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Title 3—THE PRESIDENT

Proclamation 3384

IMMIGRATION QUOTA

By the President of the United States
of America
A Proclamation

WHEREAS under the provisions of section 202(a) of the Immigration and Nationality Act, each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than independent countries of North, Central, and South America, is entitled to be treated as a separate quota area when approved by the Secretary of State; and

WHEREAS under the provisions of section 201(b) of the Immigration and Nationality Act, the Secretary of State, the Secretary of Commerce, and the Attorney General, jointly, are required to determine the annual quota of any quota area established pursuant to the provisions of section 201(a) of the said Act, and to report to the President the quota of each quota area so determined; and

WHEREAS under the provisions of section 202(e) of the said Act, the Secretary of State, the Secretary of Commerce, and the Attorney General, jointly, are required to revise the quotas, whenever necessary, to provide for any political changes requiring a change in the list of quota areas; and

WHEREAS the Islamic Republic of Mauritania, a former Autonomous Republic within the French Community, became independent on November 28, 1960; and

WHEREAS the Secretary of State, the Secretary of Commerce, and the Attorney General have jointly determined and reported to me the immigration quota hereinafter set forth:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the aforesaid Act of Congress, do hereby proclaim and make known that the annual quota of the quota area hereinafter designated has been determined in accordance with the law to be, and shall be, as follows:

	Quota Area	Quota
Mauritania	-----	100

The establishment of an immigration quota for any quota area is solely for the purpose of compliance with the pertinent provisions of the Immigration and Nationality Act and is not to be considered as having any significance extraneous to such purpose.

Proclamation No. 3298 of June 3, 1959, entitled "Immigration Quotas," is amended by the addition of the immigration quota established by this proclamation.

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

DONE at the City of Washington this twenty-first day of December in the year of our Lord nineteen [SEAL] hundred and sixty and of the Independence of the United States of America the one hundred and eighty-fifth.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 60-12073; Filed, Dec. 23, 1960;
1:17 p.m.]

Proclamation 3385

DESIGNATION OF RESTRICTED WATERS UNDER THE GREAT LAKES PILOTAGE ACT OF 1960

By the President of the United States
of America
A Proclamation

WHEREAS, pursuant to section 3(a) of the Great Lakes Pilotage Act of 1960 (Public Law 86-555; 74 Stat. 259), the President is directed to designate and by proclamation announce those United States waters of the Great Lakes in which registered vessels of the United States and foreign vessels shall be required to have in their service a United States registered pilot or a Canadian registered pilot for the waters concerned; and

WHEREAS the aforesaid section 3(a) provides that these designations shall be made with due regard to the public interest, the effective utilization of navi-

gable waters, marine safety, and the foreign relations of the United States:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by section 3(a) of the Great Lakes Pilotage Act of 1960, do hereby designate and proclaim the following areas in which registered vessels of the United States and foreign vessels shall be required to have in their service a United States registered pilot or a Canadian registered pilot for the waters concerned, on and after the effective date of regulations issued by the Secretary of Commerce pursuant to the Act:

(1) *District 1.* All United States waters of the St. Lawrence River between the international boundary at St. Regis and a line at the head of the river running (at approximately 127° true) between Carruthers Point Light and South Side Light extended to the New York shore.

(2) *District 2.* All United States waters of Lake Erie westward of a line running (at approximately 026° true) from Sandusky Pierhead Light at Cedar Point to Southeast Shoal Light; all waters contained within the arc of a circle of one mile radius eastward of Sandusky Pierhead Light; the Detroit River; Lake St. Clair; the St. Clair River, and northern approaches thereto south of latitude 43°05'30" N.

(3) *District 3.* All United States waters of the St. Marys River, Sault Sainte Marie Locks and approaches thereto between latitude 45°57' N. at the southern approach and a line (at approximately 020° true) from Point Iroquois Light to the westward tangent of Jackson Island at the northern approach.

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

DONE at the City of Washington this twenty-second day of December in the year of our Lord nineteen hundred and sixty, and of the Independence of the United States of America the one hundred and eighty-fifth.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 60-12074; Filed, Dec. 23, 1960;
1:21 p.m.]

Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[1960 C.C.C. Grain Price Support Bulletin 1, Supplement 2, Amdt. 2, Rye]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1960-Crop Rye Loan and Purchase Agreement Program

CORRECTION

In Federal Register Document 60-11157 published at page 12282 in the issue for Thursday, December 1, 1960, the following changes should be made:

In the table of basic support rates contained in § 421.5387(b) under the State of Washington, the rates for the counties of Okanogan and Pacific should have been shown as follows:

County:	Rate per bushel	
	From—	To—
Okanogan.....	\$1.01	\$1.04
Pacific.....	1.03	1.04

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended; Title II, 73 Stat. 178, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441)

Issued this 21st day of December 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-11955; Filed, Dec. 23, 1960; 8:49 a.m.]

[1960 C.C.C. Grain Price Support Bulletin 1, Supplement 2, Amdt. 3, Rye]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1960-Crop Rye Loan and Purchase Agreement Program

IDAHO AND WASHINGTON

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in (25 F.R. 3781, 4895, 6497, 9196 and 12282), containing the specific requirements of the 1960-crop rye price support program are hereby amended as follows:

Sections 421.5387(b) is amended by increasing the following basic county support rates:

County:	Rate per bushel	
	From—	To—
Bonner.....	\$0.91	\$0.95
Shoshone.....	.87	.91

13682

WASHINGTON

County:	Rate per bushel	
	From—	To—
Benton.....	\$1.07	\$1.09
Kitsap.....	1.01	1.03
Mason.....	1.03	1.04
Pend Oreille.....	.88	.91

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended; Title II, 73 Stat. 178, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441)

Issued this 21st day of December 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-11956; Filed, Dec. 23, 1960; 8:49 a.m.]

[1960 C.C.C. Grain Price Support Bulletin 1, Supplement 2, Amdt. 5, Wheat]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1960-Crop Wheat Loan and Purchase Agreement Program

IDAHO AND WASHINGTON

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in (25 F.R. 3915, 4631, 7479, 7731, 8321, 9137, 9138, 9196 and 12282) containing the specific requirements of the 1960-crop wheat price support program are hereby amended as follows:

Section 421.5047(b) is amended by increasing the following basic county support rates:

County:	Rate per bushel	
	From—	To—
Bonner.....	\$1.64	\$1.68
Shoshone.....	1.60	1.64

WASHINGTON

Benton.....	1.82	1.83
Clallam.....	1.69	1.70
Kitsap.....	1.75	1.78
Mason.....	1.77	1.78
Pacific.....	1.77	1.78
Pend Oreille.....	1.61	1.64

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended; Title II, 73 Stat. 178, 15 U.S.C. 714c, 7 U.S.C. 1421, 1441)

Issued this 21st day of December 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-11957; Filed, Dec. 23, 1960; 8:49 a.m.]

PART 464—TOBACCO

Subpart—Tobacco Loan Program

MISCELLANEOUS AMENDMENTS

The purpose of this amendment is to correct errors of grade designations in the schedule of advance rates by grade for the 1960 crop of certain types of tobacco as published in 25 F.R. 12166.

Sections 464.1243 and 464.1244 (25 F.R. 12166) are amended to read as follows:

§ 464.1243 1960 crop; New York and Pennsylvania Havana Seed Tobacco, Type 53, and Southern Wisconsin Tobacco, Type 54, advance schedule.³

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate	Grade	Advance rate
Binders:			
Crop-run:			
B1.....	35	X1.....	31
B2.....	34	X2.....	28
B3.....	31	X3.....	20
Strippers:			
Farm fillers:			
C1.....	30	Y1.....	24
C2.....	29	Y2.....	22
C3.....	27	Y3.....	20
Nondescript:			
N1.....			16

§ 64.1244 1960 crop; Northern Wisconsin Tobacco, Type 55, advance schedule.³

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate
Binders:	
B1.....	46
B2.....	42
B3.....	38
Strippers:	
C1.....	32
C2.....	30
C3.....	27
Crop-run:	
X1.....	31
X2.....	28
X3.....	20
Farm fillers:	
Y1.....	24
Y2.....	22
Y3.....	20
Nondescript:	
N1.....	16

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 63 Stat. 1051, as amended,

³The Cooperative Association through which price support is made available is authorized to deduct from the amount paid the grower \$1.00 per hundred pounds on tobacco of the B grade group and fifty cents per hundred pounds on tobacco of all other grade groups to apply against receiving and overhead costs, plus a fee of \$5.00 for each lot of tobacco received for sample grading purposes. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded No-G (no grade), N2 (second quality nondescript), or S (scrap).

1054, 74 Stat. 6, 15 U.S.C. 714c, 7 U.S.C. 1441, 1421, 1423; sec. 125, 70 Stat. 198, 7 U.S.C. 1813; Pub. Law 86-80, 73 Stat. 178)

Issued this 20th day of December 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-11933; Filed, Dec. 23, 1960;
8:47 a.m.]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

SUBCHAPTER A—MARKETING ORDERS

[Milk Order No. 2]

PART 902—MILK IN WASHINGTON, D.C., MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Washington, D.C. marketing area (7 CFR Part 902), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act: The phrase in § 902.50(a) which reads "During the first 18 months after the effective date of this part * * *".

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

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

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) Without this suspension action the Class I price formula will terminate after December 31, 1960.

(4) A public hearing has been held September 28 and 29, 1960, pursuant to notice issued September 6, 1960 (25 F.R. 8745) on Class I prices for periods after December 31, 1960, and a recommended decision has been issued. Since it is not possible to complete the amendment procedure before January 1, 1961, temporary provision for a Class I price is necessary pending the issuance of such amendment.

Therefore, good cause exists for making this order effective January 1, 1961.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended effective January 1, 1961.

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

Issued at Washington, D.C., this 21st day of December 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-11954; Filed, Dec. 23, 1960;
8:49 a.m.]

[Navel Orange Regulation 198]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 914.498 Navel Orange Regulation 198.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests 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 regulation 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 navel 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 navel 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 held on December 22, 1960.

(b) *Order.* (1) The respective quantities of navel 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., December 25, 1960, and ending at 12:01 a.m., P.s.t., January 1, 1961, are hereby fixed as follows:

- (i) District 1: 300,000 cartons;
- (ii) District 2: 100,102 cartons;
- (iii) District 3: Unlimited movement;
- (iv) District 4: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," 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: December 22, 1960.

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

[F.R. Doc. 60-12058; Filed, Dec. 23, 1960;
11:26 a.m.]

[Milk Order 28]

PART 928—MILK IN NEOSHO VALLEY MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Neosho Valley marketing area (7 CFR Part 928), it is hereby found and determined that:

(a) The following provision of the order does not tend to effectuate the declared policy of the Act for the period December 1, 1960 through February 28, 1961.

(1) In 928.51(b) the phrases "for the delivery periods of July through March", "the basic formula price", and "and for the delivery periods of April through June".

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

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

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) The Class II pricing provisions as amended April 1, 1960, have resulted in Class II prices in recent months higher than those established under other Fed-

eral orders in the region. These price relationships are disturbing the Neosho Valley milk market in that handlers are reluctant to accept Class II milk at the order prices. Unless the Class II price is reduced, handlers may refuse to accept milk for Class II use and some producers may be unable to find a market for their milk. This suspension order will encourage acceptance of milk for Class II use since it results in a 10 cent per hundredweight reduction in the Class II price.

(4) More than two-thirds of the producers supplying the market and several handlers have requested this suspension.

Therefore, good cause exists for making this order effective December 1, 1960.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period December 1, 1960, through February 28, 1961.

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

Issued at Washington, D.C., this 20th day of December 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-11932; Filed, Dec. 23, 1960;
8:47 a.m.]

[Lemon Reg. 878]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.985 Lemon Regulation 878.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), 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 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become 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 December 20, 1960.

(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., December 25, 1960, and ending at 12:01 a.m., P.s.t., January 1, 1961, are hereby fixed as follows:

(i) District 1: 27,900 cartons;

(ii) District 2: 158,100 cartons;

(iii) District: Unlimited movement.

(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: December 22, 1960.

DECEMBER 22, 1960.

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

[F.R. Doc. 60-12004; Filed, Dec. 23, 1960;
8:50 a.m.]

[Lime Reg. 9]

PART 1001—LIMES GROWN IN FLORIDA

Quality Regulation

§ 1001.309 Lime Regulation 9.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 101, as amended (7 CFR Part 1001), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid amended

marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable 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 thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) in that, as hereinafter set forth, 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 this regulation relieves restrictions on the handling of limes grown in Florida.

(b) *Order*. (1) *Termination of Lime Order 8, as amended*. Lime Order 8, as amended (25 F.R. 3313, 9170, 10796), is hereby terminated at 12:01 a.m., e.s.t., December 26, 1960.

(2) During the period beginning at 12:01 a.m., e.s.t., December 26, 1960, and ending at 12:01 a.m., e.s.t., April 17, 1961, no handler shall handle:

(i) Any limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 grade for Persian (Tahiti) limes, except as to color; or

(ii) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties), grown in the production area, which do not grade at least U.S. No. 2, Mixed Color.

(3) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, as used herein, shall have the same meaning as is given to the term in the United States Standards for Persian (Tahiti) Limes (§§ 51.1000-51.1016).

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

Dated: December 22, 1960.

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

[F.R. Doc. 60-12005; Filed, Dec. 23, 1960;
8:50 a.m.]

[Milk Order No. 114]

PART 1014—MILK IN MISSISSIPPI GULF COAST MARKETING AREA

Notice of Correction With Respect to Order Amending Order

In F.R. Doc. 60-10140, filed October 27, 1960, and published on October 28, 1960,

in Column 1, 25 F.R. 10342, correct the first three lines of amendment Number 18 to read as follows: 18. Add a new § 1014.89a.

§ 1014.89a **Overdue accounts.**

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

Issued at Washington, D.C., this 21st day of December 1960 to be effective on and after the 1st day of November 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60-11953; Filed, Dec. 23, 1960; 8:49 a.m.]

SUBCHAPTER B—PROHIBITIONS OF IMPORTED COMMODITIES

[Lime Reg. No. 5]

PART 1069—LIMES

§ 1069.5 Lime Regulation No. 5.

(a) On and after the effective time of this regulation, the importation into the United States of any lot of limes which in the aggregate exceeds 250 pounds, net weight, is prohibited unless:

(1) Such limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms) meet the requirements of at least the U.S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(2) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) meet the requirements of at least the U.S. No. 2, Mixed Color grade; and

(3) Each such importation is made in conformance with the General Regulation (7 CFR Part 1060) applicable to the importation of listed commodities and the requirements of this regulation: *Provided*, That the provisions of § 1060.4(e) of this chapter shall not apply.

(b) The Federal Inspection Service is hereby designated to perform, through inspectors authorized or licensed by such Service, the inspection and certification prescribed in § 1060.3 *Eligible imports* of the aforesaid General Regulations. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of limes should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the limes will be imported:

Ports	Office	Advance notice
All Texas points.	W. T. McNabb, McClendon Building, P.O. Box 111, 305 East Jackson, Harlingen, Tex. (Telephone: Garfield 3-5644). or Norman E. Taylor, Room 204, U.S. Court House, El Paso, Tex. (Telephone: Keystone 3-9351 Ext. 340).	1 day. Do.
All Arizona points.	R. H. Bertelson, Room 202, Trust Building, 136 Grand Avenue, P.O. Box 1646, Nogales, Ariz. (Telephone: Atwater 7-2902).	Do.
All Florida points.	Lloyd W. Boney, Dade County Growers Market, 1200 NW. 21 Terrace, Room 5, Miami, Fla. (Telephone: Newton 5-7967). or Hubert S. Flynt, 775 Warner Street, P.O. Box 6697, Orlando, Fla. (Telephone: Garden 2-2447).	Do.
All California points.	Carley D. Williams, 294 Wholesale Terminal Building, 784 South Central Avenue, Los Angeles 21, Calif. (Telephone: Madison 2-8756).	3 days.
All other points.	E. E. Conklin, Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, Washington 25, D.C. (Telephone: Dudley 8-5870).	Do.

(c) Terms relating to grade shall, when used herein, have the same meaning as is given to the term in the United States Standards for Persian (Tahiti) Limes (§§ 51.100-51.1016) and all other terms shall have the same meaning as is given to the respective terms in the General Regulations. Copies of the aforesaid standards may be obtained upon request to any office of the Federal or Federal-State Inspection Service of this Department.

(d) *Termination of Lime Regulation No. 4, as amended.* Lime Regulation No. 4, as amended (25 F.R. 3314, 9171, 10867), is hereby terminated at the effective time hereof.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this regulation beyond that hereinafter specified (5 U.S.C. 1001-1011) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such regulation necessary; (b) such regulation imposes the same restrictions on imports of limes as the grade, size, and quality restrictions applicable to the shipment of limes grown in Florida under Lime Regulation 9 (§ 1001.309); (c) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof;

and (d) this regulation relieves restrictions on the importation of Persian limes. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, December 22, 1960, to become effective at 12:01 a.m., e.s.t., December 26, 1960.

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

[F.R. Doc. 60-12006; Filed, Dec. 23, 1960; 8:50 a.m.]

Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

[ACP-1961, Supp. 2]

PART 1101—NATIONAL AGRICULTURAL CONSERVATION

Subpart—1961

MISCELLANEOUS AMENDMENTS

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, and Public Law 86-532, the 1961 National Agricultural Conservation Program, approved July 1, 1960 (25 F.R. 6415), as amended September 8, 1960 (25 F.R. 8775), is further amended as follows:

1. Section 1101.1026 is amended, for purposes of the 1961 program, to read:

§ 1101.1026 Failure to meet minimum requirements.

Notwithstanding other provisions of the 1961 program, costs may be shared for performance actually rendered even though the minimum requirements for a practice are not met, if the farmer or rancher establishes to the satisfaction of the county committee, the State committee or its designee, and the State and county representatives of any other agency having responsibility for technical phases of the practice (a) that he made every reasonable effort to meet the minimum requirements, and (b) that the practice as performed adequately meets the conservation problem.

