event that valid sealed bids of the same amount are received from two or more persons, the first in time, as shown by the date stamp on the envelope, will be considered the highest of those bids. For sealed bids sent by mail, the date stamp means the stamp affixed by the Post Office. For sealed bids delivered to the Bureau of Land Management other than by mail, the date stamp means the stamp affixed by the Bureau of Land Management. If two or more envelopes containing valid bids of the same amount bear the same date stamp, they will be considered simultaneously filed, and the determination of which is the highest of these bids will be by drawing.

(d) The authorized officer shall publicly declare the highest qualifying sealed bid received. If the public notice of sale published pursuant to § 2243.2-4(b) provides for oral bids, such bids, in increments specified by the authorized officer, shall then be invited. After oral bids, if any, are received, the authorized officer shall declare the highest qualifying bid. The person declared to have entered the highest qualifying bid shall be afforded a reasonable time, in the judgment of the authorized officer, in which to submit payment in the form provided in paragraph (c) of this section. Such person shall be bound by his bid and the regulations in this section to complete the purchase in accordance therewith from the time he is declared high bidder until the end of the tenth day after he submits the payment requested by the authorized officer. In the event the authorized officer rejects the highest qualified bid or releases the bidder from it, the authorized officer will determine whether the lands will be withdrawn from the market or reoffered.

(e) The acceptance of an offer to purchase will be by the issuance of a final certificate to the bidder. Until the final certificate is issued, the authorized officer has the right at any time to determine that the lands should not be sold, or that any and all bids should be rejected. If the high bid is not less than the fair market value of the land on the date for receiving bids, as specified in the public notice issued pursuant to § 2243.2-4(b), any appreciation or depreciation thereafter in value of the lands will not be a basis for a determination that the lands will not be sold. Sales will not be consummated, in the discretion of the authorized officer, when for example:

(1) Circumstances reveal that the highest bid otherwise acceptable is less than the fair market value of the land on the date of the sale set in the public notice thereof, or

(2) Collusive or other activities have hindered or restrained free and open bidding.

(f) The petitioner-applicant or any bidder has no contractual or other rights as against the United States, and no action taken will create any contractual or other obligations of the United States until the final certificate is issued. Issuance of the final certificate, however, will not preclude the Secretary of the Interior from vacating the sale in whole or part because of fraud not disclosed at the time of issuance of the final certificate or because of lack of knowledge of facts or conditions existing at that time which, if known prior to issuance of the final certificate, would have been grounds for refusing to consummate the sale.

§ 2243.2-6 Classification; notice; segregative effect.

(a) Classification shall be made in accordance with the provisions of Part 2410 of this chapter.

(b) At least 60 days before classification for sale under the Act of tracts of land in excess of 2,560 acres, the authorized officer shall publish a notice of the proposed classification in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the land to be classified. Publication in the FEDERAL REGISTER of a notice of proposed classification or of a notice of classification for sale under the Act will segregate the affected land from all forms of disposal, including the mining laws, other than sale under the Act, except to the extent that the classification notice or any modification thereof, may specifically limit is segregative effect. See § 2411.1-2(e). The notice shall state that all mineral deposits in lands sold under the Act will be reserved to the United States.

(c) Where tracts of 2,560 acres or less are involved, notation on the land office records of a proposed classification or classification for sale under the Act will segregate the lands from all appropriations, including locations under the mining laws, and from other petitions and applications except for sale under this Act and except also to the extent that the classification order or any modification thereof may specifically limit its segregative effect.

(d) The segregative effect of such classification order shall continue for 2 years from the date of publication unless the classification is continued thereafter in accordance with law and pertinent regulations, in which event the segregation shall continue for the duration of the classification, unless sooner terminated by the authorized officer.

(e) Under regulations in this chapter relating to grazing, no lands embraced in a grazing lease, license or permit may be sold unless and until the prospective purchaser has made provision for compensation for any authorized grazing improvements placed on the lands. See § 4122.3-5.

§ 2243.2-7 Patents: Reservations and restrictions.

(a) All patents or other evidence of title issued under the Act shall contain a reservation to the United States of all mineral deposits. Such reserved mineral deposits are withdrawn, by operation of law, from appropriation under the public land laws including the mining and mineral leasing laws.

(b) Patents may also contain any additional reservations or restrictions which the authorized officer determines are necessary in the public interest, in the light of the objectives and principles stated in § 2243.2-1(b).

PART 2410—LAND CLASSIFICATION

Part 2410 is revised to read as follows:

Subpart 2410—Land Classification; General

AUTHORITY: The provisions of this Part 2410 issued under R.S. 2478, 43 U.S.C. 1201.

Subpart 2410—Land Classification; General

§ 2410.0-2 Objectives.