2. Paragraph (a) of § 1101.1034 is amended, for purposes of the 1961 program, to read:

§ 1101.1034 Appeals.

(a) Any person may, within 15 days after notice thereof is forwarded to or made available to him, request the county committee or State committee in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his Federal cost-shares with respect to the farm or ranch. If a person is dissatisfied with

the decision of the county committee, he may, within 15 days after the decision is forwarded to or made available to him, appeal in writing to the State committee. If he is dissatisfied with the decision of the State committee, he may, within 15 days after its decision is forwarded to or made available to him, request the Administrator, ACP3, to review the decision of the State committee. The decision of the Administrator, ACP3, shall be final. All appeals shall be considered as soon as practicable after they are filed, and prompt written notice of the decision shall be given to the appellant. Written notice of any decision rendered under this section by the county or State committee shall also be issued to each other landlord, tenant, or sharecropper on the farm or ranch who may be adversely affected by the decision.

3. Section 1101.1036 is amended, for purposes of the 1961 program, to read: § 1101.1036 Maintenance and use of practices.

The sharing of costs, by the Federal Government, for the performance of approved conservation practices on any farm or ranch under the 1961 program will be subject to the condition that the person with whom the costs are shared will maintain and use such practices for the conservation purposes for which cost-sharing was authorized throughout their normal lifespans as long as the land on which they are carried out is under his control, unless the State or county committee determines that good farming practice does not require such maintenance and use, or that the failure to so maintain and use the practices was due to conditions beyond his control.

4. Section 1101.1037 is amended, for purposes of the 1961 program, to read: § 1101.1037 Practices defeating purposes of programs.

If the county committee finds with the concurrence of the State committee, or if the State committee finds, that any person has adopted or participated in any practice during the 1961 program year which tends to defeat the purposes of the 1961 or any previous program, including, but not limited to, failure to maintain, in accordance with good farming practices, practices carried out under a previous program, it may withhold, or require to be refunded, all or any part of the Federal cost-share which otherwise would be due him under the 1961 program.

5. Section 1101.1061 is amended, for purposes of the 1961 program, to read:

§ 1101.1061 Practice B-5: Constructing wells for livestock water as a means of protecting vegetative cover or to make practicable the utilization of the land for vegetative cover.

The wells must be at locations which will bring about the desired protection of vegetative cover through proper distribution of grazing or better grassland management or make practicable the utilization of the land for vegetative cover. Adequate storage facilities must be provided. Pumping equipment must be installed, except for artesian wells.

No Federal cost-sharing will be allowed for wells constructed primarily for the use of headquarters, or for costs other than for constructing or deepening wells and for water storage facilities.

(Sec. 4, 49 Stat. 164, secs. 7-17, 49 Stat. 1148, as amended, 74 Stat. 232; 16 U.S.C. 590d, 590g-590q)

Done at Washington, D.C., this 20th day of December 1960.

C. M. FERGUSON,
Assistant Secretary.

[F.R. Doc. 60-11952; Filed, Dec. 23, 1960; 8:49 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter 1—Immigration and Naturalization Service, Department of Justice

PART 324—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: WOMEN WHO HAVE LOST UNITED STATES CITIZENSHIP BY MARRIAGE

PART 332—PRELIMINARY INVESTIGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

Miscellaneous Amendments to Chapter

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

1. Section 324.15 is added to read as follows:

§ 324.15 Certificate by examiner when petitioner is entitled to an immediate hearing.

The officer or employee conducting the preliminary investigation shall execute a certificate of examination on Form N-440, in duplicate, for attachment to the original and duplicate petitions for naturalization filed under section 324(a) of the Act.

§ 332.11 [Amendment]

2. The last sentence of paragraph (a) *Scope of investigation* of § 332.11 *Investigation preliminary to filing petition for naturalization* is amended to read as follows: "During the interrogation of the applicant and his witnesses and at the applicant's request, his attorney or representative who has filed an appearance in accordance with Part 292 of this chapter may be permitted to be present and observe the interrogation and make notes without otherwise participating therein."

§ 332.12 [Revocation]

3. Section 332.12 *Certificate by examiner whenever petitioner is entitled to immediate hearing* is revoked.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C.

1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order relate to agency procedure.

Dated: December 21, 1960.

J. M. SWING,
Commissioner of
Immigration and Naturalization.

[F.R. Doc. 60-11951; Filed, Dec. 23, 1960; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60-KC-56]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification

On October 11, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9733) stating that the Federal Aviation Agency proposed to modify the Camp Douglas, Wis., control zone.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the Notice, § 601.2408 (25 F.R. 8181) is amended to read:

§ 601.2408 Camp Douglas, Wis., control zone.

Within a 5-mile radius of Volk Field, Camp Douglas (Lat. 43°56'25" N., Long. 90°15'20" W.); within 2 miles either side of the 093° True radial of the Volk Field TVOR, extending from the 5-mile radius zone to 12 miles E. of the TVOR, from 0600 to 2400 hours, local standard time, daily, from May to September, annually, with specific dates on which the designation begins and ends for each annual period to be established in advance by a Notice to Airmen.

This amendment shall become effective 0001 e.s.t. February 9, 1961.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on December 19, 1960.

D. D. THOMAS,
Director, Bureau of
Air Traffic Management.

[F.R. Doc. 60-11907; Filed, Dec. 23, 1960; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6400 o.]

PART 13—PROHIBITED TRADE PRACTICES

Baar & Beards, Inc., et al.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties*: § 13.1053-30 *Flammable Fabrics Act*. Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Baar & Beards, Inc., et al., New York, N.Y., Docket 6400, October 21, 1960]

In the Matter of Baar & Beards, Inc., a Corporation, and Sylvan M. Baar and Milton Beards, Individually and as Officers of Said Corporation.

Order requiring importers in New York City to cease violating the Flammable Fabrics Act by transporting and selling in commerce silk scarves manufactured in Japan which were so highly flammable as to be dangerous when worn, and furnishing their customers with false guaranties representing that tests showed the scarves not to be dangerously flammable.

The order to cease and desist is as follows:

It is ordered, That the respondent Baar & Beards, Inc., a corporation, and its officers, and respondents Sylvan M. Baar and Milton Beards, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. (a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce, any article of wearing apparel, which, under the provisions of section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals;

2. Selling or offering for sale any article of wearing apparel made of fabric which, under the provisions of section 4 of said Act, as amended, is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce, as "commerce" is defined in said Act;

3. Furnishing to any person a guaranty with respect to any article of wearing apparel which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce,

which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in section 4 of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, show and will show that the article of wearing apparel, or the fabrics used or contained therein, covered by the guaranty, are not, in the form delivered or to be delivered by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals: *Provided, however*, That this prohibition shall not be applicable to a guaranty furnished on the basis of, and in reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the wearing apparel was manufactured or from whom it was received.

By "Final Order", report of compliance was required as follows:

It is ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 21, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-11910; Filed, Dec. 23, 1960; 8:45 a.m.]

right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, shall have the right to engage in such trade if it thereafter has been sold or transferred foreign in whole or in part or placed under foreign registry (§ 3.43), or, if of more than 500 gross tons, has been rebuilt unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, was effected within the United States, its Territories (not including trust territories), or its possessions. However, no rebuilt vessel shall be deemed to have lost its coastwise privileges within the meaning of the above merely because it may have been rebuilt within the United States, its Territories (not including trust territories), or its possessions under a contract executed before July 5, 1960, if the work of rebuilding is commenced not later than 24 months after such date (§ 3.28).³ When a vessel has lost its coastwise privileges, no document shall be issued for the coastwise trade and any document which may be issued to such vessel for any other trade or employment shall bear the following notation: "As amended by section 27 of the Merchant Marine Act of June 5, 1920, as amended. This vessel shall not engage in the coastwise trade."

(R.S. 4132, as amended, sec. 22, 41 Stat. 997, R.S. 4136, as amended, 4214, as amended, secs. 2, 9, 39 Stat. 729, as amended, 730, as amended, sec. 27, 41 Stat. 999, as amended, secs. 2, 3, 70 Stat. 544, 72 Stat. 1736, secs. 2, 3, 4, 74 Stat. 321; 46 U.S.C. 11, 13, 14, 103, 802, 808, 883, 883a, 883b, 883-1)

Footnote 3 to § 3.2(f) is amended to read as follows:

*** [Sec. 1] *** the second proviso of section 27 of the Merchant Marine Act, 1920, as amended (U.S.C., 1958 edition, title 46, sec. 883), is amended to read as follows: "Provided further, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt, shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its Territories (not including trust territories), or its possessions." ***

Sec. 4. This Act shall be effective from the time of enactment hereof: *Provided, however*, That no vessel shall be deemed to have lost its coastwise privileges as a result of the amendments made by this Act if it is rebuilt within the United States, its Territories (not including trust territories), or its possessions under a contract executed before such date of enactment and if the work of rebuilding is commenced not later than twenty-four months after such date of enactment. (Secs. 1 and 4, Act of July 5, 1960 (74 Stat. 321))

Section 3.28(b) is amended to read as follows:

(b) When a new vessel is constructed in whole or in part of material taken from an old vessel; when an existing vessel is rebuilt; when in the case of a vessel of more than 500 gross tons, an addition or change in any major component of the hull or superstructure is

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55278]

PART 3—DOCUMENTATION OF VESSELS

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Documentation of rebuilt vessels—Customs Regulations amended.

Sections 3.2, 3.28, 3.29, and 4.7, Customs Regulations, relating to the documentation and use of rebuilt vessels and reports of such rebuilding, amended.

The Act of July 5, 1960 (Pub. Law 86-583, 86th Cong.; 74 Stat. 321; T.D. 55189), further amends section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), by amending the second proviso to prohibit the operation in the coastwise trade of any vessel of more than 500 gross tons which has been rebuilt unless the entire rebuilding, including the construction of any major components of the hull or superstructure, is effected within the United States, its Territories (not including trust territories), or its possessions. In order to give effect to that enactment, the following changes are made in the Customs Regulations:

Section 3.2(f) is amended to read as follows:

(f) No vessel of classes 1 through 8 above which has acquired the lawful

made and such major component was not constructed in the United States, its Territories (not including trust territories), or its possessions; when a vessel of more than 500 gross tons is otherwise so altered as to give rise to a reasonable belief that such vessel may have been rebuilt, unless such alteration was effected entirely in the United States, its Territories (not including trust territories), or its possessions; or when it is desired, in the case of an unrigged wooden vessel, other than a foreign-built vessel (class 9), that a notation be made in the publication, Merchant Vessels of the United States, as to rebuilding, the owner of the vessel shall submit through the collector of customs at the port where the vessel then is or next arrives thereafter to the Commissioner of Customs a certificate of specifications outlining the work performed on the vessel, showing the place where any such building or rebuilding was effected, and describing the extent to which old materials used were taken up, refitted, and reset or the extent to which parts of the old hull in its intact condition were used or built upon. The certificate shall be accompanied by accurate sketches or blueprints illustrating the extent of the work performed when such sketches or blueprints are available. Such certificate shall also be accompanied by a certificate of the builder, which shall be on customs Form 1261 if the vessel is claimed to be new. In the case of an unrigged wooden vessel, the shipbuilder, in addition to certifying that the vessel is rebuilt and the date of completion and place of such rebuilding, shall certify that the vessel is sound and free from rotten or doted wood in its structural parts; that it is properly fastened and calked; and that it is as good as new in strength and seaworthiness. The Commissioner of Customs shall decide whether or not the vessel is to be considered to be new or rebuilt and, if either, that decision shall be reflected on the vessel's marine document.

Section 3.28(d) is amended to read as follows:

(d) No vessel of more than 500 gross tons which has been rebuilt and has thereby lost its coastwise privileges (see sec. 3.2(f)) shall be documented for nor permitted to engage in the coastwise trade.

(R.S. 4155, as amended, 4179, 37 Stat. 189, R.S. 4319, as amended, sec. 27, 41 Stat. 999, as amended, secs. 2, 3, 70 Stat. 544, secs. 2, 3, 4, 74 Stat. 321; 46 U.S.C. 25, 50, 63, 259, 883, 883a, 883b)

Section 3.29(a) is amended to read as follows:

(a) When a documented vessel is altered in form or tonnage by being lengthened, shortened, or built upon or changed from one denomination to another by a change in rig or fitting, the vessel shall cease to be deemed a vessel of the United States unless she is documented anew. Every such alteration of a vessel of more than 500 gross tons which is not effected entirely within the United States, its Territories (not including trust territories), or its possessions, including the construction of any major components of the hull or superstructure, shall be re-

ported in accordance with the provisions of § 3.28(b), and the master shall submit the statement required by § 4.7(b) of this chapter.

The citation of authority for § 3.29 is amended to read:

(R.S. 4170, as amended, secs. 2, 3, 70 Stat. 544; 46 U.S.C. 39, 883a, 883b)

Section 4.7(b), subparagraphs (2) and (3) are amended to read as follows:

(2) The master of a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in such trade, at each port of first arrival from a foreign country shall declare on customs Form 3415 any equipment, repair part, or material purchased for the vessel, or any expense for repairs incurred, in a foreign country,^{10c} within the purview of section 466, Tariff Act of 1930, as amended. If no equipment has been purchased or repairs made, a declaration to that effect shall be made on customs Form 3415. If the vessel is of more than 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration. The declaration shall be ready for production on demand and for inspection by the boarding officer, and shall be presented with the original manifest when formal entry of the vessel is made.

(3) The master of every American vessel of more than 500 gross tons which is altered or rebuilt, when any part of the alteration or rebuilding, including the construction of any major component of the hull or superstructure of the vessel, is effected outside the United States, its Territories (not including trust territories), or its possessions, shall upon the first entry of the vessel at a port of the United States thereafter report the facts and circumstances of the alteration or rebuilding of the vessel to the collector of customs at the port of entry. The report shall be accompanied by the papers required under section 3.28 of these regulations. If any such papers are not available at the time such report is made, they shall be produced to the collector concerned as soon thereafter as may be practicable but if they are not presented within 30 days, and if the delay is not explained to the satisfaction of the collector, appropriate penalty action shall be taken charging violations of the provisions of section 2 of the Act of July 14, 1956; as amended (46 U.S.C. 883a).^{10c}

Footnote 16(c) appended to § 4.7(b) (3) is amended to read as follows:

^{10c} * * * Sec. 2. If any vessel of more than five hundred gross tons documented under the laws of the United States, or last documented under such laws, is rebuilt, and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Terri-

ories (not including trust territories), or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury, upon the first arrival of the vessel thereafter at a port within the customs territory of the United States, if rebuilt outside the United States, its Territories (not including trust territories), or its possessions, or, in any other case, upon completion of the rebuilding, in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of \$200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 5294 of the Revised Statutes of the United States, as amended (46 U.S.C. 7). (Sec. 2, Act of July 14, 1956, as amended (46 U.S.C. 883a))

The citation of authority for § 4.7 is amended to read:

(Secs. 431, 439, 465, 581(a), 583, 46 Stat. 710, as amended, 712, as amended, 718, 747, as amended, 748, as amended, secs. 2, 3, 70 Stat. 544; 19 U.S.C. 1431, 1439, 1465, 1581(a), 1583, 46 U.S.C. 883a, 883b)

Notice of the proposal to issue the above amendments to the regulations was published in the FEDERAL REGISTER on September 3, 1960 (25 F.R. 8549), pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003). Data, views, and arguments relating thereto which were received have been considered. The above amendments are adopted effective 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] C. A. EMERICK,
Acting Commissioner of Customs.

Approved: December 16, 1960.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 60-11943; Filed, Dec. 23, 1960;
8:48 a.m.]

Title 25—INDIANS

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

APPENDIX—EXTENSION OF THE TRUST OR RESTRICTED STATUS OF CERTAIN INDIAN LANDS

Trust Periods Expiring During Calendar Year 1961

By virtue of and pursuant to the authority delegated by Executive Order No. 10250 of June 5, 1951, and pursuant to section 5 of the Act of February 8, 1887 (24 Stat. 388, 389), the Act of June 21, 1906 (34 Stat. 325, 326), and the Act of March 2, 1917 (39 Stat. 969, 976), and other applicable provisions of law, it is hereby ordered that the periods of trust or other restrictions against alienation contained in any patent applying to Indian lands, whether of a tribal or individual status, which, unless extended will expire during the calendar year 1961, be, and the same are hereby, extended for a further period of five years from the date on which any such trust would otherwise expire.

This order is not intended to apply to any case in which Congress has specifically reserved to itself authority to extend the period of trust on tribal or individual Indian lands.

FRED A. SEATON,
Secretary of the Interior.

DECEMBER 19, 1960.

[F.R. Doc. 60-11911; Filed, Dec. 23, 1960;
8:45 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6520]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DE- CEMBER 31, 1953

Depreciation or Amortization of Im- provements Made by Lessee on Lessor's Property

On September 3, 1960, a notice of proposed rule making regarding the regulations under section 178 of the Internal Revenue Code of 1954, relating to depreciation or amortization of improvements made by lessee on lessor's property, and certain amendments to the Income Tax Regulations (26 CFR Part 1) to conform to the rules relating to depreciation or amortization of improvements made by lessee on lessor's property was published in the FEDERAL REGISTER (25 F.R. 8550). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (b)(5) of § 1.178-1 is revised.

PAR. 2. Paragraph (c) of § 1.178-3 is revised.

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

[SEAL]

CHARLES I. FOX,
Acting Commissioner of
Internal Revenue.

Approved: December 21, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

The regulations under section 178 of the Internal Revenue Code of 1954 set forth in paragraph 1 are hereby prescribed.

The Income Tax Regulations (26 CFR Part 1) are amended as set forth in paragraphs 2, 3, and 4 to conform to the rules relating to depreciation or amortization of improvements made by lessee on leased property prescribed under section 178.

PARAGRAPH 1. The following regulations are hereby prescribed under section 178 of the Internal Revenue Code of 1954:

§ 1.178 Statutory provisions; depreciation or amortization of improvements made by lessee on lessor's property.

SEC. 178. *Depreciation or amortization of improvements made by lessee on lessor's property*—(a) *General rule.* Except as provided in subsection (b), in determining the amount allowable to a lessee as a deduction for any taxable year for exhaustion, wear and tear, obsolescence, or amortization—

(1) In respect of any building erected (or other improvement made) on the leased property, if the portion of the term of the lease (excluding any period for which the lease may subsequently be renewed, extended, or continued pursuant to an option exercisable by the lessee) remaining upon the completion of such building or other improvement is less than 60 percent of the useful life of such building or other improvement, or

(2) In respect of any cost of acquiring the lease, if less than 75 percent of such cost is attributable to the portion of the term of the lease (excluding any period for which the lease may subsequently be renewed, extended, or continued pursuant to an option exercisable by the lessee) remaining on the date of its acquisition,

the term of the lease shall be treated as including any period for which the lease may be renewed, extended, or continued pursuant to an option exercisable by the lessee, unless the lessee establishes that (as of the close of the taxable year) it is more probable that the lease will not be renewed, extended, or continued for such period than that the lease will be so renewed, extended, or continued.

(b) *Related lessee and lessor*—(1) *General rule.* If a lessee and lessor are related persons (as determined under paragraph (2)) at any time during the taxable year then, in determining the amount allowable to the lessee as a deduction for such taxable year for exhaustion, wear and tear, obsolescence, or amortization in respect of any building erected (or other improvement made) on the leased property, the lease shall be treated as including a period of not less duration than the remaining useful life of such improvement.

(2) *Related persons defined.* For purposes of paragraph (1), a lessor and lessee shall be considered to be related persons if—

(A) The lessor and the lessee are members of an affiliated group (as defined in section 1504), or

(B) The relationship between the lessor and lessee is one described in subsection (b) of section 267, except that, for purposes of this subparagraph, the phrase "80 percent or more" shall be substituted for the phrase "more than 50 percent" each place it appears in such subsection.

For purposes of determining the ownership of stock in applying subparagraph (B), the rules of subsection (c) of section 267 shall apply, except that the family of an individual shall include only his spouse, ancestors, and lineal descendants.

(c) *Reasonable certainty test.* In any case in which neither subsection (a) nor subsection (b) applies, the determination as to the amount allowable to a lessee as a deduction for any taxable year for exhaustion, wear and tear, obsolescence, or amortization—

(1) In respect of any building erected (or other improvement made) on the leased property, or

(2) In respect of any cost of acquiring the lease,

shall be made with reference to the term of the lease (excluding any period for which the lease may subsequently be renewed, extended, or continued pursuant to an option exercisable by the lessee), unless the lease has been renewed, extended, or continued or the facts show with reasonable certainty that

the lease will be renewed, extended, or continued.

[Sec. 178 as added by sec. 15, Technical Amendments Act 1958 (72 Stat. 1612)]

§ 1.178-1 Depreciation or amortization of improvements on leased property and cost of acquiring a lease.

(a) *In general.* Section 178 provides rules for determining the amount of the deduction allowable for any taxable year to a lessee for depreciation or amortization of improvements made on leased property and as amortization of the cost of acquiring a lease. For purposes of section 178 the term "depreciation" means the deduction allowable for exhaustion, wear and tear, or obsolescence under provisions of the Code such as section 167 or 611 and the regulations thereunder and the term "amortization" means the deduction allowable for amortization of buildings or other improvements made on leased property or for amortization of the cost of acquiring a lease under provisions of the Code such as section 162 or 212 and the regulations thereunder. The provisions of section 178 are applicable with respect to costs of acquiring a lease incurred, and improvements begun, after July 28, 1958, other than improvements which, on July 28, 1958, and at all times thereafter, the lessee was under a binding legal obligation to make.

(b) *Determination of amount of deduction.* (1) In determining the amount of the deduction allowable to a lessee (other than a lessee who is related to the lessor within the meaning of § 1.178-2) for any taxable year for depreciation or amortization of improvements made on leased property, or for amortization in respect of the cost of acquiring a lease, the term of the lease shall, except as provided in subparagraph (2) of this paragraph, be treated as including all periods for which the lease may be renewed, extended, or continued pursuant to an option or options exercisable by the lessee (whether or not specifically provided for in the lease) if—

(i) In the case of any building erected, or other improvements made, by the lessee on the leased property, the portion of the term of the lease (excluding all periods for which the lease may subsequently be renewed, extended, or continued pursuant to an option or options exercisable by the lessee) remaining upon the completion of such building or other improvements is less than 60 percent of the estimated useful life of such building or other improvements; or

(ii) In the case of any cost of acquiring the lease, less than 75 percent of such cost is attributable to the portion of the term of the lease (excluding all periods for which the lease may be renewed, extended, or continued pursuant to an option or options exercisable by the lessee) remaining on the date of its acquisition.

(2) The rules provided in subparagraph (1) of this paragraph shall not apply if the lessee establishes that, as of the close of the taxable year, it is more probable that the lease will not be renewed, extended, or continued than that the lease will be renewed, extended,

or continued. In such case, the cost of improvements made on leased property or the cost of acquiring a lease shall be amortized over the remaining term of the lease without regard to any options exercisable by the lessee to renew, extend, or continue the lease. The probability test referred to in the first sentence of this subparagraph shall be applicable to each option period to which the lease may be renewed, extended, or continued. The establishment by a lessee as of the close of the taxable year that it is more probable that the lease will not be renewed, extended, or continued will ordinarily be effective as of the close of such taxable year and any subsequent taxable year, and the deduction for amortization will be based on the term of the lease without regard to any periods for which the lease may be renewed, extended, or continued pursuant to an option or options exercisable by the lessee. However, in appropriate cases, if the facts as of the close of any subsequent taxable year indicate that it is more probable that the lease will be renewed, extended, or continued, the deduction for amortization (or depreciation) shall, beginning with the first day of such subsequent taxable year, be determined by including in the remaining term of the lease all periods for which it is more probable that the lease will be renewed, extended, or continued.

(3) If at any time the remaining term of the lease determined in accordance with section 178 and this section is equal to or of longer duration than the then estimated useful life of the improvements made on the leased property by the lessee, the cost of such improvements shall be depreciated over the estimated useful life of such improvements under the provisions of section 167 and the regulations thereunder.

(4) For purposes of section 178(a)(1) and this section, the date on which the building erected or other improvements made are completed is the date on which the building or improvements are usable, whether or not used.

(5) (i) For purposes of section 178(a)(2) and this section, the portion of the cost of acquiring a lease which is attributable to the term of the lease remaining on the date of its acquisition without regard to options exercisable by the lessee to renew, extend, or continue the lease shall be determined on the basis of the facts and circumstances of each case. In some cases, it may be appropriate to determine such portion of the cost of acquiring a lease by applying the principles used to measure the present value of an annuity. Where that method is used, such portion shall be determined by multiplying the cost of the lease by a fraction, the numerator comprised of a factor representing the present value of an annually recurring savings of \$1 per year for the period of the remaining term of the lease (without regard to options to renew, extend, or continue the lease) at an appropriate rate of interest (determined on the basis of all the facts and circumstances in each case), and the denominator comprised of a factor representing the present value of \$1 per year for the period of the

remaining term of the lease including the options to renew, extend, or continue the lease at an appropriate rate of interest.

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

Example. Lessee A acquires a lease with respect to unimproved property at a cost of \$100,000 at which time there are 21 years remaining in the original term of the lease with two renewal options of 21 years each. The lease provides for a uniform annual rental for the remaining term of the lease and the renewal periods. It has been determined that this is an appropriate case for the application of the principles used to measure the present value of an annuity. Assume that in this case the appropriate rate of interest is 5 percent. By applying the tables (Inwood) used to measure the present value of an annuity of \$1 per year, the factor representing the present value of \$1 per annum for 21 years at 5% is ascertained to be 12.821, and the factor representing the present value of \$1 per annum for 63 years at 5% is 19.075. The portion of the cost of the lease (\$100,000) attributable to the remaining term of the original lease (21 years) is 67.21% or \$67,210 determined as follows:

$$\frac{12.821}{19.075} \text{ or } 67.21\%$$

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

Example (1). Lessee A constructs a building on land leased from lessor B. The construction is commenced on August 1, 1958, and is completed and placed in service on December 31, 1958, at which time A has 15 years remaining on his lease with an option to renew for an additional 20 years. Lessee A computes his taxable income on a calendar year basis. Lessee A was not, on July 28, 1958, under a binding legal obligation to erect the building. The building has an estimated useful life of 30 years. A is not related to B. Since the portion of the term of the lease (without regard to any renewals) remaining upon completion of the building (15 years) is less than 60 percent of the estimated useful life of the building (60 percent of 30 years, or 18 years), the term of the lease shall be treated as including the remaining portion of the original lease period and the renewal period, or 35 years. Since the estimated useful life of the building (30 years) is less than 35 years, the cost of the building shall, in accord with paragraph (b)(3) of this section, be depreciated under the provisions of section 167, over its estimated useful life. If, however, lessee A establishes, as of the close of the taxable year 1958, it is more probable that the lease will not be renewed than that it will be renewed, then in such case the remaining term of the lease shall be treated as including only the 15-year period remaining in the original lease. Since this is less than the estimated useful life of the building, the remaining cost of the building would be amortized over such 15-year period under the provisions of section 162 and the regulations thereunder.

Example (2). Assume the same facts as in example (1), except that A has 21 years remaining on his lease with an option to renew for an additional 10 years. Section 178(a) and paragraph (b)(1) of this section do not apply since the term of the lease remaining on the date of completion of the building (21 years) is not less than 60 percent of the estimated useful life of the building (60 percent of 30 years, or 18 years).

Example (3). Assume the same facts as in example (1), except that A has no renewal

option until July 1, 1961, when lessor B grants A an option to renew the lease for a 10-year period. Because there is no option to renew the lease, the term of the lease is, for the taxable years 1959 and 1960 and for the first six months of the taxable year 1961, determined without regard to section 178(a). However, as of July 1, 1961, the date the renewal option is granted, section 178(a) and paragraph (b)(1) of this section become applicable since the portion of the term of the lease remaining upon completion of the building (15 years) was less than 60 percent of the estimated useful life of the building (60 percent of 30 years, or 18 years). As of July 1, 1961, the term of the lease shall be treated as including the remaining portion of the original lease period (12½ years) and the 10-year renewal period, or 22½ years, unless lessee A can establish that, as of the close of 1961, it is more probable that the lease will not be renewed than that it will be.

Example (4). On January 1, 1959, lessee A pays \$10,000 to acquire a lease for 20 years with two options exercisable by him to renew for periods of 5 years each. Of the total \$10,000 cost to acquire the lease, \$7,000 was paid for the original 20-year lease period and the balance of \$3,000 was paid for the renewal options. Since the \$7,000 cost of acquiring the initial lease is less than 75 percent of the \$10,000 cost of the lease (\$7,500), the term of the lease shall be treated as including the original lease period and the 2 renewal periods, or 30 years. However, if lessee A establishes that, as of the close of the taxable year 1959, it is more probable that the lease will not be renewed than that it will be renewed, the term of the lease shall be treated as including only the original lease period, or 20 years.

Example (5). Assume the same facts as in example (4), except that the portion of the total cost (\$10,000) paid for the 20-year original lease period is \$8,000. Since the \$8,000 cost of acquiring the original lease is not less than 75 percent of the \$10,000 cost of the lease (\$7,500), section 178(a) and paragraph (b)(1) of this section do not apply.

(c) *Application of section 178(a) where lessee gives notice to lessor of intention to exercise option.* (1) If the lessee has given notice to the lessor of his intention to renew, extend, or continue a lease, the lessee shall, for purposes of applying the provisions of section 178(a) and paragraph (b)(1) of this section, take into account such renewal or extension in determining the portion of the term of the lease remaining upon the completion of the improvements or on the date of the acquisition of the lease.

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

Example (1). Lessee A constructs a building on land leased from lessor B. The construction was commenced on September 1, 1958, and was completed and placed in service on December 31, 1958. Lessee A was not, on July 28, 1958, under a binding legal obligation to erect the building. A and B are not related. At the time the building was completed (December 31, 1958), lessee A had 3 years remaining on his lease with 2 options to renew for periods of 20 years each. The estimated useful life of the building is 60 years. Prior to completion of the building, lessee A gives notice to lessor B of his intention to exercise the first 20-year option. Therefore, the portion of the term of the lease remaining on January 1, 1959, shall be the 3 years remaining in the original lease period plus the 20-year renewal period, or 23 years. Since the term of the lease remaining upon completion of the building (23

years) is less than 60 percent of the estimated useful life of the building (60 percent of 50 years, or 30 years), the provisions of section 178(a) and paragraph (b)(1) of this section are applicable. Accordingly, the term of the lease shall be treated as including the aggregate of the remaining term of the original lease (23 years) and the second 20-year renewal period or 43 years, unless lessee A establishes that it is more probable that the lease will not be renewed, extended, or continued under the second 20-year option than that it will be so renewed, extended, or continued under such option. If this is established by lessee A, then the term of the lease shall be treated as including only the remaining portion of the original lease period and the first 20-year renewal period, or 23 years.

Example (2). Assume the same facts as in example (1), except that the estimated useful life of the building is 30 years. Since the term of the lease remaining upon completion of the building (23 years) is not less than 60 percent of the estimated life of the building (60 percent of 30 years, or 18 years), the provisions of section 178(a) and paragraph (b)(1) of this section do not apply.

Example (3). If in examples (1) and (2), the lessee failed to give notice of his intention to exercise the renewal option, the renewal period would not be taken into account in computing the percentage requirements under section 178(a) and paragraph (b)(1) of this section. Thus, unless lessee A establishes the required probability, the provisions of section 178(a) and paragraph (b)(1) of this section would apply in both examples since the term of the lease remaining upon completion of the building (3 years) is less than 60 percent of the estimated useful life of the building in either example (60 percent of 50 years, or 30 years; 60 percent of 30 years, or 18 years).

(d) *Application of section 178 where lessee is related to lessor.* (1) (i) If the lessee and lessor are related persons within the meaning of section 178(b)(2) and § 1.178-2 at any time during the taxable year, the lease shall be treated as including a period of not less duration than the remaining estimated useful life of improvements made by the lessee on leased property for purposes of determining the amount of deduction allowable to the lessee for such taxable year for depreciation or amortization in respect of any building erected or other improvements made on leased property. If the lessee and lessor cease to be related persons during any taxable year, then for the immediately following and subsequent taxable years during which they continue to be unrelated, the amount allowable to the lessee as a deduction shall be determined without reference to section 178(b) and in accordance with section 178(a) or section 178(c), whichever is applicable.

(ii) Although the related lessee and lessor rule of section 178(b) and § 1.178-2 does not apply in determining the period over which the cost of acquiring a lease may be amortized, the relationship between a lessee and lessor will be a significant factor in applying section 178(a) and (c) in cases in which the lease may be renewed, extended, or continued pursuant to an option or options exercisable by the lessee.

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

Example (1). Lessee A constructs a building on land leased from lessor B. The construction was commenced on August 1, 1958, and was completed and put in service on December 31, 1958. Lessee A was not on July 28, 1958, under a binding legal obligation to erect the building. On the completion date of the building, lessee A had 20 years remaining in his original lease period with an option to renew for an additional 20 years. The building has an estimated useful life of 50 years. During the taxable years 1959 and 1960, A and B are related persons within the meaning of section 178(b)(2) and § 1.178-2, but they are not related persons at any time during the taxable year 1961 or during any subsequent taxable year. Since A and B are related persons during the taxable years 1959 and 1960, the term of the lease shall, for each of those years, be treated as 50 years. Section 178(a) and paragraph (b)(1) of this section become applicable in the taxable year 1961 since A and B are not related persons at any time during that year and because the portion of the original lease period remaining at the time the building was completed (20 years) is less than 60 percent of the estimated useful life of the building (60 percent of 50 years, or 30 years). Thus, the term of the lease shall, beginning on January 1, 1961, be treated as including the remaining portion of the original lease period (18 years) and the renewal period (20 years), or 38 years, unless lessee A can establish that, as of the close of the taxable year 1961 or any subsequent taxable year, it is more probable that the lease will not be renewed than that it will be renewed.

Example (2). Assume the same facts as in example (1), except that the estimated useful life of the building is 30 years. During the taxable years 1959 and 1960, the term of the lease shall be treated as 30 years. For the taxable year 1961, however, neither section 178(a) nor section 178(b) apply since the percentage requirement of section 178(a) and paragraph (b) of this section are not satisfied and A and B are not related persons within the meaning of section 178(b)(2) and § 1.178-2.

§ 1.178-2 Related lessee and lessor.

(a) For purposes of section 178 and § 1.178-1, a lessor and lessee shall be considered to be related persons if—

(1) The lessor and lessee are members of an affiliated group, as defined in section 1504 and the regulations thereunder; or

(2) The relationship between the lessor and lessee is one described in section 267(b), except that the phrase "80 percent or more" shall be substituted for the phrase "more than 50 percent" wherever such phrase appears in section 267(b).

(b) In the application of section 267(b) for purposes of section 178, the rules provided in section 267(c) shall apply, except that the family of an individual shall include only his spouse, ancestors, and lineal descendants. Thus, if the lessee is the brother or sister of the lessor, the lessee and lessor will not be considered to be related persons for purposes of section 178 and § 1.178-1. If the lessor leases property to a corporation of which he owns 80 percent or more in value of the outstanding stock, the lessor and lessee shall be considered to be related persons. On the other hand, if the lessor leases property to a corporation of which he owns less than 80 percent in value of the outstanding stock and his brother owns the remaining stock, the lessor and lessee will not be considered to be related persons.

(c) If a relationship described in section 267(b) exists independently of family status, the brother-sister exception does not apply. For example, if the lessor leases property to the fiduciary of a trust of which he is the grantor, the lessor and lessee will be considered to be related persons for purposes of section 178. This result obtains whether or not the fiduciary is the brother or sister of the lessor since the disqualifying relationship exists because of the grantor-fiduciary status and not because of family status.

§ 1.178-3 Reasonable certainty test.