The statutes cited in § 2410.0-3 authorize the Secretary of the Interior to classify or otherwise take appropriate steps looking to the disposition of public lands, and on an interim basis, to classify public lands for retention and management, subject to requirements of the applicable statutes. In addition to any requirements of law, it is the policy of the Secretary (a) to specify those criteria which will be considered in the exercise of his authority and (b) to establish procedures which will permit the prompt and efficient exercise of his authority with, as far as is practicable, the knowledge and participation of the interested parties, including the general public. Nothing in these regulations is meant to affect applicable State laws governing the appropriation and use of water, regulation of hunting and fishing or exercise of any police power of the State.

§ 2410.0-3 Authority.

(a) All vacant public lands, except those in Alaska, have been, with certain exceptions, withdrawn from entry, selection, and location under the nonmineral land laws by Executive Order 6910, of November 26, 1934, and Executive Order 6964 of February 5, 1935, and amendments thereto, and by the establishment of grazing districts under section 1 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315). Section 7 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315f), authorizes the Secretary of the Interior in his discretion to examine and classify and open to entry, selection, or location under applicable law any lands withdrawn or reserved by Executive Order 6910 of November 26, 1934, or Executive Order 6964 of February 5, 1935, and amendments thereto, or within a grazing district established under that act which he finds are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under said act, or proper for acquisition in satisfaction of any outstanding lieu, exchange, or scrip rights or land grant. Classification under section 7 is a prerequisite to the approval of all entries, selections, or locations under the following subparts of this chapter, except as they apply to Alaska and with certain other exceptions: Original, Additional, Second, and Adjoining Farm Homesteads—Subpart 2211; Enlarged Homestead—Subpart 2211; Indian Allotments—Subpart 2212; Desert Land Entries—Subpart 2226; Recreation and Public Purposes Act—Subpart 2232; State Grants for Educational, Institutional, and Park Purposes—Subpart 2222; Scrip Selections—Subpart 2221, and Exchanges for the Consolidation or Extension of National Forests, Indian Reservations or Indian Holdings—Subpart 2244.

(b) Section 8(b) of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g), authorizes the Secretary of the Interior, when public interests will be benefited thereby, to accept on behalf of the United States title to any privately owned lands within or without the boundaries of a grazing district established under that act and in exchange therefor to issue patent for not to exceed an equal value of surveyed grazing district land or of unreserved surveyed public land in the same State or within a distance of not more than 50 miles within the adjoining State nearest the base lands. The regulations governing such exchanges are contained in Subpart 2244 of this chapter.

(c) Section 2455 of the Revised Statutes, as amended (43 U.S.C. 1171), authorizes the Secretary of the Interior in his discretion to order into market and sell at public auction isolated or disconnected tracts of public land not exceeding 1,520 acres, and tracts not exceeding 760 acres the greater part of which are mountainous or too rough for cultivation. The regulations governing such sales are contained in Subpart 2243 of this chapter.

(d) Section 3 of the Act of August 28, 1937 (50 Stat. 875, 43 U.S.C. 1181c), authorizes the Secretary of the Interior to classify, either on application or otherwise, and restore to homestead entry, or purchase under the provisions of section 2455 of the Revised Statutes, as amended, any of the revested Oregon and California Railroad or reconveyed Coos Bay Wagon Road grant land which, in his judgment, is more suitable for agricultural use than for afforestation, reforestation, stream-flow protection, recreation, or other public purposes. The regulations governing disposal under this act are contained in Subpart 2243 of this chapter.

(e) The Small Tract Act of June 1, 1938 (52 Stat. 609), as amended (43 U.S.C. 682a–e), authorizes the Secretary of the Interior, in his discretion, to lease or sell certain classes of public lands which he classifies as chiefly valuable for residence, recreation, business or community site purposes. The regulations governing leases and sales under this act are contained in Subpart 2233 of this chapter.

(f) The Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), as amended (43 U.S.C. 869–869–4), requires the Secretary of the Interior, in the exercise of his discretion to make a determination that land is to be used for an established or definitely proposed project, and in the case of Alaska authorizes him to classify certain classes of public lands for lease or sale for recreation or other public purposes. The regulations governing lease and sale of land under this act are contained in Subpart 2232 of this chapter.

(g) The Act of July 31, 1939 (53 Stat. 1144), authorizes and empowers the Secretary of the Interior, in the administration of the Act of August 28, 1937 (supra), in his discretion, to exchange any land formerly granted to the Oregon & California Railroad Co., title to which was revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218), and any land granted to the State of Oregon, title to which was reconveyed to the United States by the Southern Oregon Co. pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), for lands of approximately equal aggregate value held in private, State, or county ownership, either within or contiguous to the former limits of such grants, when by such action the Secretary of the Interior will be enabled to consolidate advantageously the holdings of lands of the United States. The regulations governing exchanges under this act are contained in Subpart 2244 of this chapter.