(a) In any case in which neither section 178(a) nor (b) applies, the determination as to the amount of the deduction allowable to a lessee for any taxable year for depreciation or amortization in respect of any building erected, or other improvements made, on leased property, or in respect of any cost of acquiring a lease, shall be made with reference to the original term of the lease (excluding any period for which the lease may subsequently be renewed, extended, or continued pursuant to an option exercisable by the lessee) unless the lease has been renewed, extended, or continued, or the facts show with reasonable certainty that the lease will be renewed, extended, or continued. In a case in which the facts show with reasonable certainty that the lease will be renewed, extended, or continued, the term of the lease shall, beginning with the taxable year in which such reasonable certainty is shown, be treated as including the period or periods for which it is reasonably certain that the lease will be renewed, extended, or continued. If the lessee has given notice to the lessor of his intention to renew, extend, or continue a lease, the lease shall be considered as renewed, extended, or continued for the periods specified in the notice. See paragraph (c) of § 1.178-1.

(b) The reasonable certainty test is applicable to each option to which the lease is subject. Thus, in a case of two successive options, the facts in a particular taxable year may show with reasonable certainty that the lease will be renewed pursuant to an exercise of only the first option; and, beginning with such year, the term of the lease will be treated as including the first option, but not the second. If in a subsequent taxable year the facts show with reasonable certainty that the second option will also be exercised, the term of the lease shall, beginning with such subsequent taxable year, be treated as including both options. Although the related lessee and lessor rule of section 178(b) and paragraph (d) of § 1.178-1 does not apply in determining the period over which the cost of acquiring a lease may be amortized, the relationship between the lessee and lessor will be a significant factor in determining whether the "reasonable certainty" rule of section 178(c) and this section applies.

(c) The application of the provisions of this section may be illustrated by the following examples:

Example (1). Corporation A leases land from lessor B for a period of 30 years be-

ginning with January 1, 1958. Corporation A and lessor B are not related persons. The lease provides that Corporation A will have two renewal options of 5 years each at the same annual rental as specified in the lease for the initial 30 years. Corporation A constructs a factory building on the leased land at a cost of \$100,000. Corporation A was not, on July 28, 1958, under a binding legal obligation to erect the building. The construction was commenced on August 1, 1958, and was completed and placed in service on December 31, 1958. On January 1, 1959, Corporation A has 29 years remaining in the initial term of the lease. The estimated useful life of the building on January 1, 1959, is 40 years. The location of the leased property is particularly suitable for Corporation A's business and the annual rental of the property is lower than A would have to pay for other suitable property. No factors are present which establish that these conditions will not continue to exist beyond the initial term of the lease. Since the period remaining in the initial term of the lease on January 1, 1959 (29 years) is not less than 60 percent of the estimated useful life of the building (60 percent of 40 years, or 24 years), the provisions of section 178(a) and paragraph (b)(1) of § 1.178-1 do not apply, and since Corporation A and lessor B are not related, section 178(b) and paragraph (d) of § 1.178-1 do not apply. However, since the facts show with reasonable certainty that Corporation A will renew the lease for the period of the two options (10 years), the cost of the building shall be amortized over the term of the lease, including the two renewal options, or 39 years.

Example (2). Assume the same facts as in example (1), except that a term of 30 years is the longest period that lessor B is willing to lease the unimproved property; that there was no agreement that Corporation A will have any renewal options; and that any other location would be as suitable for Corporation A's business as the leased property. Since the facts do not show with reasonable certainty that the initial term of the lease will be renewed, extended, or continued, Corporation A shall amortize the cost of the building over the remaining term of the lease, or 29 years.

PAR. 2. Section 1.162-11 is amended to read as follows:

§ 1.162-11 Rentals.

(a) *Acquisition of a leasehold.* If a leasehold is acquired for business purposes for a specified sum, the purchaser may take as a deduction in his return an aliquot part of such sum each year, based on the number of years the lease has to run. Taxes paid by a tenant to or for a landlord for business property are additional rent and constitute a deductible item to the tenant and taxable income to the landlord, the amount of the tax being deductible by the latter. For disallowance of deduction for income taxes paid by a lessee corporation pursuant to a lease arrangement with the lessor corporation, see section 110 and the regulations thereunder. See section 178 and the regulations thereunder for rules governing the effect to be given renewal options in amortizing the costs incurred after July 28, 1958, of acquiring a lease.

(b) *Improvements by lessee on lessor's property.* (1) The cost to a lessee of erecting buildings or making permanent improvements on property of which he is the lessee is a capital investment, and is not deductible as a business expense. If the estimated useful life in the hands

of the taxpayer of the building erected or of the improvements made, determined without regard to the terms of the lease, is longer than the remaining period of the lease, an annual deduction may be made from gross income of an amount equal to the total cost of such improvements divided by the number of years remaining in the term of the lease, and such deduction shall be in lieu of a deduction for depreciation. If, on the other hand, the useful life of such buildings or improvements in the hands of the taxpayer is equal to or shorter than the remaining period of the lease, this deduction shall be computed under the provisions of section 167 (relating to depreciation).

(2) If the lessee began improvements on leased property before July 28, 1958, or if the lessee was on such date and at all times thereafter under a binding legal obligation to make such improvements, the matter of spreading the cost of erecting buildings or making permanent improvements over the term of the original lease, together with the renewal period or periods depends upon the facts in the particular case, including the presence or absence of an obligation of renewal and the relationship between the parties. As a general rule, unless the lease has been renewed or the facts show with reasonable certainty that the lease will be renewed, the cost or other basis of the lease, or the cost of improvements shall be spread only over the number of years the lease has to run without taking into account any right of renewal. The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A subsidiary corporation leases land from its parent at a fair rental for a 25-year period. The subsidiary erects on the land valuable factory buildings having an estimated useful life of 50 years. These facts show with reasonable certainty that the lease will be renewed, even though the lease contains no option of renewal. Therefore, the cost of the buildings shall be depreciated over the estimated useful life of the buildings in accordance with section 167 and the regulations thereunder.

Example (2). A retail merchandising corporation leases land at a fair rental from an unrelated lessor for the longest period that the lessor is willing to lease the land (30 years). The lessee erects on the land a department store having an estimated useful life of 40 years. These facts do not show with reasonable certainty that the lease will be renewed. Therefore, the cost of the building shall be spread over the remaining term of the lease. An annual deduction may be made of an amount equal to the cost of the building divided by the number of years remaining in the term of the lease, and such deduction shall be in lieu of a deduction for depreciation.

(3) See section 178 and the regulations thereunder for rules governing the effect to be given renewal options where a lessee begins improvements on leased property after July 28, 1958, other than improvements which on such date and at all times thereafter, the lessee was under a binding legal obligation to make.

PAR. 3. Section 1.167(a)-4 is amended to read as follows:

§ 1.167(a)-4 Leased property.

Capital expenditures made by a lessee for the erection of buildings or the con-

struction of other permanent improvements on leased property are recoverable through allowances for depreciation or amortization. If the useful life of such improvements in the hands of the taxpayer is equal to or shorter than the remaining period of the lease, the allowances shall take the form of depreciation under section 167. See §§ 1.167(b)-0, 1, 2, 3, and 4 for methods of computing such depreciation allowances. If, on the other hand, the estimated useful life of such property in the hands of the taxpayer, determined without regard to the terms of the lease, would be longer than the remaining period of such lease, the allowances shall take the form of annual deductions from gross income in an amount equal to the unrecovered cost of such capital expenditures divided by the number of years remaining of the term of the lease. Such deductions shall be in lieu of allowances for depreciation. See section 162 and the regulations thereunder. See section 178 and the regulations thereunder for rules governing the effect to be given renewal options in determining whether the useful life of the improvement exceeds the remaining term of the lease where a lessee begins improvements on leased property after July 28, 1958, other than improvements which on such date and at all times thereafter, the lessee was under a binding legal obligation to make. Capital expenditures made by a lessor for the erection of buildings or other improvements shall, if subject to depreciation allowances, be recovered by him over the estimated life of the improvements without regard to the period of the lease.

PAR. 4. Paragraph (a)(1) of § 1.461-1 is amended to read as follows:

§ 1.461-1 General rule for taxable year of deduction.

(a) *General rule—(1) Taxpayer using cash receipts and disbursements method.* Under the cash receipts and disbursements method of accounting, amounts representing allowable deductions shall, as a general rule, be taken into account for the taxable year in which paid. Further, a taxpayer using this method may also be entitled to certain deductions in the computation of taxable income which do not involve cash disbursements during the taxable year, such as the deductions for depreciation, depletion, and losses under sections 167, 611, and 165, respectively. If an expenditure results in the creation of an asset having a useful life which extends substantially beyond the close of the taxable year, such an expenditure may not be deductible, or may be deductible only in part, for the taxable year in which made. An example is an expenditure for the construction of improvements by the lessee on leased property where the estimated life of the improvements is in excess of the remaining period of the lease. In such a case, in lieu of the allowance for depreciation provided by section 167, the basis shall be amortized ratably over the remaining period of the lease. See section 178 and the regulations thereunder for rules governing the effect to be given renewal options in determining whether the useful life of the

improvements exceeds the remaining term of the lease where a lessee begins improvements on leased property after July 28, 1958, other than improvements which on such date and at all times thereafter, the lessee was under a binding legal obligation to make. See section 263 and the regulations thereunder for rules relating to capital expenditures.

[F.R. Doc. 60-11938; Filed, Dec. 23, 1960; 8:48 a.m.]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 6519]

PART 40—MANUFACTURERS AND RETAILERS EXCISE TAXES

Auto Baby Seats, Auto Beds, and Auto Hammocks

In view of the fact that § 40.4061(b)-2 of the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 40), relating to the definition of parts or accessories for motor vehicles, does not reflect the position followed by the Revenue Service prior to the adoption of such regulations in the case of baby seats for automobiles, automobile beds, and automobile hammocks, § 40.4061(b)-2 is amended by adding at the end thereof the following new paragraph:

(f) *Effective date.* Under the authority of section 7805(b), the provisions of this section shall not be applicable in respect of baby seats for automobiles, automobile beds, and automobile hammocks sold by a manufacturer, producer, or importer before July 23, 1959.

Because this Treasury decision merely prescribes the extent to which certain provisions of the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 40) are to be applied without retroactive effect in respect of sales of certain articles thereby providing relief from tax in respect of such sales, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of said Act.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] **DANA LATHAM,**
Commissioner of Internal Revenue.

Approved: December 20, 1960.

FRED C. SCRIBNER, JR.,
Acting Secretary of the Treasury.

[F.R. Doc. 60-11947; Filed, Dec. 23, 1960; 8:48 a.m.]

**Title 43—PUBLIC LANDS:
INTERIOR**

Chapter 1—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2227]

[85673]

WYOMING, NEW MEXICO, AND IDAHO

Revoking in Whole or in Part Certain Departmental Orders Which Withdraw Lands for Use of the Forest Service as Administrative Sites

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The departmental orders of November 13, 1906, November 25, 1907, October 6, 1908, October 12, 1908, and November 11, 1908, which withdrew lands for use of the Forest Service, Department of Agriculture, as administrative sites, are hereby revoked so far as they affect the following-described lands:

WYOMING

BRIDGER NATIONAL FOREST
Sixth Principal Meridian

Departmental Order of November 13, 1908

Fontenelle Administrative Site:

T. 26 N., R. 118 W.,
Sec. 25, lots 3, 6, 7, and NW¼SE¼.
Containing 148.78 acres.

Cottonwood Creek Administrative Site:

T. 30 N., R. 118 W.,
Sec. 4, SW¼SW¼, unsurveyed;
Sec. 9, NW¼NW¼, unsurveyed.
Containing 80 acres.

NEW MEXICO

APACHE NATIONAL FOREST

New Mexico Principal Meridian

Departmental Order of November 25, 1907

Luna Administrative Site:

T. 5 S., R. 20 W.,
Sec. 32, W½NW¼SW¼NW¼SE¼ and W½SW¼SW¼NW¼SE¼.
Containing 2.5 acres.

IDAHO

PAYETTE NATIONAL FOREST

Boise Meridian

Department Order of October 6, 1908

Mann Creek Administrative Site:

T. 14 N., R. 5 W.,
Sec. 32, E½NE¼SE¼;
Sec. 33, W½SW¼ and W½SE¼SW¼.
Containing 120 acres.

WYOMING

BRIDGER NATIONAL FOREST
Sixth Principal Meridian

Departmental Order of October 12, 1908

Coy Administrative Site:

T. 35 N., R. 118 W.,
Sec. 30, lots 4 and 5.
Containing 79.53 acres.

IDAHO

PAYETTE NATIONAL FOREST

Boise Meridian

Departmental Order of November 11, 1908

Rush Creek Administrative Site:

T. 16 N., R. 3 W.,
Sec. 28, NE¼NE¼SE¼, W½E½SE¼, and
E½W½SE¼.
Containing 90 acres.

The areas described total 520.81 acres.

2. The lands shall be open, subject to valid existing rights, and the requirements of applicable law, to such applications, selections, and locations as are permitted on national forest lands effective at 10:00 a.m. on January 25, 1961.

GEORGE W. ABBOTT,

Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. No. 60-11912; Filed, Dec. 23, 1960; 8:45 a.m.]

[Public Land Order 2228]

[New Mexico 048730]

NEW MEXICO

Withdrawing Lands for Use of Federal Aviation Agency in Maintenance of Air Navigation Facilities

By virtue of the authority vested in the Secretary of the Interior by section 4 of the Act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

Subject to valid existing rights, the following-described public lands in New Mexico are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws, nor disposals of materials under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604) as amended, and reserved for use of the Federal Aviation Agency in the maintenance of air navigation facilities:

NEW MEXICO PRINCIPAL MERIDIAN

T. 14 N., R. 4 E.,
Sec. 15, NE¼SW¼SW¼SE¼.

The tract described contains 2.5 acres.

GEORGE W. ABBOTT,

Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. 60-11913; Filed, Dec. 23, 1960; 8:45 a.m.]

[Public Land Order 2229]

NEW MEXICO AND ARIZONA**Revoking Various National Forest Administrative Site Withdrawals**

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The hereinafter described departmental and public land orders reserving lands in national forests for use of the Forest Service as administrative sites, are hereby revoked so far as they affect the lands comprising each site described:

[84981] (New Mexico)

NEW MEXICO PRINCIPAL MERIDIAN

GILA NATIONAL FOREST

a. The departmental order of November 26, 1906 (Tularosa Administrative Site No. 4).

T. 6 S., R. 18 W.,
Sec. 11, NE $\frac{1}{4}$ SE $\frac{1}{4}$.
Containing 40 acres.

b. The departmental order of December 10, 1907 (Tularosa Administrative Site "L").

T. 6 S., R. 18 W.,
Sec. 11, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 12, W $\frac{1}{2}$ SW $\frac{1}{4}$, (lots 11 and 12);
Sec. 14, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 360 acres.

c. Public Land Order No. 1230 of September 27, 1955 (Tularosa Administrative Camp Site).

T. 6 S., R. 18 W.,
Sec. 12, SW $\frac{1}{4}$ NW $\frac{1}{4}$, (lot 4).
Containing 36.93 acres.

d. The departmental order of January 30, 1907 (Nursery Site Station No. 65).

T. 11 S., R. 19 W.,
Sec. 2, lots 2, 3, 7, and 8.
Containing 177 acres.

e. Public Land Order No. 1119 of April 12, 1955 (Little Dry Creek Forest Camp Recreation Area).

T. 13 S., R. 19 W.,
Sec. 8, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.
Containing 40 acres.

[84975] (Arizona)

CORONADO NATIONAL FOREST

GILA SALT RIVER MERIDIAN

a. The departmental order of June 24, 1907 (Camp Inception Administrative Site).

T. 8 S., R. 24 E., unsurveyed.
Sec. 23, an area described by metes and bounds, and containing about 108 acres.

b. The departmental order of November 1, 1907 (Spud Rock Administrative Site)

T. 14 S., R. 18 E., unsurveyed,
Sec. 19, an area described by metes and bounds and containing about 216.75 acres.

The areas described total in the aggregate about 975.68 acres.

At 10:00 a.m. on January 25, 1961, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.
December 20, 1960.

[F.R. Doc. 60-11914; Filed, Dec. 23, 1960;
8:45 a.m.]

[Public Land Order 2280]

[Montana 034596]

MONTANA**Correcting Public Land Order No. 2186 of August 19, 1960**

In Federal Register Document 60-7914, appearing at pages 8145-46 of the issue for Thursday, August 25, 1960, that part of the land description reading "T. 17 S.," is hereby corrected to read "T. 17 N."

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. 60-11915; Filed, Dec. 23, 1960;
8:45 a.m.]

[Public Land Order 2231]

CALIFORNIA**Withdrawing Lands for Use of the Forest Service as Foresthill Administrative Site; Amending Public Land Order No. 2144**

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

1. Subject to valid existing rights, the following-described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor disposals of materials under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, and reserved for use of the Forest Service, Department of Agriculture, as the Foresthill Administrative Site:

[Sacramento 059766]

MOUNT DIABLO MERIDIAN

T. 14 N., R. 10 E.,
Sec. 25, lots 8 and 9.

Containing 16.81 acres.

[Sacramento 060256]

2. Paragraphs 3 and 4 of Public Land Order No. 2144 of June 30, 1960, which opened lands under Section 24 of the Federal Power Act, are hereby amended to substitute the words "lot 20" for the words "lot 21" wherever they appear.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. 60-11916; Filed, Dec. 23, 1960;
8:46 a.m.]

[Public Land Order 2232]

[86338]

WYOMING**Partly Revoking Departmental Order of December 4, 1906, Which Withdrew Lands for Use of the Forest Service as an Administrative Site**

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

The departmental order of December 4, 1906, which withdrew certain lands for use of the Forest Service, Department of Agriculture, as an administrative site, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

SHOSHONE NATIONAL FOREST

North Fork Ranger Station Administrative Site

T. 33 N., R. 102 W.,
Sec. 5, E $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 80 acres. Subject to valid existing rights and the requirements of applicable law, the lands shall be open to such applications, selections, and locations as are permitted on national forest lands effective at 10:00 a.m. on January 25, 1961.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. 60-11917; Filed, Dec. 23, 1960;
8:46 a.m.]