(h) The Alaska Public Sales Act of August 30, 1949 (63 Stat. 679), as amended (48 U.S.C. 364a–f), authorizes the Secretary of the Interior in his discretion to classify certain classes of public lands in Alaska for public sale for industrial or commercial purposes. The regulations governing sales of land under this act are contained in Subparts 2241 and 2245 of this chapter.

(i) The Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-27), authorizes and directs the Secretary of the Interior to sell public lands in tracts not exceeding 5,120 acres, that have been classified for sale in accordance with a determination that (1) the lands are required for the orderly growth and development of a community or (2) the lands are chiefly valuable for residential, commercial, agricultural (which does not include lands chiefly valuable for grazing or raising forage crops), industrial, or public uses or development. The regulations governing such sales are contained in Subpart 2243 of this chapter.

(j) The Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1411–18), authorizes the Secretary of the Interior to determine which of the public lands (and other Federal lands), including those situated in the State of Alaska exclusively administered by him through the Bureau of Land Management shall be (1) sold because they are (i) required for the orderly growth and development of a community or (ii) are chiefly valuable for residential, commercial, agricultural (which does not include lands chiefly valuable for grazing or raising forage crops), industrial, or public uses or development or (2) retained, at least for the time being, in Federal ownership and managed for (i) domestic livestock grazing, (ii) fish and wildlife development and utilization, (iii) industrial development, (iv) mineral production, (v) occupancy, (vi) outdoor recreation, (vii) timber production, (viii) watershed protection, (ix) wilderness preservation, or (x) preservation of public values that would be lost if the land passed from Federal ownership.

§ 2410.0–4 Responsibilities.

Except where specified to the contrary in this part, the authority of the Secretary of the Interior to classify lands and make other determinations in accordance with the regulations of this part has been delegated to persons authorized to act in his name; to the Director, Bureau of Land Management and persons authorized to act in his name; to State Directors of the Bureau of Land Management and to any person authorized to act in the name of a State Director.

§ 2410.0–5 Definitions.

As used in the regulations of this part—

(a) "Residential" refers to single or multi-family dwellings or combinations thereof, and related community facilities, both seasonal and year-round.

(b) "Commercial" refers to the sale, exchange, or distribution of goods and services.

(c) "Industrial" refers to the manufacture, processing, and testing of goods and materials, including the production of power. It does not refer to the growing of agricultural crops, or the raising of livestock, or the extraction or severance of raw materials from the land being classified, but it does include activities incidental thereto.

(d) "Agricultural" refers to the growing of cultivated crops.

(e) "Community" refers to a village, town or city, or similar subdivision of a State, whether or not incorporated.

(f) "Domestic livestock" refers to cattle, horses, sheep, goats and other grazing animals owned by livestock operators, provided such operators meet the qualification set forth in § 4111.1–1 or § 4131.1–3 of this chapter. This definition includes animals raised for commercial purposes and also "domestic livestock" within the meaning of § 4111.3–1(d)(1) of this chapter.

(g) "Fish and wildlife" refers to game, fish and other wild animals native or adaptable to the public lands and waters.

(h) "Mineral" refers to any substance that (1) is recognized as mineral, according to its chemical composition, by the standard authorities on the subject, or (2) is classified as mineral product in trade or commerce, or (3) possesses economic value for use in trade, manufacture, the sciences, or in the mechanical or ornamental arts.

(i) "Occupancy" refers to use of lands as a site for any type of useful structure whatsoever.

(j) "Outdoor recreation" includes, but is not limited to, hunting, fishing, trapping, photography, horseback riding, picnicking, hiking, camping, swimming, boating, rock and mineral collecting, sightseeing, mountain climbing, and skiing.

(k) "Timber production" refers to the growth of trees in forests and woodlands.

(l) "Watershed protection" refers to maintenance of the stability of soil and soil cover and the control of the natural flow of water.

(m) "Wilderness" refers to areas in a native condition or reverted to a native condition, substantially free of man-made structures and human habitation.

(n) "Public value" refers to an asset held by, or a service performed for, or a benefit accruing to the people at large.

(o) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(p) "Sustained yield of the several products and services" means the achievement and maintenance of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

§ 2410.1 Criteria.

§ 2410.1–1 General criteria for all land classification.

(a) All classifications under the regulations of this part will give due consideration to ecology, priorities of use, and the relative values of the various resources in particular areas. They must be consistent with all the following criteria:

(1) The lands must be physically suitable or adaptable to the uses or purposes for which they are classified. In addition, they must have such physical and other characteristics as the law may require them to have to qualify for a particular classification.

(2) All present and potential uses and users of the lands will be taken into consideration. All other things being equal, land classifications will attempt to achieve maximum future uses and minimum disturbance to or dislocation of existing users.

(3) All land classifications must be consistent with State and local government programs, plans, zoning, and regulations applicable to the area in which the lands to be classified are located, to the extent such State and local programs, plans, zoning, and regulations are not inconsistent with Federal programs, policies, and uses, and will not lead to inequities among private individuals.

(4) All land classfications must be consistent with Federal programs and policies, to the extent that those programs and policies affect the use or disposal of the public lands.

(b) When, under the criteria of this part, a tract of land has potential for either retention for multiple use management or for some form of disposal, or for more than one form of disposal, the relative scarcity of the values involved and the availability of alternative means and sites for realization of those values will be considered. Long-term public benefits will be weighed against more immediate or local benefits. The tract will then be classified in a manner which will best promote the public interests.

§ 2410.1–2 Retention for multiple use management classification criteria.

In addition to the general criteria in § 2410.1–1, the following criteria will be used to determine whether public lands will be retained, in Federal ownership and managed for domestic livestock grazing, fish and wildlife development and utilization, industrial development, mineral production, occupancy, outdoor recreation, timber production, watershed protection, wilderness preservation, or preservation of public values that would be lost if the land passed from Federal ownership. Lands may be classified for retention under the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1411–18), if they are not suitable for disposal under the criteria set forth in § 2410.1–3 and such classification will do one or more of the following:

(a) Assist in effective and economical administration of the public lands in furtherance of the several objectives of such administration as expressed in the various public land laws.

(b) Further the objectives of Federal natural resource legislation directed, among other things towards:

(1) Stabilization and development of the livestock industry dependent upon Federal lands, such as sections 1 and 15 of the Taylor Grazing Act (43 U.S.C. 315 and 315m), and the Alaska Grazing Act (48 U.S.C. 471–471o).

(2) Provision or preservation of adequate areas of public hunting and fishing grounds and public access thereto, and maintenance of habitat and food supplies for the fish and wildlife dependent upon the public lands and maintained under Federal and State programs, such as section 9 of the Taylor Grazing Act (43 U.S.C. 315h) and the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c).

(3) Fostering the economy of the nation by industrial and mineral development, such as through the materials sales and mineral leasing laws (Group 3000 of this chapter) and the rights-of-way laws (Subpart 2234 of this chapter).

(4) Realization of the beneficial utilization of the public lands through occupancy leases, such as under the Recreation and Public Purposes Act (43 U.S.C. 869–869–4) and the Small Tract Act (43 U.S.C. 682a–682e).

(5) Provision of needed recreation, conservation, and scenic areas and open space (42 U.S.C. 1500–1500e) and assurance of adequate outdoor recreation resources for present and future generations of Americans (16 U.S.C. 460:1 et seq.).

(6) Stabilization of the timber industry and dependent communities and sustained-yield production of timber and other forest products, such as the Materials Sales Act (30 U.S.C. 601–604), and, in connection with management of other Federal lands, the O and C Act (43 U.S.C. 1181a–1181f, 1181g–1181j).

(7) Protection of frail lands, conservation of productive soils and water supplies, and prevention of damage and loss due to excessive runoff, flooding, salination, and siltation, such as the Soil and Moisture Conservation Act (16 U.S.C. 590a et seq.) and § 2 of the Taylor Grazing Act (43 U.S.C. 315a).

(c) Preservation of public values that would be lost if the land passed from Federal ownership (43 U.S.C. 1411–1418) such as where

(1) The lands are needed to protect or enhance established Federal programs, by such means as provision of buffer zones, control of access, maintenance of water supplies, reduction and prevention of water pollution, exclusion of nonconforming inholdings, maintenance of efficient management areas, provision of research areas, and maintenance of military areas or sites for other government activities.

(2) The lands should be retained in Federal ownership pending enactment of Federal legislation, which would affect them.

(3) The lands should be retained in Federal ownership pending their acquisition by a State or local government.

(4) The lands are best suited for multiple use management and require management for a mixture of uses in order to best benefit the general public and such management could not be achieved if the lands were in private ownership.

(5) The lands contain scientific, scenic, historic, or wilderness values which would be lost to the general public if they were transferred out of Federal ownership.

(6) Transfer of the lands would be inconsistent with national objectives for the preservation of natural beauty of the country and the proper utilization of open space.

§ 2410.1–3 Disposal classification criteria.

In addition to the general criteria in § 2410.1–1 the following criteria will govern classifications under the authorities listed in § 2410.03 for sale, selection, grant or other disposal under the Public Land Sale Act (78 Stat. 998, 43 U.S.C. 1421–27) and other laws authorizing the Secretary of the Interior to dispose of public lands. The criteria are set forth in terms of land use classes. Where appropriate, the applicability of specific disposal laws to lands in each use class is discussed.

(a) *General criteria for disposal classification.* The general approach to determine the act under which lands are to be classified and disposed of is as follows:

(1) Consideration under criteria listed in this part will first be given to whether the lands can be classified for retention for multiple use management, for disposal, or for both. If, under these criteria, they could be classified for both, the principles of § 2410.1–1(b) will be applied.