[Public Land Order 2233]

[Wyoming 010524]

WYOMING**Partly Revoking Stock Driveway Withdrawal No. 23 (Wyoming No. 6)**

By virtue of the authority vested in the Secretary of the Interior by section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300), as amended, it is ordered as follows:

1. The departmental order of June 20, 1918, which established Stock Driveway Withdrawal No. 23 (Wyoming No. 6), is hereby revoked so far as it affects the following-described lands:

SIXTH PRINCIPAL MERIDIAN

T. 16 N., R. 84 W.,
Sec. 6, lots 1 to 11, incl.

T. 16 N., R. 85 W.,

Sec. 1, lots 1 to 10, incl.;

Sec. 2, lots 1 to 10, incl.;

Sec. 3, lots 1 to 10, incl.;

Sec. 4, lots 1 to 10, incl.;

Sec. 5;

Sec. 6, lot 13, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 7, lots 1 to 4, incl.

T. 16 N., R. 86 W.,

Sec. 10, S $\frac{1}{2}$;

Sec. 11;

Sec. 12, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;

Sec. 15;

Sec. 22, W $\frac{1}{2}$;Sec. 27, NW $\frac{1}{4}$.

T. 12 N., R. 87 W.,

Sec. 8, lots 4 and 5.

T. 12 N., R. 88 W.,

Sec. 5, lots 6, 7, 8, 10, and 11;

Sec. 6, lots 12, 13, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 13 N., R. 88 W.,

Sec. 7, lots 7 to 13, incl.;

Sec. 18, lots 5, 9, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 12 N., R. 89 W.,

Sec. 1, S $\frac{1}{2}$;Sec. 2, S $\frac{1}{2}$;Sec. 3, S $\frac{1}{2}$;Sec. 4, E $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 9, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 13 N., R. 89 W.,

Sec. 10, SE $\frac{1}{4}$;Sec. 11, W $\frac{1}{2}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$;Sec. 12, S $\frac{1}{2}$.

- T. 15 N., R. 89 W.,
 Sec. 5, lots 7, 8, and $S\frac{1}{2}NW\frac{1}{4}$;
 Sec. 6, lots 8 to 11, incl., and $S\frac{1}{2}N\frac{1}{2}$.
- T. 14 N., R. 90 W.,
 Sec. 2, lot 8, $SW\frac{1}{4}NW\frac{1}{4}$, and $W\frac{1}{2}SW\frac{1}{4}$;
 Sec. 11, $W\frac{1}{2}W\frac{1}{2}$;
 Sec. 14, $NW\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, and $SW\frac{1}{4}$;
 Sec. 23;
 Sec. 26, $N\frac{1}{2}N\frac{1}{2}$ and $S\frac{1}{2}NW\frac{1}{4}$.
- T. 15 N., R. 90 W.,
 Sec. 1, lots 5 to 8, incl., $SW\frac{1}{4}NE\frac{1}{4}$, and $S\frac{1}{2}NW\frac{1}{4}$;
 Sec. 2, lots 5 to 8, incl., $S\frac{1}{2}N\frac{1}{2}$, and $SW\frac{1}{4}$;
 Sec. 11, $W\frac{1}{2}$;
 Sec. 14, $NW\frac{1}{4}NW\frac{1}{4}$ and $SW\frac{1}{4}$;
 Sec. 23, $W\frac{1}{2}W\frac{1}{2}$;
 Sec. 26, $SW\frac{1}{4}NW\frac{1}{4}$ and $W\frac{1}{2}SW\frac{1}{4}$;
 Sec. 27, $S\frac{1}{2}N\frac{1}{2}$, $SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, and $NE\frac{1}{4}-SE\frac{1}{4}$;
 Sec. 28, $NW\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}N\frac{1}{2}$, $E\frac{1}{2}SW\frac{1}{4}$, and $SE\frac{1}{4}$;
 Sec. 35, $W\frac{1}{2}W\frac{1}{2}$.
- T. 13 N., R. 91 W.,
 Sec. 9, $W\frac{1}{2}W\frac{1}{2}$;
 Sec. 11, $NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, and $NE\frac{1}{4}SE\frac{1}{4}$;
 Sec. 14, $W\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}$, and $SE\frac{1}{4}$;
 Sec. 15, $NE\frac{1}{4}$ and $E\frac{1}{2}SE\frac{1}{4}$;
 Sec. 21, $W\frac{1}{2}$;
 Sec. 22, $N\frac{1}{2}NE\frac{1}{4}$.
- T. 14 N., R. 91 W.,
 Secs. 5, 8, and 17;
 Sec. 18, $W\frac{1}{2}W\frac{1}{2}$;
 Sec. 19, $W\frac{1}{2}W\frac{1}{2}$;
 Sec. 20;
 Sec. 28, $W\frac{1}{2}$;
 Sec. 30, $W\frac{1}{2}$.
- T. 15 N., R. 91 W.,
 Secs. 17, 20, 29, and 32.
- T. 16 N., R. 91 W.,
 Sec. 2;
 Sec. 10, $E\frac{1}{2}$;
 Sec. 11, $W\frac{1}{2}$;
 Sec. 14, $NW\frac{1}{4}$ and $W\frac{1}{2}SW\frac{1}{4}$;
 Sec. 15, $E\frac{1}{2}$;
 Sec. 22;
 Sec. 27, $NW\frac{1}{4}$;
 Sec. 28, $NE\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, and $NW\frac{1}{4}$;
 Sec. 29, $N\frac{1}{2}$.
- T. 17 N., R. 91 W.,
 Sec. 25, $E\frac{1}{2}$, $E\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, and $SW\frac{1}{4}$.
- T. 15 N., R. 94 W.,
 Secs. 1 to 3, incl.;
 Sec. 4, lots 1 to 4 incl., $SW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, and $S\frac{1}{2}$;
 Secs. 5 and 6.
- T. 15 N., R. 95 W.,
 Secs. 1 to 6, incl.
- T. 15 N., R. 96 W.,
 Secs. 1 to 6, incl.
- T. 15 N., R. 97 W.,
 Secs. 1 and 11.

The areas described aggregate approximately 38,537 acres.

2. The lands in T. 15 N., Rs. 94, 95, 96, and 97 W., (12706 acres) are withdrawn by Executive Order No. 5327 of April 15, 1930, for preservation of their oil shale deposits.

3. Lot 9, section 6, T. 16 N., R. 84 W., is patented.

4. The remaining lands are in part included in Coal Land Withdrawal No. 1, created by the Executive order of July 13, 1910.

5. The lands are located in southwestern Carbon County and adjoining parts of southeastern Sweetwater County, Wyoming. The region consists of rugged, stream-cut canyons and mesa-butte topography, typical of arid areas. Vegetative cover varies, all vegetative

No. 250—3

types being dominated by big sagebrush, associated in some cases with grasses and in other cases with desert shrubs.

6. Subject to any valid existing rights and the requirements of applicable law, the lands described in paragraph 1 of this order, excepting those described in paragraphs 2 and 3 hereof, are hereby opened to filing of applications, selections, and locations in accordance with the following, the coal lands referred to in paragraph 4, having previously been made subject to entry and selection with a reservation to the United States of their coal deposits by the act of June 22, 1910 (36 Stat. 583; 30 U.S.C. 83), as amended. Any disposals of such coal lands, therefore, shall continue to be subject to the reservation required by the said act of June 22, 1910, supra:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph:

(2) Until 10:00 a.m. on June 20, 1961, the State of Wyoming shall have a preferred right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), and the regulations in 43 CFR.

(3) All valid applications and selections under the nonmineral public land laws other than any from the State of Wyoming, presented prior to 10:00 a.m. on June 20, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

7. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims, must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

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

GEORGE W. ABBOTT,
 Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. 60-11918; Filed, Dec. 23, 1960; 8:46 a.m.]

[Public Land Order 2234]

[1960439]

UTAH

Revoking Public Land Order No. 221 of April 7, 1944

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

1. Public Land Order No. 221 of April 7, 1944, reserving the following described lands for use in connection with the prosecution of the war is hereby revoked:

SALT LAKE MERIDIAN

T. 37 S., R. 21 E.,
 Sec. 3, $SW\frac{1}{4}$, unsurveyed;
 Sec. 10, $NW\frac{1}{4}$, unsurveyed.

Aggregating 320 acres.

2. Subject to any existing valid rights and the requirements of applicable law, the lands are hereby opened to filing of such applications, selections, and locations as may be made for unsurveyed lands in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Until 10:00 a.m. on June 20, 1961, the State of Utah shall have a preferred right of application to select the lands in accordance with and subject to the provisions or subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851).

(2) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(3) All valid applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws presented prior to 10:00 a.m. on January 25, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

b. The lands will be open to location under the United States mining laws, beginning 10:00 a.m. on June 20, 1961.

Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Salt Lake City, Utah.

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. 60-11919; Filed, Dec. 23, 1960;
8:46 a.m.]

[Public Land Order 2235]

[Anchorage 050396]

ALASKA

Partly Revoking Executive Order No. 4257 of June 27, 1925

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

1. Executive Order No. 4257 of June 27, 1925, which withdrew public lands in Alaska for lighthouse purposes, is hereby revoked so far as it affects the following-described lands:

Parcel 18

Halibut Cove, Kachemak Bay, Cook Inlet, Alaska, shown on U.S. Coast and Geodetic Survey Chart No. 8554, Sheet No. 17:

All of Ismallof Island (Approx. Long. 161° 14' W., Lat. 59° 35½' N.), except the northeast point of land containing the Halibut Cove Light and being that part lying east of the easterly boundary of U.S. Survey No. 1540.

The areas described aggregate approximately 49 acres.

Parcel 35

Puffin Island, Chiniak Bay, Alaska, shown on U.S. Coast and Geodetic Survey Chart No. 8570, Sheet No. 33. Island about 2 nautical miles 206° true from the town of Kodiak; including adjacent rocks and reefs not covered at low water. (Approx. Long. 152°26½' W., Lat. 57°45' N.)

The area described contains approximately 3 acres.

2. In Parcel 18, the following-described lands, totaling 61.04 acres, have been patented: U.S. Survey No. 1380; U.S. Survey No. 1540; U.S. Survey No. 1541. The following are included in Color-of-Title Claims: U.S. Survey No. 1542 (Anchorage 045501); U.S. Survey No. 1543 (Anchorage 044985; Anchorage 045638). Parcel 35 is withdrawn by Executive Order No. 8278 of October 28, 1939, as amended, for

use of the Department of the Navy, for military purposes.

3. Ismallof Island is situated off-shore of Halibut Cove in Kachemak Bay, approximately 10 miles southeast of the Homer Spit.

4. Subject to any valid existing rights and the requirements of applicable law, the unreserved, unappropriated public lands are hereby opened to settlement, and to filing of applications, selections and locations as are allowable on unsurveyed lands, in accordance with the following:

a. Applications and selections under the nonmineral public land laws, may be presented to the Manager mentioned below beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) Until 10:00 a.m. on March 22, 1961, the State of Alaska shall have a preferred right of application to select the lands in accordance with and subject to the provisions of the Act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b), and section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339).

(3) All valid applications and selections under the nonmineral public land laws other than from the State of Alaska presented prior to 10:00 a.m. on January 25, 1961, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral leasing laws. They will be open to settlement under the homestead and Alaska homesite laws, and location under the United States mining laws, beginning at 10:00 a.m. on March 22, 1961.

5. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

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

GEORGE W. ABBOTT,
Assistant Secretary of the Interior.

DECEMBER 20, 1960.

[F.R. Doc. 60-11920; Filed, Dec. 23, 1960;
8:46 a.m.]

Title 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 859; General Order 69, Amdt. 2]

PART 226—FREE TIME AND DEMURRAGE CHARGES ON IMPORT PROPERTY APPLICABLE TO ALL COMMON CARRIERS BY WATER

Interpretation and Discontinuance of Rule Making Procedure

The procedure instituted by notice of proposed rule making in the above subject matter under Docket No. 859, which appeared in the FEDERAL REGISTER issue of July 25, 1959 (24 F.R. 5973), is hereby discontinued.

Part 226 is hereby amended by adding the following new section and center heading:

INTERPRETATION

§ 226.2 Applicability of decision and order.

This part is interpreted by the Federal Maritime Board to bar common carriers by water from assessing demurrage or storage charges against import property at New York for any period during which they are unable to deliver such property because of a strike by longshoremen, regardless of whether the cargo has been made available for delivery during the entire prescribed period of free time.

By order of the Federal Maritime Board.

Dated: December 15, 1960.

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

THOMAS LISI,
Secretary.

[F.R. Doc. 60-11930; Filed, Dec. 23, 1960;
8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T.P. Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL]

CHARLES I. FOX,
Acting Commissioner of
Internal Revenue.

The following regulations are hereby prescribed under section 381(c)(11) (contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans) and (20) (carryover of unused pension trust deductions in certain cases). The regulations under section 381(c)(11) shall apply to liquidations and reorganizations, the tax treatment of which is determined under the Internal Revenue Code of 1954. The regulations under section 381(c)(20) are applicable with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

Sec.

1.381(c)(11) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

1.381(c)(11)-1 Contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

1.381(c)(20) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; carryover of unused pension trust deductions in certain cases.

§ 1.381(c)(11) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

(11) *Contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.* The acquiring corporation shall be considered to be the distributor or transferor corporation after the date of distribution or transfer for the purpose of determining the amounts deductible under section 404 with respect to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

§ 1.381(c)(11)-1 *Contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.*

(a) *Carryover requirement.* Section 381(c)(11) provides that, for purposes of determining amounts deductible under section 404 for any taxable year, the acquiring corporation shall be considered after the date of distribution or transfer to be the distributor or transferor corporation in respect of any pension, annuity, stock bonus, or profit-sharing plan.

(b) *Nature of carryover.* (1) Primarily, section 381(c)(11) and this section apply to the amount of any unused deductions or excess contributions carryovers which, in the absence of the transaction causing section 381 to apply, would have been available to the distributor or transferor corporation under section 404. Thus, for example, this section applies to unused deductions under a profit-sharing or stock bonus trust which, in accordance with the second sentence of section 404(a)(3)(A) and § 1.404(a)-9, would have been available in succeeding taxable years to the transferor corporation if the transfer of assets to the acquiring corporation had not occurred.

(2) Section 381(c)(11) also permits or requires the acquiring corporation to be treated as though it were the distributor or transferor corporation for the purpose of satisfying any conditions which would have been required of the distributor or transferor corporation in the absence of the distribution or transfer, so that it may be determined whether the distributor or transferor corporation, or the acquiring corporation, is entitled to take a deduction under section 404 in respect of a trust or plan

established by the distributor or transferor corporation. Thus, for example, in a case when the taxable year of the transferor corporation ends on the date of transfer pursuant to section 381(b)(1), that corporation is entitled, pursuant to the provisions of section 404(a)(6) and paragraph (c) of § 1.404(a)-1, to a deduction in such taxable year for a payment to a qualified trust of that corporation made by the acquiring corporation after the close of such taxable year but within the time specified in section 404(a)(6). In further illustration, if the transferor corporation were to establish a qualified plan, and if the plan were maintained as a qualified plan by the acquiring corporation, then any contributions paid under the plan by the acquiring corporation (other than those which are deductible by the transferor corporation by reason of section 404(a)(6)) would be deductible under section 404 by the acquiring corporation even though the plan were exclusively for the benefit of former employees of the transferor corporation. Also, for example, if the transferor corporation were to adopt an annuity plan during its taxable year ending on the date of transfer, the acquiring corporation would be entitled, subject to the provisions of section 401(b) and § 1.401-5, to amend the plan so as to make it retroactively satisfy the requirements of section 401(a)(3), (4), (5), and (6) for the period beginning with the date on which the plan was put into effect.

(c) *Taxable year of deduction.* The first taxable year of the acquiring corporation in which any amount shall be allowed as a deduction to that corporation by reason of section 381(c)(11) and this section shall be its first taxable year ending after the date of distribution or transfer.

(d) *Requirements for deductions.* (1) In order for any amount paid by the acquiring corporation (other than amounts deductible under section 404(a)(5)) to be deductible by the acquiring corporation by reason of this section in respect of a trust or nontrusteed annuity plan which is established by a distributor or transferor corporation and maintained by the acquiring corporation, the contributions must be paid (or deemed to have been paid under section 404(a)(6)) by the acquiring corporation in a taxable year of that corporation which ends with or within a year of the trust for which it is exempt under section 501(a), or, in the case of a nontrusteed annuity plan, for which it meets the requirements of section 404(a)(2). See, however, section 404(a)(4) and § 1.404(a)-11 for rules relating to deductions for contributions to foreign-situs trusts. The trust or plan which is established by the distributor or transferor corporation and maintained by the acquiring

PROPOSED RULE MAKING

corporation may separately satisfy the requirements of section 401(a) or section 404(a)(2) or may, together with other trusts or plans of the acquiring corporation, constitute a single plan which qualifies under section 401(a) or meets the requirements of section 404(a)(2).

(2) Excess contributions paid under a qualified trust or plan established by the transferor or distributor corporation may be carried over and, subject to the applicable limitations, deducted by the acquiring corporation in a taxable year ending after the date of distribution or transfer regardless of whether the trust is exempt, or the plan meets the requirements of section 404(a)(2), during such taxable year. There are, however, special rules for computing the limitations on the amount of excess contributions which are deductible in a taxable year ending after the trust or plan has terminated (see § 1.404(a)-7, paragraph (e) of § 1.404(a)-9, and paragraph (a) of § 1.404(a)-13). For this purpose, the pension, annuity, stock bonus, or profit-sharing plan of the distributor or transferor corporation under which the excess contributions were made shall be considered continued (and not terminated) by the acquiring corporation if, after the date of distribution or transfer, the acquiring corporation continues the plan as a separate and distinct plan of its own which continues to qualify under section 401(a), or to meet the requirements of section 404(a)(2), or consolidates or replaces that plan with a comparable plan. See subparagraph (4) of this paragraph for rules relating to what constitutes a "comparable" plan.