(2) If the lands are found to be suitable for disposal, consideration under the criteria of this part will be given to whether the lands are needed for urban or suburban purposes or whether they are chiefly valuable for other purposes. Lands found to be valuable for public purposes will be considered chiefly valuable for public purposes, except in situations where alternate sites are available to meet the public needs involved.

(b) *Additional criteria for classification of lands needed for urban or suburban purposes.* (1) To be needed for urban or suburban purposes it must be anticipated that a community will embrace the lands within 15 years.

(2) Lands determined to be needed for urban or suburban purposes may be

classified for sale pursuant to the Public Land Sale Act as being required for the orderly growth and development of a community, if (i) adequate zoning regulations are in effect and (ii) adequate local governmental comprehensive plans have been adopted.

(3) Lands determined to be needed for urban or suburban purposes may be classified for disposal under any appropriate law other than the Public Land Sale Act, if disposal under such other authority would be consistent with local comprehensive plans, or in the absence of such plans, with the views of local governmental authorities.

(4) Where more than one form of disposal is possible, the authorized officer will select that course of action which will best promote development of the land for urban or suburban purposes.

(c) *Additional criteria for classification of lands valuable for public purposes.* (1) To be valuable for public purposes, lands must be suitable for use by a State or local governmental entity or agency for some non-commercial and non-industrial governmental program or suitable for transfer to a non-Federal interest in a transaction which will benefit a Federal, State, or local governmental program.

(2) Lands found to be valuable for public purposes may be classified for sale pursuant to the Public Land Sale Act as chiefly valuable for public uses or development or for transfer in satisfaction of a State land grant, or for transfer to a State or local governmental agency in exchange for other property, or for transfer to a governmental agency under any applicable act of Congress other than the Recreation and Public Purposes Act (44 Stat. 741), as amended (43 U.S.C. 869–869-4), if (i) the proposed use includes profit activities or if the interested, qualified governmental agency and the authorized officer agree that there is no need for the perpetual dedication of the lands to public uses required by the Recreation and Public Purposes Act, and (ii) in the case of sales under the Public Land Sale Act, adequate zoning regulations exist in the area in which the lands are located.

(3) Lands found to be valuable for public purposes will ordinarily be classified for sale or lease under the Recreation and Public Purposes Act (see Subpart 2232 of this chapter) if the proposed use involves non-profit activities and if it is determined by the authorized officer that the provisions of that Act are required to insure the continued dedication of the lands to such uses, or otherwise to carry out the purposes of the Act.

(4) Lands may be classified for exchange under appropriate authority where they are found to be chiefly valuable for public purposes because they have special values, arising from the interest of exchange proponents, for exchange for other lands which are needed for the support of a Federal program.

(d) *Additional criteria for classification of lands valuable for residential, commercial, agricultural, or industrial purposes.* (1) Lands which have value for residential, commercial, agricultural, or industrial purposes, or for more than one of such purposes, will be considered chiefly valuable for that purpose which represents the "highest and best use" of the lands, i.e., their most profitable legal use in private ownership.

(2) Lands may be classified for sale pursuant to the Public Land Sale Act as being chiefly valuable for residential, commercial, agricultural, or industrial uses or development (other than grazing use or use for raising native forage crops), if (i) adequate zoning regulations are in effect, and, where the lands also are needed for urban or suburban development, (ii) adequate local governmental comprehensive plans have been adopted.

(3) Lands determined to be valuable for residential, commercial, agricultural, or industrial purposes may be classified for disposal under any appropriate authority other than the Public Land Sale Act if (i) disposal under such other authority would be consistent with local governmental comprehensive plans, or (ii) in the absence of such plans, with the views of local governmental authorities.

(4) Lands outside of Alaska may be classified as suitable for homestead entry under Subpart 2211 of this chapter if they are (i) chiefly valuable for agricultural purposes, and (ii) suitable for development as a home and farm for a man and his family, and (iii) the anticipated return from agricultural use of the land would support the residents. If it is determined that the irrigation of land otherwise suitable for homestead entry would endanger the supply of adequate water for existing users or cause the dissipation of water reserves, such land will not be classified for entry. Land may be classified for homestead entry only if rainfall is adequate, or if under State law, there is available to the land sufficient irrigation water, to permit agricultural development of its cultivable portions.

(5) Lands may be classified as suitable for desert land entry under Subpart 2226 of this chapter if (i) the lands are chiefly valuable for agricultural purposes, and (ii) all provisions concerning irrigation water set forth in § 2410.1–3(d)(4) are met.

(6) Lands outside of Alaska may be classified as suitable for Indian allotment under Subpart 2212 of this chapter if (i) the lands are valuable for agricultural purposes, and (ii) the lands are on the whole suitable for a home for an Indian and his family, and (iii) the anticipated return from agricultural use of the land would support the residents, and (iv) the requirements for water supplies set forth in § 2410.1–3(d)(4) are met.