(3) In order for any amount paid by the acquiring corporation to be deductible by the acquiring corporation as an unused deduction carried over from a qualified profit-sharing or stock bonus trust established by a distributor or transferor corporation, the acquiring corporation must continue such trust established by the distributor or transferor corporation as a separate and distinct trust of its own which continues to qualify under section 401(a), or must consolidate or replace that trust with a comparable trust. In addition to the amount paid by the acquiring corporation will be deductible as an unused deduction carried over from the transferor or distributor corporation only if it is paid into the profit-sharing or stock bonus trust established by the transferor or distributor corporation, or the comparable trust, in a taxable year of the acquiring corporation which ends with or within a year of such trust (or such comparable trust) for which it meets the requirements of section 401(a) and is exempt under section 501(a). See subparagraph (4) of this paragraph for rules relating to what constitutes a "comparable" trust.

(4) For purposes of subparagraphs (2) and (3) of this paragraph, a plan under which deductions are determined pursuant to paragraph (1) or (2) of section 404(a) shall be considered comparable to another plan under which deductions are determined pursuant to

either of those paragraphs, and a plan under which deductions are determined pursuant to paragraph (3) of section 404(a) shall be considered comparable to another plan under which deductions are determined pursuant to such paragraph (3). Thus, a profit-sharing plan (which qualifies under section 401(a)) established by the transferor or distributor corporation shall, for purposes of subparagraphs (2) and (3) of this paragraph, be considered terminated if, after the date of distribution or transfer, the acquiring corporation transfers the funds accumulated under the profit-sharing plan into a pension plan covering the same employees. In such a case, excess contributions paid under the profit-sharing plan by the distributor or transferor corporation may be carried over and deducted by the acquiring corporation in a taxable year ending after the date of distribution or transfer subject to the limitations in section 404(a)(3)(A) computed in accordance with the rules in paragraph (e)(2) of § 1.404(a)-9 for computing limitations when a profit-sharing plan has terminated. On the other hand, unused deductions attributable to the profit-sharing plan may not be carried over and used by the acquiring corporation as a basis for deducting amounts contributed by it to the pension plan.

(e) *Effect of consolidation or replacement of plan on prior contributions.* If a pension, annuity, stock bonus, or profit-sharing plan which was established by a distributor or transferor corporation is terminated after the date of distribution or transfer because of consolidation or replacement with a comparable plan of the acquiring corporation, then the contributions paid to or under its plan by the distributor or transferor corporation on or before the date of distribution or transfer shall not be disallowed under section 404 merely because of the termination of the plan which was established by that corporation, provided that the termination does not cause the plan to fail to qualify under section 401(a).

(f) *Amounts deductible under section 404.* Section 381(c)(11) and this section apply only to amounts which are otherwise deductible under section 404 and the regulations thereunder. See §§ 1.404(a) through 1.404(d)-1. Thus, to be deductible by reason of this section, contributions paid by the acquiring corporation must be expenses which otherwise satisfy the conditions of section 162 (relating to trade or business expenses). No deduction shall be allowed by reason of section 381(c)(11) and this section for a contribution which is allowable under section 162 but is not allowable under section 404. Thus, the acquiring corporation shall not be allowed a deduction by reason of this section in respect of a plan established by a distributor or transferor corporation if the contribution would not otherwise be deductible under section 404 by reason of section 404(c) and § 1.404(c)-1. On the other hand, any unused deductions or excess contributions of a distributor or transferor corporation which are carried over from 1939 Code years shall be

deductible by the acquiring corporation if the requirements of this section, section 404(d), and § 1.404(d)-1 are satisfied.

(g) *Cost of past service credits.* In computing the cost of past service credits under a plan with respect to employees of the distributor or transferor corporation, the acquiring corporation may include the cost of credits for periods during which the employees were in the service of the distributor or transferor corporation.

(h) *Separate carryovers required.* The excess contributions which are available to a distributor or transferor corporation under the provisions of section 404(a)(1)(D) and section 404(a)(3)(A) at the close of the date of distribution or transfer and are carried over to the acquiring corporation under this section shall be kept separate and distinct from each other and from any excess contributions which are available to the distributor or transferor corporation at that time under the provisions of section 404(a)(7) and are carried over to the acquiring corporation under this section. If there are excess contributions carried over to the acquiring corporation from more than one transferor or distributor corporation, the excess contributions of each transferor or distributor corporation shall be kept separate and distinct from those of the other transferor or distributor corporations and, with respect to each such transferor or distributor corporation, shall be kept separate and distinct as provided in the preceding sentence. See, however, paragraph (i) of this section for rules for applying the provisions of section 404(a)(3)(A) when the acquiring corporation maintains two or more profit-sharing or stock bonus trusts, one or more of which was established by a distributor or transferor corporation. The requirements in this paragraph shall apply with respect to any excess contributions which are carried over to the acquiring corporation from a distributor or transferor corporation under the provisions of section 404(d) and this section.

(i) *Limitations applicable to profit-sharing or stock bonus trusts.* When contributions are paid by the acquiring corporation after the date of distribution or transfer to two or more profit-sharing or stock bonus trusts, and one or more of such trusts was established by a distributor or transferor corporation, such trusts shall be considered as a single trust in applying the provisions of section 404(a)(3)(A) under this section. Accordingly, in determining its secondary limitation, and its excess contributions carryover, under section 404(a)(3)(A) and § 1.404(a)-9 in any taxable year ending after the date of distribution or transfer, the acquiring corporation shall take into account its primary limitations, and the deductions allowed or allowable to it, for all prior years under the limitations provided in those sections, and also the primary limitations of, and deductions allowed or allowable to, the distributor or transferor corporation or corporations for all prior years under the limitations provided in those sections.

(j) *Successive carryovers.* The provisions of section 381(c)(11) and this section shall apply to an acquiring corporation which, in a distribution or transfer to which section 381(a) applies, acquires the assets of a distributor or transferor corporation which has previously acquired the assets of another corporation in a transaction to which section 381(a) applies, even though, in computing an unused deductions or excess contributions carryover to the second acquiring corporation, it is necessary to take into account contributions paid by, and limitations applicable to, the first distributor or transferor corporation.

(k) *Information to be furnished by acquiring corporation.* The acquiring corporation shall furnish such information with respect to a plan established by a distributor or transferor corporation as will, consistently with the principles of § 1.404(a)-2, establish that the provisions of section 404 and this section apply. For purposes of this section, the district director may require any other information that he considers necessary to determine deductions allowable under section 404 and this section or qualification under section 401. Any unused deductions or excess contributions carried over from a distributor or transferor corporation pursuant to this section shall be properly identified with the corporation which would have been permitted to use those deductions or contributions in the absence of the transaction causing section 381 to apply.

(l) *Illustration.* The application of this section may be illustrated by the following example:

Example. In 1955, X Corporation, which makes its return on the basis of the calendar year, paid \$400,000 to completely fund past service credits under a qualified pension plan and deducted 10 percent (\$40,000) of that cost in each of the taxable years 1955, 1956, and 1957. The pension plan established by X Corporation had an anniversary date of January 1. On December 31, 1957, on which date the undeducted part of the cost amounted to \$280,000, X Corporation transferred all its assets to Y Corporation in a statutory merger to which section 381 applies. Y Corporation, which also makes its return on the basis of the calendar year, had a qualified pension plan and trust which also had an anniversary date of January 1. Since Y Corporation had many more employees than X Corporation on the date of transfer, it covered the former employees of X Corporation under its own plan. Y Corporation is entitled to deductions under section 404(a)(1)(D) and this section in 1958 and succeeding taxable years, in order of time, with respect to the undeducted balance of \$280,000, to the extent of the difference between the amount paid and deductible by that corporation in each such taxable year and the maximum amount deductible by that corporation for such taxable year in accordance with the applicable limitations of section 404(a)(1). In computing the maximum amount deductible by Y Corporation for 1958 and 1959 under section 404(a)(1)(C), that corporation may include \$40,000 for each year, the amount that X Corporation could have included for each of those years in computing the maximum amount that would have been deductible by X Corporation under section 404(a)(1)(C) if the merger had not occurred. Thus, assuming that Y Corporation's appropriate limitation so computed under section 404(a)(1)(C) is \$1,000,000 (including the \$40,000 carried over

from X Corporation under this section) for each of those taxable years, and that Y Corporation contributed \$925,000 to its trust in 1958 and \$975,000 in 1959, then Y Corporation is entitled under section 404(a)(1)(D) and this section to deduct in 1958 \$75,000, and in 1959 \$25,000, of the amount (\$280,000) carried over from X Corporation. The undeducted balance of such amount (\$180,000) available to Y Corporation on December 31, 1959, would be deductible by that corporation in succeeding taxable years in accordance with section 404(a)(1)(D) and this section.

§ 1.381(c)(20) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; carryover of unused pension trust deductions in certain cases.

Sec. 381. Carryovers in certain corporate acquisitions. * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

(20) *Carry-over of unused pension trust deductions in certain cases.* Notwithstanding the other provisions of this section, or section 394(a), a corporation which has acquired the properties and assumed the liabilities of a wholly owned subsidiary shall be considered to have succeeded to and to be entitled to take into account contributions of the subsidiary to a pension plan, and shall be considered to be the distributor or transferor corporation after the date of distribution or transfer (but not for taxable years with respect to which this paragraph does not apply) for the purpose of determining the amounts deductible under section 404 with respect to contributions to a pension plan if—

(A) The corporate laws of the State of incorporation of the subsidiary required the surviving corporation in the case of merger to be incorporated under the laws of the State of incorporation of the subsidiary, and

(B) The properties were acquired in a liquidation of the subsidiary in a transaction subject to section 112(b)(6) of the Internal Revenue Code of 1939.

[Sec. 381(c)(20) as added by sec. 1, Act of Jan. 28, 1956 (Pub. Law 396, 84th Cong., 70 Stat. 7)]

[F.R. Doc. 60-11945; Filed, Dec. 23, 1960; 8:48 a.m.]

[26 CFR (1954) Part 47]

DOCUMENTARY STAMP TAXES

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his re-

quest, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL]

CHARLES I. FOX,
*Acting Commissioner of
Internal Revenue.*

The following regulations, relating to documentary stamp taxes, are hereby prescribed under chapter 34 of the Internal Revenue Code of 1954, as amended, and under those administrative provisions of subtitle F of the Code which have special application to the taxes imposed by such chapter 34. The regulations, except where otherwise specifically provided, are applicable in respect of transactions occurring on or after January 1, 1959, and supersede § 148.1-1 of the Regulations on Certain Excise Tax Matters under Excise Tax Technical Changes Act of 1958 (26 CFR 148.1-1).

Subpart A—Introductory Provisions

Sec.
47.0-1 Introduction.
47.0-2 General definitions and use of terms.
47.0-3 Scope of regulations.
47.0-4 Extent to which the regulations in this part supersede prior regulations.

Subpart B—Tax on Issuance of Capital Stock and Similar Interests

47.4301 Statutory provisions; imposition of tax.
47.4301-1 Imposition of tax on original issue of stock.
47.4301-2 Illustrations.
47.4302 Statutory provisions; stock issued in recapitalization.
47.4302-1 Limitation on tax in case of recapitalization.
47.4303 Statutory provisions; exemptions.
47.4303-1 Exemptions.
47.4304 Statutory provisions; affixing of stamps.
47.4304-1 Affixing of stamps.
47.4305 Statutory provisions; cross references.
47.4305-1 Cross references.

Subpart C—Tax on Issuance of Certificates of Indebtedness

47.4311 Statutory provisions; imposition of tax.
47.4311-1 Imposition of tax on issuance of certificates of indebtedness.
47.4311-2 Illustrations.
47.4312 Statutory provisions; renewal of certificates of indebtedness.
47.4312-1 Tax on renewal of certificates of indebtedness.
47.4313 Statutory provisions; bond as security for debt.
47.4313-1 Bond as security for debt.
47.4314 Statutory provisions; exemption for certain installment obligations.
47.4315 Statutory provisions; cross references.
47.4315-1 Cross references.

Subpart D—Tax on Sales or Transfers of Capital Stock and Similar Interests

47.4321 Statutory provisions; imposition of tax.
47.4321-1 Imposition of tax.
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Subpart A—Introductory Provisions

§ 47.0-1 Introduction.

(a) *In general.* The regulations in this part (Part 47, Subchapter D, Chapter I, Title 26 (1954) Code of Federal Regulations) are designated "Documentary Stamp Tax Regulations". The regulations relate to the taxes imposed by chapter 34 of the Internal Revenue Code of 1954, as amended, and to certain related administrative provisions of subtitle F of such Code. Chapter 34 of the Code imposes a tax on the issuance and on the sale or transfer of shares or certificates of stock or certificates of indebtedness, on conveyances of realty, and on policies issued by foreign insurers. References in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code, as amended, unless otherwise indicated.

(b) *Division of regulations.* The regulations in this part are divided into 10 subparts. Subpart A contains provisions relating to the arrangement and numbering of the sections of the regulations in this part, general definitions and use of terms, scope of regulations, and the extent to which the regulations in this part supersede prior regulations relating to the excise taxes imposed by chapter 34 of the Internal Revenue Code. The other subparts of the regulations in this part and the subject matter to which they relate are as follows:

Subpart B—Tax on issuance of capital stock and similar interests

Subpart C—Tax on issuance of certificates of indebtedness

Subpart D—Tax on sales or transfers of capital stock and similar interests

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Subpart G—Tax on conveyances

Subpart H—Tax on policies issued by foreign insurers

Subpart I—Miscellaneous provisions applicable to documentary stamp taxes

Subpart J—Administrative provisions applicable to documentary stamp taxes

(c) *Arrangement and numbering.* Each section of the regulations in Subpart B through Subpart J is preceded by the section, subsection, or paragraph of the Internal Revenue Code which it interprets. The sections of the regulations can readily be distinguished from the sections of the Code since—

(1) The sections of the regulations are printed in larger type;

(2) The sections of the regulations are preceded by a section symbol and the part number, arabic numeral 47 followed by a decimal point (§ 47.); and

(3) The sections of the Code are preceded by "Sec.".

Each section of the regulations setting forth law or regulation is designated by a number composed of the part number followed by a decimal point (47.) and the number of the corresponding provision of the Internal Revenue Code. In the case of a section setting forth regulations, this designation is followed by a hyphen (-) and a number identifying such section.

§ 47.0-2 General definitions and use of terms.

(a) *In general.* As used in the regulations in this part, unless otherwise expressly indicated—

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(2) The Internal Revenue Code of 1954 means the Act approved August 16, 1954 (68a Stat.), entitled "An Act to revise the internal revenue laws of the United States", as amended.

(3) District director means district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions

which may be performed by a district director has been delegated to the Director of International Operations.

(4) The terms "stamp tax" and "stamp taxes" generally mean any one or all of the stamp taxes which constitute the subject of the regulations in this part.

(5) The term "documentary stamps" means all stamps issued for use in payment of stamp taxes imposed by chapter 34 of the Internal Revenue Code, including stamps issued by authorized meter machines. See § 47.6301-1.

(6) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

(b) *Cross references.* For other definitions, see section 4381, § 47.4381-1, and section 7701 (§ 47.7701).

§ 47.0-3 Scope of regulations.

The regulations in this part relate to the documentary stamp taxes referred to in subparts B through H (see paragraph (b) of § 47.0-1) and, except where otherwise specifically provided, have application to transactions occurring on or after January 1, 1959. The provisions of the Internal Revenue Code set forth in the regulations in this part are, unless otherwise indicated, provisions of law in effect on January 1, 1959.

§ 47.0-4 Extent to which the regulations in this part supersede prior regulations.

The regulations in this part, with respect to the subject matter within the scope thereof, supersede the Documentary Stamp Tax Regulations contained in Part 43 of this chapter.

Subpart B—Tax on Issuance of Capital Stock and Similar Interests

§ 47.4301 Statutory provisions; imposition of tax.

Sec. 4301 *Imposition of tax.* There is hereby imposed, on each original issue of shares or certificates of stock issued by a corporation (whether on organization or reorganization), a tax at the rate of 10 cents on each \$100 (or major fraction thereof) of the actual value of the certificates (or of the shares where no certificates are issued); except that such rate shall be 4 cents instead of 10 cents in the case of shares or certificates issued by a corporation to which subchapter M of chapter 1 applies for the taxable year during which such share or certificate is issued. The tax imposed by this section shall be computed on the basis of all certificates (or shares) so issued by the corporation on each day.

[Sec. 4301 as amended and in effect Jan. 1, 1959, and as further amended by Act of Apr. 8, 1960 (Pub. Law 86-416, 74 Stat. 36)]

§ 47.4301-1 Imposition of the tax on original issue of stock.

(a) *Scope of tax—(1) In general.* Section 4301 imposes a tax on each original issue of shares or certificates of stock issued by a domestic corporation. See section 4381(b) and paragraph (b) of § 47.4381-1 and section 4381(c) and paragraph (c) of § 47.4381-1, respectively, for definitions of the terms "corporation" and "shares or certificates of

stock". In the case of subscriptions, stock is deemed to be issued when the subscription is accepted. The tax applies to each original issue of the shares or certificates, whether upon organization, reorganization, or otherwise, regardless of the purpose of the issue, the person to whom issued, or the time of delivery. Thus, the tax applies to shares or certificates issued in a recapitalization where the recapitalization results in the dedication of an amount as capital for the first time (see § 47.4302-1).

(2) *Original issue.* An original issue of stock means any issue of shares or certificates of stock which reflects in whole or in part the addition of an amount to the capital stock account.

(b) *Rate and computation of tax—(1) Rate of tax—(i) In general.* Except as otherwise provided in subdivision (ii) of this subparagraph, the rate of tax is 10 cents on each \$100 (or major fraction thereof) of the actual value of the certificates (or of the shares where no certificates are issued).