(7) Lands determined to be valuable for purposes other than public purposes may be determined to be suitable for exchange if the acquisition of the offered lands, the disposition of the public lands, and the anticipated costs of consummating the exchange will not disrupt governmental operations.

(e) *Additional criteria for lands valuable for other purposes.* Lands may be classified for disposal under any applicable authority where they are found to be chiefly valuable for purposes other than those described in paragraphs (b) through (d) of this section and to be not suitable for retention for multiple use management.

§ 2410.1–4 Criteria for segregation.

The following criteria will govern the determination of the extent to which classifications and proposed classifications will segregate the affected lands from settlement, location, sale, selection, entry, lease, or other forms of disposal under the public land laws, including the mining and mineral leasing laws. The segregative effect of each classification or proposed classification will be governed by applicable laws and regulations, and will be stated in the classification notice or decision.

(a) *General criterion.* The public lands classified or proposed to be classified under the regulations of this part will be kept open to (i.e., not segregated from) as many forms of disposal as possible consistent with the purposes of the classification and the resource values of the lands.

(b) *Specific criteria for segregative effect or classification for retention.* (1) Public lands classified or proposed to be classified for retention for multiple use management will be segregated from those forms of disposal which, if the lands remained open thereto, could:

(i) Interfere significantly with the management of the lands under principles of multiple use and sustained yield, or

(ii) Impair or prevent, to an appreciable extent, realization of public values in the lands, or

(iii) Impair or prevent, to an appreciable extent, realization of the objectives of retention and management set forth in Part 2410, or

(iv) Lead to unnecessary expenditures of public or private funds arising out of individual efforts to acquire public lands under laws, which are in fact not applicable, because of the nature of the resources of the lands.

(2) In applying the criteria in subparagraph (1) of this paragraph, land shall not be closed to mining location unless the nonmineral uses would be inconsistent with and of greater importance to the public interest than the continued search for a deposit of valuable minerals.

(c) *Specific criteria for segregative effect of classification for disposal.* Public lands classified or proposed to be classified for disposal will be segregated from those forms of disposal which, if the lands remained open thereto, could interfere with the orderly disposal of the lands pursuant to appropriate law. Public lands classified or proposed to be classified for sale under the Public Land Sale Act (78 Stat. 988, 43 U.S.C. 1411–18) will be segregated from all forms of disposal under the mining and mineral leasing laws.

Subpart 2411—Procedures

§ 2411.0-3 Authority.

Classifications and other determinations in accordance with the regulations of this part may be made by the authorized officer whether or not applications or petitions have been filed for the lands.

§ 2411.1 Disposal classification procedure.

§ 2411.1-1 Petition-application system.

(a) *Filing of petition*. (1) When (i) land must be classified or designated pursuant to the authorities cited in § 2410.0-3 before an application may be approved and (ii) the filing of applications is permitted prior to classification, the application together with a petition for classification on a form approved by the Director (hereinafter referred to collectively as a "petition-application") must be filed in accordance with the provisions of § 1821.2 of this chapter. Lists indicating the proper office for filing of applications may be obtained from the Director or any other officer of the Bureau of Land Management. Copies of the petition for classification form and the application forms may be obtained from the land offices or from the Bureau of Land Management, Washington, D.C., 20240.

(b) *Preliminary determination*. Upon the filing of a petition-application, the authorized officer shall make a preliminary determinatoin as to whether it is regular upon its face and, where there is no apparent defect, shall proceed to investigate and classify the land for which it has been filed. No further consideration will be given to the merits of an application or the qualifications of an applicant unless or until the land has been classified for the purpose for which the petition-application has been filed.

(c) *Proposed classification decision*. (1) The State Director shall make and issue a proposed classification decision which shall contain a statement of reasons in support thereof. Such decisions shall be served upon (i) each petitioner-applicant for the land, (ii) any grazing permittee, licensee, or lessee on the land, or his representative, (iii) the District Advisory Board, (iv) the local governing board, planning commission, State coordinating committee, or other official or quasi-official body having jurisdiction over zoning in the geographic area within which the lands are located, and (v) any governmental officials or agencies from whom the record discloses comments on the classification have been received. If the decision affects more than 2,560 acres and would lead to the disposal of the lands, the decision will also be published in accordance with the provisions of § 2411.1-2.

(2) When there are multiple petition-applications for the same land, the proposed classification decision shall state which petition-application, if any, will be entitled to preference under applicable law; or where no petition-application has been filed for the purpose for which the land is proposed to be classified, the decision shall so state.

(i) When multiple petition-applications have been filed for the same land, the one first filed for the purpose for which the land is classified will be entitled to preference under applicable law.

(ii) When two or more petition-applications have been simultaneously filed for the purpose for which the land is classified, the petition-application entitled to preference will be the first to be selected by drawing.