(ii) *Regulated investment companies.* In the case of shares or certificates issued on or after April 9, 1960, by a corporation to which subchapter M of chapter 1 of the Code applies for the taxable year during which such shares or certificates are issued, the rate of tax is 4 cents on each \$100 (or major fraction thereof) of the actual value of the certificates (or of the shares where no certificates are issued). The term "taxable year", as used in this subdivision, has the same meaning as when used in subchapter M of chapter 1 of the Code and the regulations thereunder. In the case of a newly created company which has filed its notification of registration with the Securities and Exchange Commission pursuant to the provisions of the Investment Company Act of 1940, the 4-cent rate will apply if—

(a) The company has notified its stockholders in writing that it intends to elect to be taxed, for Federal income tax purposes, as a regulated investment company, and

(b) The company qualifies to be taxed as a regulated investment company for the taxable year. If tax is computed at the 4-cent rate in respect of shares or certificates issued by a newly created company, or by a company which qualified as a regulated investment company for one or more taxable years immediately preceding the taxable year in which the shares or certificates were issued, such shares or certificates shall be subject to tax at the 10-cent rate if the company fails to qualify as a regulated investment company for such taxable year.

(iii) *Major fraction.* A major fraction of \$100 is any amount in excess of \$50 and less than \$100.

(2) *Computation of tax—(i) In general.* A single computation of tax must be made with respect to the certificates (and shares which are not represented by certificates) issued by a corporation on each day. The amount of tax imposed under section 4301 in respect of shares or certificates issued by a corporation on a particular day is computed by ascertaining the actual value of all certificates (and shares which are not rep-

resented by certificates) issued on such day and applying to such actual value the applicable rate of tax.

(ii) *Actual value.* (a) In general, the actual value of stock is the fair market value of the stock. Fair market value of stock is considered to be the price agreed upon by the parties to the issuance to be paid for the stock unless the price includes property or services or the issuance transaction is not an arm's length transaction or is subject to special conditions which result in a price not reflecting the value of the stock as such value would be determined by reference to the mean selling price of the stock on the open market or to all the facts and circumstances of the case. In the absence of a price agreed upon by the parties or if the price agreed upon includes property or services, results from a transaction not at arm's length, or is affected by special conditions, the fair market value of each share of stock issued on a particular day shall be considered to be the mean between the high and low selling prices of the stock on the open market for such day. Thus, the price to be paid for stock to be issued by reason of the exercise of a stock option in a case where the option price is less than the mean selling price of the stock on the open market may not be used in ascertaining the value of the stock so issued for the reason that the transaction is subject to special conditions which result in the option price not reflecting the mean selling price of the stock. If the fair market value of the stock cannot be determined by reference to the price of the stock agreed upon by the parties or the mean between the high and low selling prices thereof on the open market, the fair market value shall be determined on the basis of all the facts and circumstances of the particular case.

(b) In the case of a unit offering by a corporation, as, for example, a share of stock and a certificate of indebtedness, the fair market value of the stock shall be considered to be the mean between the high and low selling prices of the stock on the open market for the day of issuance if such stock is being traded on the open market other than as a part of such a unit offering. Thus, the actual value and the face value of the certificate of indebtedness are to be disregarded for purposes of determining the value of the stock. If the fair market value of the stock cannot be determined by reference to the mean between the high and low selling prices thereof on the open market, the fair market value shall be determined on the basis of all the facts and circumstances of the particular case. The provisions of this subdivision (b) shall have application only to shares or certificates of stock, constituting a part of a unit offering, issued on or after the tenth day following the date of publication of the regulations in this part in the FEDERAL REGISTER.

§ 47.4301-2 Illustrations.

(a) *Issues subject to tax.* The following are examples of issues subject to the tax:

(1) Certificates or shares representing beneficial interests in any organization

which is a corporation within the meaning of section 4381(b) or section 7701(a)(3).

(2) Stock issued for property, real or personal, or for the purpose of purchasing a business.

(3) Stock issued by joint-stock land banks.

(4) Stock issued as a dividend. (For limitation of tax, see § 47.4302-1.)

(5) Temporary or interim certificates.

(6) The issue of a fractional share, or a certificate for a fractional share, of stock (see, however, paragraph (b)(6) of this section).

(7) Stock issued upon exercise of a warrant or rights entitling the holder to subscribe for unissued stock (see paragraph (a) of § 47.4321-3).

(8) Stock issued in connection with a consolidation by a consolidated corporation in exchange for stock of the consolidating corporations whether issued directly to the consolidating corporations or to the stockholders of the consolidating corporations (see also paragraph (a)(9) of § 47.4321-2 relating to the imposition of the stock transfer tax where the stock is issued directly to the stockholders). For exemption from tax in respect of issuances of stock to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is affected, see paragraph (d) of § 47.4382-1.

(9) Stock issued in connection with a merger by the continuing corporation whether issued directly to the merging corporation or to the stockholders of the merging corporation (see also paragraph (a)(9) of § 47.4321-2) and stock issued to the stockholders of the continuing corporation in a recapitalization under section 4302 which results in the dedication of an amount as capital which amount is so dedicated for the first time. For exemption from tax in respect of issuances of stock to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is effected, see paragraph (d) of § 47.4382-1.

(10) Stock issued outside the United States by a domestic corporation.

(11) A business property investment certificate, wherein it is certified that the holder thereof is the owner of an interest in certain specified property, legal title to which has been previously conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds.

(12) Stock issued where the capital stock account, although not increased at the time of such issuance, was previously increased by a dedication of an amount as capital for the first time which was not accompanied by an issuance of shares or certificates of stock and with respect to which there has been no other issuance of shares or certificates of stock.

(b) *Issues not subject to tax.* In addition to the various issues specifically exempt under sections 4303 and 4382, the following are examples of issues not subject to the tax:

(1) The issue of warrants or rights to subscribe for unissued stock (see, however, § 47.4321-3).

(2) The issue of certificates of stock in exchange for outstanding certificates representing the same stock as, for instance, to reflect a change in the name of the issuing corporation or to secure several certificates for one certificate, or vice versa.

(3) The issue of voting-trust certificates.

(4) The issue of definitive certificates of stock in exchange for temporary or interim certificates upon the issuance of which the tax has been paid.

(5) The issue of stock in a recapitalization or reorganization where there is no dedication of additional capital, either by transfer of earned surplus or otherwise (see, however, paragraph (b) of § 47.4302-1).

(6) Stock issued on the surrender of fractional shares or certificates for fractional shares of stock (see, however, paragraph (a)(6) of this section).

(7) The issue in the United States of stock of a foreign corporation.

(8) The issue of stock to effect a mere split in outstanding shares without any increase in the issuing corporation's capital stock account. See, however, paragraph (a)(12) of this section.

(9) The issue of one type of stock for another type of stock and in which the new stock does not reflect the addition of an amount to the capital stock account.

§ 47.4302 Statutory provisions; stock issued in recapitalization.

Sec. 4302 *Recapitalization.* In the case of a recapitalization, the tax imposed by section 4301 shall be that proportion of the tax computed on the certificates (or on the shares where no certificates are issued) issued in the recapitalization that (1) the amount dedicated as capital for the first time by the recapitalization, whether by a transfer of earned surplus or otherwise, bears to (2) the total actual value of such certificates or shares issued in the recapitalization.

[Sec. 4302 as amended and in effect Jan. 1, 1959]

§ 47.4302-1 Limitation on tax in case of recapitalization.

(a) *In general.* Where stock is issued in a recapitalization, the tax payable is that proportion of the total tax imposed by section 4301 computed with respect to all the shares or certificates issued in the recapitalization that the amount dedicated as capital for the first time by the recapitalization, whether by a transfer of earned surplus or otherwise, bears to the total actual value of the shares or certificates so issued.

(b) *Dedication of capital for first time.* A tax is not payable with respect to stock issued in a recapitalization unless the recapitalization results in the dedication of an amount as capital which amount is so dedicated for the first time. Thus, where a corporation transferred an amount from the capital stock account to capital surplus in a prior recapitalization, and such corporation in a subsequent or second recapitalization transfers such amount from capital surplus to the capital stock ac-

count under such circumstances that the amount so restored to the capital stock account is clearly identifiable, a tax is not payable with respect to the amount so rededicated as capital. If the amount transferred to the capital stock account from capital surplus cannot be clearly identified as having been previously dedicated to the capital stock account, the portion of the amount so transferred which is attributable to the amount in capital surplus not previously dedicated to capital is considered to be the amount dedicated to capital for the first time, and tax will be imposed with respect thereto. The amount so transferred which is attributable to the amount in capital surplus not previously dedicated to capital is that proportion of the total amount so transferred that the amount in the capital surplus account before such transfer not previously dedicated to capital bears to the total amount in the capital surplus account before such transfer not pre-also payable with respect to a transfer of capital surplus to the capital stock account by way of a recapitalization where the amount so transferred can be clearly identified as not having been previously dedicated as capital.

(c) *Examples of computation of tax in a recapitalization.* The computation of tax in a recapitalization may be illustrated by the following examples:

Example (1). Corporation A has outstanding 10,000 shares of common stock having a stated value of \$50 per share and has an earned surplus of \$1,500,000. Corporation A declares a stock dividend of one share for each share outstanding and issues shares pursuant thereto. As a part of the transaction, \$500,000 is transferred from earned surplus to the capital stock account. The actual value of the 10,000 shares issued in the recapitalization is \$2,000,000, and the tax computed on \$2,000,000 would be \$2,000.

$$\frac{\$500,000}{\$2,000,000} \times \$2,000$$
or \$500 is the portion of the tax computed on the shares issued in the recapitalization which is considered under section 4302 to be attributable to the amount dedicated to capital for the first time. The tax imposed on the shares issued in such recapitalization is, therefore, \$500.

Example (2). Corporation B has outstanding 1,000 shares of no par common stock with a stated value of \$20 per share which is shown in the capital stock account in the amount of \$20,000. Corporation B also maintains an account designated "capital surplus" which consists of \$100,000, of which \$75,000 is attributable to paid-in-surplus and \$25,000 is attributable to a reduction in the capital stock account. Corporation B issues to its shareholders for each share outstanding one additional share of no par common stock and one share of preferred stock having a par value of \$30 per share, for which each shareholder pays the corporation \$5 for each share held by him. As a part of such transaction, the capital stock account is increased to \$60,000, consisting of \$5,000 received from the shareholders, the transfer of \$25,000 from capital surplus, and the transfer of \$10,000 from earned surplus. The stated value of the no par common stock is reduced from \$20 per share to \$15 per share. Since \$75,000 of the amount in the capital surplus account has not been previously dedicated to the capital stock account,

$$\frac{\$75,000}{\$100,000}$$
or $\frac{3}{4}$ of \$25,000 (\$18,750) is the portion of the amount transferred to the capital stock account

from capital surplus considered to be dedicated to capital for the first time. The \$10,000 transferred from earned surplus and the \$5,000 received from shareholders are clearly identified as having never been previously taxed. The total amount, therefore, considered to be dedicated to capital for the first time is \$33,750. The 2,000 shares of stock issued have an actual value of \$130,000, and the tax computed on such amount would be \$130. Applying the formula provided in section 4302,

$$\frac{\$33,750}{\$130,000} \times 130 \text{ or } \$33.75$$

is the portion of the tax computed on all shares issued in the recapitalization which is attributable to the amount dedicated to capital for the first time. The tax imposed on the shares issued in such recapitalization is, therefore, \$33.75.

(d) *Recapitalization as part of other transaction.* Where a recapitalization is effected in connection with, or as part of, some other transaction, for example, an original or an additional issue of stock, a merger, etc., the limitation of the tax payable to the proportion specified in this section applies only to the stock issued in that part of the transaction which constitutes a recapitalization. Thus, where a corporation makes a change in its capital structure by transferring to the capital stock account a portion of its earned surplus and replacing an issue of stock with another issue of stock and at the same time disposes of part of the new stock by sale to underwriters, the tax limitation is applicable only to that portion of the new stock which is issued in exchange for the old stock retired thereby. In such case, the portion of the new stock sold to the underwriters is taxable in its entirety without any adjustment on account of the recapitalization. Similarly, where a corporation retires its preferred stock by transferring to the capital stock account a portion of its earned surplus and issuing common stock in exchange therefor, and such exchange is made in connection with a merger in which the corporation issues common stock also to the former stockholders of the merged company, the tax limitation is applicable only to the common stock issued in exchange for the preferred stock, and the shares or certificates of common stock issued to the former stockholders of the merged company are subject to tax without any adjustment on account of the recapitalization.

§ 47.4303 Statutory provisions; exemptions.

SEC. 4303 Exemptions.—(a) *Common trust funds.* The tax imposed by section 4301 shall not apply to the issue of shares or certificates of a common trust fund, as defined in section 584.

(b) *Pooled investment funds.* The tax imposed by section 4301 shall not apply to the issue of shares or certificates of a fund maintained by a bank exclusively for the collective investment and reinvestment of assets of qualified trusts (within the meaning of section 401, relating to qualified pension, profit-sharing, and stock bonus plans).

(c) *Installment purchases of certain shares or certificates.* The tax imposed by section 4301 shall not apply to shares or certificates issued by a corporation pursuant to an installment purchase agreement which provides that—

(1) The periodic payments by the purchaser will be applied (as received by the corporation) solely to the acquisition of

shares or certificates in specified other corporations (and in specified percentages), and

(2) The corporation will transfer to the purchaser, on or before the termination of the agreement, all shares or certificates in other corporations acquired by it for the purchaser.

For the purposes of the preceding sentence, the term "purchaser" includes a successor in interest of the purchaser.

(d) *Other exemptions.* For other exemptions, see section 4382.

[Sec. 4303 amended and in effect Jan. 1, 1959]

§ 47.4303-1 Exemptions.

(a) *Common trust funds.* For regulations under section 584, see Part 1 of this chapter (Income Tax Regulations).

(b) *Pooled investment funds.* Section 4303(b) exempts from the tax imposed by section 4301 the issue of shares or certificates of stock of a fund maintained by a bank exclusively for the collective investment and reinvestment of assets of trusts which are qualified trusts within the meaning of section 401, relating to qualified pension, profit-sharing, and stock bonus plans. The exemption applies to such issue of shares or certificates regardless of the capacity in which the bank holds those assets of the qualifying trusts which have been pooled for the purpose of collective investment or reinvestment. For regulations under section 401, see Part 1 of this chapter (Income Tax Regulations).

(c) *Installment purchases of certain shares or certificates.* Section 4303(c) exempts from the tax imposed by section 4301, under certain circumstances, shares or certificates of stock issued by a corporation pursuant to an installment purchase agreement. The exemption has application only if the installment purchase agreement provides that:

(1) The periodic payments required to be made by the purchaser under the installment purchase agreement will be applied, as received by the corporation, solely to the acquisition of shares or certificates of stock in other corporations which are designated in the agreement and that the periodic payments will be so applied in accordance with the specified percentages set forth in the agreement, and

(2) The corporation, on or before the termination of the installment purchase agreement, will transfer to the purchaser all shares or certificates of stock in the designated corporations which were acquired by it for such purchaser pursuant to such agreement.

The exemption will have application only if all of the foregoing conditions are met. The exemption will not apply, for example, if the corporation has an option, under the installment purchase agreement or otherwise, to distribute cash in lieu of the stock purchased for the purchaser. However, the exemption will apply if the purchaser has the option to receive cash in lieu of the stock purchased for him. For purposes of subparagraph (1) of this paragraph, periodic payments will be considered as being applied "solely to the acquisition of shares or certificates of stock in other corporations" notwithstanding that the

agreement authorizes the corporation to apply a portion of such payments to cover loading charges or to retain amounts insufficient to purchase a full share of stock. For purposes of section 4303(c) and this paragraph, the term "purchaser" includes a successor in interest of the purchaser.

§ 47.4304 Statutory provisions; affixing of stamps.

SEC. 4304 Affixing of stamps. The stamps representing the tax imposed by section 4301 shall be affixed to the stock books or corresponding records of the organization and not to the certificates issued.

[Sec. 4304 as originally enacted and in effect Jan. 1, 1959]

§ 47.4304-1 Affixing of stamps.

(a) *Documentary stamps.* Only documentary stamps shall be used in payment of the tax imposed by section 4301. The requisite stamps shall be affixed to the stock books or corresponding records of the corporation, and not to the certificates issued. See §§ 47.6804-1 and 47.6804-2 for appropriate use, denominations, and cancellation of such stamps.

(b) *Purchase of documentary stamps.* Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802-1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801-1.

§ 47.4305 Statutory provisions; cross references.

SEC. 4305 Cross references. For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4381 and 4384 and subtitle F.

[Sec. 4305 as amended and in effect Jan. 1, 1959]

§ 47.4305-1 Cross references.

(a) For definitions, see section 4381, § 47.4381-1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271-1.

(c) For other general and administrative provisions, see section 4384, § 47.4384-1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart C—Tax on Issuance of Certificates of Indebtedness

§ 47.4311 Statutory provisions; imposition of tax.

SEC. 4311 Imposition of tax. There is hereby imposed, on all certificates of indebtedness issued by a corporation, a tax at the rate of 11 cents on each \$100 of face value or fraction thereof.

[Sec. 4311 as amended and in effect Jan. 1, 1959]

§ 47.4311-1 Imposition of tax on issuance of certificates of indebtedness.

(a) *Scope of tax.* Section 4311 imposes a tax on the issue within the territorial jurisdiction of the United States

by any corporation of certificates of indebtedness as defined in section 4381(a) and paragraph (a) of § 47.4381-1. See section 4381(b) and paragraph (b) of § 47.4381-1 for definition of the term "corporation". Every renewal of a certificate of indebtedness is subject to tax as a new issue (see § 47.4312-1). A certificate of indebtedness is issued within the meaning of the law at the time it is delivered so as to constitute an obligation of the issuer.

(b) *Rate and computation of tax.* The rate of tax is 11 cents on each \$100 or fraction thereof of the face value of each certificate of indebtedness; except that, where a certificate conditioned for the repayment or payment of money is given in a penal sum, greater than the debt secured, the tax is based upon the amount secured (see section 4313). A separate computation of tax must be made with respect to each certificate of indebtedness regardless of the number of certificates which may be issued in a single transaction. For example, the tax on the issuance of a certificate having a face value of \$1,000 is \$1.10. The tax on the issuance of 2 certificates having a face value of \$50 each is 22 cents, that is, 11 cents on each certificate, whether the certificates are issued to the same person or to different persons.