(iii) If no petition-application has been filed for the purpose for which it is proposed to classify the land, the proposed decision shall state that the land will be opened to application by all qualified individuals on an equal-opportunity basis after public notice.

(d) *Protests: initial classification decision*. (1) For a period of 30 days after the proposed classification decision has been served upon the parties listed in paragraph (c)(1) of this section, protests thereto may be filed by an interested party with the State Director. No particular form of protest is required under this subparagraph, it being the intent of this procedure to afford the State Director the opportunity to review the proposed classification decision in the light of such protests.

(2) If no protests are filed within the time allowed, the proposed classification action shall be issued as the initial classification decision of the State Director, and shall be served on the petitioner-applicants and upon grazing permittees, licensees, or lessees.

(3) If protests are timely filed, they shall be reviewed by the State Director, who may require statements or affidavits, take testimony, or conduct further field investigations as are deemed necessary to establish the facts. At the conclusion of such review, the State Director shall issue an initial classification decision, either revised or as originally proposed, which shall be served on all interested parties.

(e) *Administrative review*. (1) For a period of 30 days after service thereof upon all parties in interest, the initial classification decision of the State Director shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review.

(2) If, 30 days from receipt by parties in interest of the initial decision of the State Director, the Secretary has not either on his own motion, or motion of any protestant, petitioner-applicant, or the State Director, exercised supervisory authority for review, the initial classification decision shall become the final order of the Secretary.

(3) The exercise of supervisory authority by the Secretary shall automatically vacate the initial classification decision and the final Departmental decision shall be issued by the Secretary of the Interior and served upon all parties in interest.

(4) No petitioner-applicant or protestant to a proposed classification decision of a State Director to whom the provisions of this section are applicable shall be entitled to any administrative review other than that provided by this section or to appeal under provisions of Parts 1840 and 1850 of this chapter.

(f) *Effect of final order*. (1) A final order of the Secretary shall continue in full force and effect so long as the lands remain subject to classification under the authorities cited in Subpart 2410 until an authorized officer revokes or modifies it. Until it is so revoked or modified, all applications and petition-applications for the lands not consistent with the classification of the lands will not be allowed. Any payments submitted therewith will be returned. If the order is revoked or modified, the land will be opened to entry on an equal-opportunity basis after public notice in accordance with applicable regulations for the purpose for which it may be classified.

(2) Nothing in this section, however, shall prevent the Secretary of the Interior, personally and not through a delegate, from vacating or modifying a final order of the Secretary. In the event that the Secretary vacates or modifies a final order within sixty days of the date it became final, any preference right of a petitioner-applicant will be restored.

§ 2411.1-2 Special procedures where proposed disposal classification exceeds 2,560 acres.

(a) *Authority*. Section 2 of the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1412), requires the Secretary of the Interior to take certain actions when he proposes the classification for sale or other disposal under any statute of a tract of land in excess of 2,560 acres.

(b) *Publication of notice of, and public hearings on, proposed classification*. The authorized officer shall publish a notice of his proposed classification in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected land. The notice shall include the legal description of the affected land, the law or laws under which the lands would be disposed of together with such other information as the authorized officer deems pertinent. Copies of the notice will be sent to the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographic area within which the affected lands are located, the governor of that State and the BLM multiple use advisory board in that State, the land-use planning officer and land-use planning committees, if any, of the county, in which the affected lands are located, the authorized user or users of the lands or their selected representatives, all petitioner-applicants involved, and any other party the authorized officer determines to have an interest in the proper use of the lands. The authorized officer will hold a public hearing on the proposal if (1) the proposed classification will affect more than 25,000 acres or (2) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

(c) *Publication of notice of classification*. After having considered the comments received as the result of publication, the authorized officer may classify the lands any time after the expiration of sixty days following the publication of the proposed classification in the FEDERAL REGISTER. The authorized officer shall publicize the classification in the same manner as the proposed classification was publicized, indicating in the notice the differences, if any, between the proposed classification and the classification.

(d) *Administrative review.* For a period of 30 days after publication in the FEDERAL REGISTER of a notice of classification for disposal pursuant to paragraph (c) of this section, the classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review. If, 30 days from date of publication, the Secretary has neither on his own motion, on motion of any protestant or the State Director, exercised supervisory authority for review, the classification shall become the final order of the Secretary. The exercise of supervisory authority by the Secretary shall automatically vacate the classification and reinstate the proposed classification together with its segregative effect. In this event the final departmental decision shall be issued by the Secretary and published in the FEDERAL REGISTER.

(e) *Segregative effect of publication.* (1) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to paragraph (b) of this section or of a notice of classification pursuant to paragraph (c) of this section will segregate the affected land from all forms of disposal under the public land laws, including the mining laws except the form or forms of disposal for which it is proposed to classify the lands. However, publication will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources, other than under the mining laws.

(2) The segregative effect of a proposed classification will terminate in one of the following ways:

(i) Classification of the lands within two years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(ii) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(iii) An Act of Congress;

(iv) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986, 43 U.S.C. 1411-18), or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(3) The segregative effect of a classification for sale or other disposal will terminate in one of the following ways:

(i) Disposal of the lands;

(ii) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(iii) An Act of Congress;

(iv) Expiration of 2 years from the date of publication of the proposed classification without disposal of the land and without the notice of proposed continuance as prescribed by the Classification and Multiple Use Act; or

(v) Expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

§ 2411.1-3 Right to occupy or settle.

The filing of a petition-application gives no right to occupy or settle upon the land. A person shall be entitled to the possession and use of land only after his entry, selection, or location has been allowed, or a lease has been issued. Settlement on the land prior to that time constitutes a trespass.

§ 2411.1-4 Preference right of petitioner-applicant.

Where public land is classified for entry under section 7 of the Taylor Grazing Act or under the Small Tract Act pursuant to a petition-application filed under this part, the petitioner-applicant is entitled to a preference right of entry, if qualified. If, however, it should be necessary thereafter for any reason to reject the application of the preference right claimant, the next petitioner-applicant in order of filing shall succeed to the preference right. If there is no other petitioner-applicant the land may be opened to application by all qualified individuals on an equal-opportunity basis after public notice or the classification may be revoked by the authorized officer.

§ 2411.1-5 Opening of lands to disposal.

After lands have been classified for disposal, the authorized officer shall, at the appropriate time, open the lands to those forms of disposal consistent with the classification.

§ 2411.1-6 Allowance and entry.

(a) After lands are classified pursuant to the regulations of this part, and opened for entry or other disposal, all the laws and regulations governing the particular kind of entry, location, selection, or other disposal must be complied with in order for title to vest or other interests to pass.

(b) After lands are classified for disposal under the regulations of this Subpart, the lands shall be offered for sale or other disposal consistent with the classification. If a petitioner-applicant does not have a preference right under § 2411.1-4, the lands shall be opened on an equal-opportunity basis.

§ 2411.2 Procedure for retention for multiple use management classifications.

Formal action to classify land for retention for multiple use management will be governed by the following procedures.

(a) Proposed classifications will be clearly set forth on a map by the authorized officer, and on the Land Office records. Notice of proposed classifications involving more than 2,560 acres will be, and those involving 2,560 acres or less may be, published in the FEDERAL REGISTER and an announcement in a newspaper having general circulation in the area or areas in the vicinity of the affected lands. Notice of the proposals will be sent to authorized users, licensees, lessees, and permittees, or their selected representatives, the head of the governing body of the political subdivision of the State, if any, having jurisdiction over zoning in the geographic area in which the lands are located, the governor of that State, the BLM multiple use advisory board in that State, and the District advisory board and to any other parties indicating interest in such classifications. The notice will indicate where and when the map and Land Office records may be examined. The notice will specifiy the general location of the lands, the acreage involved, and the extent to which the land is proposed to be segregated from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws, including the mining and mineral leasing laws. The notice of proposed classification will specify the period during which comments will be received, which will not be less than 60 days from date of publication of the notice. The authorized officer will hold a public hearing on the proposal if (1) the proposed classification will affect more than 25,000 acres or (2) he determines that sufficient public interest exists to warrant the time and expense of a hearing.

(b) Not less than 60 days after publication of the proposed classification, a classification will be made by the authorized officer, and a notice of classification published in the FEDERAL REGISTER and recorded in the Land Office records and on a map which will be filed in the local BLM District Office. Such map will be available for public inspection.

(c) For a period of 30 days after publication of the classification in the FEDERAL REGISTER, the classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior.

(d) Classifications may be changed, using the procedures specified in this subpart.

(e) Segregative effect of classifications and proposed classifications:

(1) Publication in the FEDERAL REGISTER of a notice of proposed classification pursuant to paragraph (a) of this section or of a notice of classification pursuant to paragraph (b) of this section will segregate the affected land to the extent indicated in the notice.

(2) The segregative effect of a proposed classification will terminate in one of the following ways:

(i) Classification of the lands within 2 years of publication of the notice of proposed classification in the FEDERAL REGISTER;

(ii) Publication in the FEDERAL REGISTER of a notice of termination of the proposed classification;

(iii) An Act of Congress;

(iv) Expiration of a 2-year period from the date of publication of the notice of proposed classification without continuance as prescribed by the Classification and Multiple Use Act, or expiration of an additional period, not exceeding 2 years, if the required notice of proposed continuance is given.

(3) The segregative effect of a classification for retention will terminate in one of the following ways:

(i) Reclassification of the lands for some form of disposal;

(ii) Publication in the FEDERAL REGISTER of a notice of termination of the classification;

(iii) An Act of Congress;

(iv) Expiration of the authority for classification.

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 5, 1965.

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