(c) *Affixing of stamps.* (1) The requisite documentary stamps shall be affixed either to the certificates of indebtedness or to the indenture or agreement under which they are issued. If the stamps are affixed to the indenture or agreement, the certificate must bear a legend showing that the proper documentary stamps have been affixed to the indenture or agreement and duly cancelled. If the indenture provides for the issue of certificates over a period of years, the requisite stamps may be affixed at the time of each issue. Only documentary stamps shall be used in payment of the tax imposed by section 4311. See §§ 47.6804-1 and 47.6804-2 for the appropriate use, denominations, and cancellation of such stamps.

(2) Documentary stamps may be purchased, and requisitions for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802-1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801-1.

§ 47.4311-2 Illustrations.

(a) *Issues subject to tax.* The following are examples of corporate instruments taxable upon issue:

(1) A bond secured by a real estate mortgage.

(2) A bond delivered to a bank or trust company as security for the payment of an obligation.

(3) Bonds executed outside the United States by a foreign corporation and delivered in the United States.

(4) Interim certificates or temporary bonds issued in lieu of definitive bonds. However, no additional tax is due on the

issuance of the corresponding permanent or definitive bonds, but each of such permanent or definitive bonds must bear notation of the fact that requisite stamps were duly affixed to the interim certificates or temporary bonds or to the indenture or agreement under which such interim certificates or temporary bonds were issued.

(5) Equipment trust certificates.

(6) Any certificate of indebtedness issued by any receiver, trustee in bankruptcy, assignee, or other person, having custody of property, or charge of the affairs of any corporation (see section 4381(b)).

(b) *Issues not subject to tax.* In addition to the various issues specifically exempt under sections 4314(a) and 4382, the following are examples of instruments not taxable upon issue:

(1) An instrument issued by an individual or partnership.

(2) An instrument merely representing the assignment of an interest in a bond (see, however, § 47.4331-1 and paragraph (b) of § 47.4351-1).

(3) Bonds issued in exchange for outstanding bonds of different denominations but of the same kind, the same total face amount, and the same maturity date.

(4) Permanent or definitive bonds issued in exchange for interim certificates or temporary bonds representing the same obligation (see, however, paragraph (a) (4) of this section).

(5) A certificate of deposit issued by a bank, whether or not negotiable, and whether payable on demand or at some specified time; and a certificate of deposit issued by an organization operating under the Morris Plan.

(6) Indemnity, fidelity, and surety bonds.

(7) A business property investment certificate, wherein it is certified that the holder thereof is the owner of an interest in certain specified property, legal title to which has been previously conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds. However, such instrument is subject to the tax imposed by section 4301 (see paragraph (a) (11) of § 47.4301-2).

(8) A bond issued by a trust company on behalf of the estate of a decedent for which it is acting as executor or administrator, provided the certificate is issued solely on the credit of the estate.

(9) A warrant granting the right to purchase unissued bonds (see § 47.4331-3).

§ 47.4312 Statutory provisions; renewal of certificates of indebtedness.

SEC. 4312 *Renewals.* Every renewal of any certificate of indebtedness shall be taxed as a new issue.

[Sec. 4312 as redesignated and in effect Jan. 1, 1959]

§ 47.4312-1 Tax on renewal of certificates of indebtedness.

Every renewal of a certificate of indebtedness is subject to the tax imposed by section 4311 as a new issue. Whenever there is such a material change in the obligation as to constitute a new obligation, as, for example, an exten-

sion of maturity date or a change in the interest rate of the outstanding certificate of indebtedness, such change constitutes a renewal subject to tax as a new issue. The time when the original certificate was issued is immaterial.

Likewise, the time when the certificate is renewed, whether before or after the original date of maturity, is immaterial. A tax liability is not dependent upon use of any particular form of instrument to effect the renewal. The renewal may, for example, be evidenced by a notation on the original certificate, by a collateral agreement, or by an extension agreement.

§ 47.4313 Statutory provisions; bond as security for debt.

SEC. 4313 *Bond as security for debt.* In the case where a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax imposed by section 4311 shall be based upon the amount secured.

[Sec. 4313 as redesignated and in effect Jan. 1, 1959]

§ 47.4313-1 Bond as security for debt.

For the effect of section 4313 on the computation of the tax, see paragraph (b) of § 47.4311-1.

§ 47.4314 Statutory provisions; exemption for certain installment obligations.

SEC. 4314 *Exemptions*—(a) *Installment purchase of obligations.* The tax imposed by section 4311 shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 percent of the cash amount to which entitled upon maturity of the instrument.

(b) *Other exemptions.* For other exemptions, see section 4382.

[Sec. 4314 as redesignated and in effect Jan. 1, 1959]

§ 47.4315 Statutory provisions; cross references.

SEC. 4315 *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4381 and 4384 and subtitle F.

[Sec. 4315 as redesignated and amended and in effect Jan. 1, 1959]

§ 47.4315-1 Cross references.

(a) For definitions, see section 4381, § 47.4381-1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271-1.

(c) For other general and administrative provisions, see section 4384, § 47.4384-1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart D—Tax on Sales or Transfers of Capital Stock and Similar Interests

§ 47.4321 Statutory provisions; imposition of tax.

SEC. 4321 *Imposition of tax.* There is hereby imposed on each sale or transfer of shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, issued by a corporation, a tax at the rate of 4 cents on each \$100 (or major

fraction thereof) of the actual value of the certificates, of the shares where no certificates are sold or transferred, or of the rights, as the case may be. In no case shall the tax so imposed on any such sale or transfer be—

- (1) More than 8 cents on each share, or
- (2) Less than 4 cents on the sale or transfer.

[Sec. 4321 as amended and in effect Jan. 1, 1959, and as further amended by sec. 5(a), Act of Sept. 21, 1959 (Pub. Law 86-344, 73 Stat. 619)]

§ 47.4321-1 Imposition of tax.

(a) *Scope of tax.* Section 4321 imposes a tax on each sale or transfer (as defined in section 4351(b)), within the territorial jurisdiction of the United States of shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, issued by a corporation. As to sales or transfers of warrants to subscribe for or to purchase stock, see § 47.4321-3. The tax applies to the specified dealings or transactions in stock, whether occurring before, after, or without the issuance of a certificate. The tax attaches at the time of making the sale or transfer, regardless of the time or manner of delivery of the certificate, agreement, or memorandum of sale. For requirements as to the making and keeping of records of such sales or transfers, see §§ 47.4352-1 and 47.6001-1. See section 4381 and § 47.4381-1 for definitions of the terms "corporation" and "shares or certificates of stock". For purposes of the tax imposed by section 4321, the term "stock", as used in the regulations in this part, includes shares or certificates of stock and rights to subscribe for or to receive such shares or certificates.

(b) *Rate and computation of tax—*
 (1) *Computation.* Where, by sale or transfer, stock of the same class issued by one corporation is transferred from a single transferor to a single transferee, the tax is computed on the basis of the aggregate actual value of all the shares transferred. Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of the stock of two or more corporations or of two or more classes issued by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee and with respect to the stock of each corporation and the stock of each class issued by a single corporation. The foregoing rule may be illustrated by the following examples:

Example (1). A, owning 25 shares of common stock and 25 shares of preferred stock of the X Corporation, and 50 shares of the common stock of the Y Corporation, transfers all the stock by delivering the certificates to B. In this situation, there are three distinct transactions, namely, a transfer of 25 shares of common stock of the X Corporation, a transfer of 25 shares of preferred stock of the X Corporation, and a transfer of 50 shares of common stock of the Y Corporation, and the tax is computed, in the case of each transfer, upon the actual value of the stock.

Example (2). A, owning 100 shares of stock in the X Corporation represented by one or more certificates, sells 50 shares each to B and C. To that end, A sends his certificate or certificates to the transfer agent

with instructions to issue one or more certificates aggregating 50 shares to each purchaser. In this situation, there are two distinct transactions, namely, two sales of 50 shares of stock each, and the tax is computed upon the actual value of the stock transferred to each purchaser.

Example (3). A and B, each owning 50 shares of stock in the X Corporation represented in each case by one or more certificates, make a gift of their stock to C. To that end, they send their certificates to the transfer agent with instructions to issue to the donee one or more certificates for the entire 100 shares. In this situation, there are likewise two distinct transactions, namely, two gifts of 50 shares of stock each, and a separate computation must be made with respect to each gift.

(2) *Rate of tax—*(i) *In general.* The rate of tax applicable to each sale or transfer of shares or certificates of stock or of rights to subscribe for or to receive shares or certificates of stock is 4 cents on each \$100 (or major fraction thereof) of the actual value of the certificates, of the shares where no certificates are sold or transferred, or of the rights. In no case, however, shall the tax imposed on any such sale or transfer be—

(a) More than 8 cents on each share sold or transferred or, in the case of the sale or transfer of rights to subscribe for or to receive shares or certificates of stock, more than 8 cents in respect of each share covered by such rights, or

(b) Less than 4 cents on any one sale or transfer.

(ii) *Exception in the case of rights sold or transferred prior to November 1, 1959.* The rate of tax applicable in respect of any sale or transfer, prior to November 1, 1959, of rights to subscribe for or to receive shares or certificates of stock is 4 cents on each \$100 (or major fraction thereof) of the actual value of the stock to which the rights relate. However, the provisions of subdivision (i) (a) (insofar as they relate to rights) and (b) of this subparagraph are applicable in computing the maximum and minimum amount of tax imposed on any sale or transfer of rights to which this subdivision has application.

(iii) *Major fraction.* A major fraction of \$100 is any amount in excess of \$50 and less than \$100.

(3) *Actual value.* The principles set forth in paragraph (b) (2) (ii) of § 47.4301-1 for determining the actual value of shares or certificates of stock issued are equally applicable for purposes of determining the actual value of shares or certificates of stock, or rights thereto, sold or transferred.

(4) *Examples of computation.* The computation of the tax imposed by section 4321 may be illustrated by the following examples:

Example (1). A sells to B 100 shares of stock of the X Corporation having an actual value of \$10,000 and gives to B 10 shares of stock of the Y Corporation having an actual value of \$2,500. A separate computation must be made with respect to the stock of each corporation. Applying the rate of 4 cents for each \$100 of actual value (or major fraction thereof), the tax on the sale of the X Corporation stock is \$4 (100×\$.04) and the tax on the gift of the Y Corporation stock is \$1.04 (26, applying the major fraction rule, ×\$0.4). Since the application of the 4-cent rate results in tax in excess of 8 cents

per share in the case of the Y Corporation stock (\$1.04÷10), the tax in respect of such stock is computed at the rate of 8 cents per share resulting in tax of \$8.00. Thus, the total tax in respect of the sale and gift of the stock of X Corporation and of Y Corporation is \$4.80.

Example (2). A sells to B 10 shares of stock having an actual value of \$50. Since \$50 does not constitute a major fraction of \$100 the provision of section 4321 imposing a minimum tax of not less than 4 cents on a sale or transfer applies. Accordingly, the tax on the sale of the 10 shares is 4 cents.

(5) *Cross reference.* For provisions relating to the application of the tax imposed by section 4321 in the case of certain changes in a partnership, see section 4383 and § 47.4383-1.

§ 47.4321-2 Illustrations.

(a) *Sales and transfers subject to tax.* The following transfers of stock are illustrations of transactions which are taxable, unless exempt from tax under a specific provision of the Internal Revenue Code (see sections 4322, 4341 to 4344, inclusive, 4382, and 4383(a) with respect to such exemptions):

(1) Transfer by gift.

(2) Transfer by an administrator or executor to a distributee or legatee (see, however, section 4344(b) and paragraph (b) of § 47.4344-1).

(3) Transfer to or by trustees (see, however, section 4343(a) (8)).

(4) Transfer of an interim certificate, a voting trust certificate, or a certificate of beneficial interest in an association.

(5) Transfer from persons holding legal title as tenants in common, as joint tenants, or as tenants by the entirety, to the same persons separately to effect a partition, or from one person to two or more persons, whether or not including the transferor, as tenants in common, as joint tenants, or as tenants by the entirety (see, however, section 4343(a) (9)).

(6) Transfer from a partnership on its termination under section 708; also from a partnership to an individual member thereof upon a dissolution of his interest in the partnership. See § 47.4383-1.

(7) Transfer to a corporation of its own stock (see, however, paragraph (b) (3) of this section).

(8) Transfer upon a merger from the name of a merging corporation of stock owned by it to the name of the continuing corporation. Similarly, upon a consolidation, a transfer from any of the consolidating corporations to the consolidated corporation (see, however, paragraphs (b) (6) and (7) of this section). For exemption from tax in respect of transfers to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is effected, see paragraph (d) of § 47.4382-1.

(9) In addition to the tax on the issuance of stock in connection with a merger or consolidation, where such stock is issued directly to the stockholders of the merging or consolidating corporations by the continuing or consolidated corporation (see paragraphs (a) (8) and (9) of § 47.4301-2), there is also a transfer tax imposed at the time of the is-

suance of such stock. The transfer tax is applicable to such a transaction inasmuch as there is involved the transfer to the stockholders of the merging or consolidating corporations of such corporations' right to receive the stock of the continuing or consolidated corporation. For exemption from tax in respect of transfers to make effective a plan of reorganization or adjustment whereby a mere change in identity, form, or place of organization is effected, see paragraph (d) of § 47.4382-1.

(10) Transfer of stock to another person upon order of the purchaser; transfer of the right to receive a stock dividend already declared; issuance of stock to a person other than the subscriber; all other transfers of rights to receive stock; and all transfers of rights to subscribe for stock.

(11) Transfer by a broker to a customer of stock issued as a dividend on stock purchased for the customer by the broker and held by the broker in his own name or in the name of his nominee.

(12) Transfer of stock on the books of a domestic corporation, regardless of where the sale is made or the stock certificate is delivered.

(13) Sale or transfer within the territorial jurisdiction of the United States of stock of a foreign corporation.

(14) Transfers by operation of law (see, however, § 47.4343-1).

(b) *Sales and transfers not subject to tax.* In addition to the exemptions prescribed in sections 4382 and 4383(a) which apply to documentary stamp taxes generally and to the specific exemptions provided in sections 4322 and 4341 to 4344, inclusive, and the regulations thereunder, the following are examples of transactions not subject to the tax:

(1) Transfer of stock pursuant to a sale, where the requisite stamps have been affixed to the memorandum of sale.

(2) Surrender of certificates in exchange for other certificates representing the same stock issued to the same person (see also paragraph (b)(2) of § 47.4301-2).

(3) Surrender of stock to the issuing corporation for extinguishment (see also paragraph (a)(7) of this section).

(4) Change in the registration of stock for the sole purpose of recording a change in the name of a stockholder, such as from the maiden name to the married name of a stockholder, or a change in the name of a corporation which is a stockholder.

(5) Transfer of stock to or by an insolvent bank, where such transfer is within the provisions of section 7507.

(6) In a consolidation of corporations, the surrender of stock of any of the consolidating corporations in exchange for stock of the consolidated corporation (see, however, paragraph (a)(9) of this section and paragraph (a)(8) of § 47.4301-2).

(7) In a merger of corporations, the surrender of stock of both the merging and the continuing corporations in exchange for stock of the continuing corporation (see, however, paragraph (a)(9) of this section and paragraph (a)(9) of § 47.4301-2).

(8) Deliveries of stock to or by a clearinghouse for the sole purpose of clearing or adjusting accounts of its members.

(9) Transfer of stock pursuant to a call, since a "call" is an agreement to sell stock and taxable as such. However, a person making such nontaxable transfer shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of _____ shares of the within stock to _____ has been made pursuant to a "call", and that the requisite Federal documentary stamps for the transaction are affixed to such "call", which is in the possession of the undersigned.

Signature

(10) The mere delivery of a certificate of stock by a customer to his broker solely for the purpose of enabling such broker to sell the stock for the customer, where the broker has no legal title or other interest in the stock.

(11) The mere delivery of a certificate of stock by a purchasing broker to his customer, if the tax was paid upon the sale of the stock to such broker and such broker has no legal title or other interest in the stock.

§ 47.4321-3 Tax on warrants.

(a) *To subscribe for stock.* Transfers of warrants entitling the holder to subscribe for stock are taxable as transfers of rights to subscribe. For computation of the tax on transfers of rights to subscribe for stock, see paragraph (b) of § 47.4321-1. The issue of a warrant entitling the holder to subscribe for stock is not subject to tax, but the issue of stock upon exercise of the warrant is subject to the tax imposed by section 4301 (see paragraph (a)(7) of § 47.4301-2).

(b) *To purchase issued stock.* (1) Warrants entitling the holder to purchase issued stock are taxable upon issuance as agreements to sell stock (see definition of "sale or transfer" in section 4351(b) and paragraph (b) of § 47.4351-1). The tax imposed by section 4321 is computed on the basis of the actual value of the stock at the time the warrant is issued. The warrant price is not indicative of the actual value to be attributed to the stock for purposes of the tax.

(2) Transfers of warrants entitling the holder to purchase issued stock are not subject to the stamp tax since the statute does not impose a tax on sales or transfers of agreements to sell stock. If the transfer tax is paid upon the issuance of a warrant as an agreement to sell stock, no additional transfer tax is incurred upon the subsequent transfer of the stock pursuant to the exercise of the warrant. However, the person making such exempt transfer of stock shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of the attached certificate for _____ (Number of _____ to _____ shares and description of stock)

_____ is made
(Name of transferee)
pursuant to the exercise of a warrant which is in the possession of the undersigned, and that the requisite stamps due upon the issuance of such warrant have been affixed thereto.

Signature

§ 47.4321-4 Cross references.

(a) *Records of sales and transfers of stock.* For recordkeeping requirements, see § 47.6001-1.

(b) *Registration of nominees.* For provisions with respect to registration of nominees, see paragraph (a) of § 47.4351-1.

(c) *Rules applicable to securities exchanges and clearinghouses.* For rules applicable to securities exchanges and clearinghouses, see § 47.4353-1.

§ 47.4322 Statutory provisions; exemptions.

SEC. 4322 *Exemptions*—(a) *Exemptions for certain transfers.* The tax imposed by section 4321 shall not apply to any delivery or transfer of shares, certificates, or rights—

(1) *Brokers.* To a broker or his registered nominee for sale of such shares, certificates, or rights; by a broker or his registered nominee to a customer for whom and upon whose order the broker has purchased same; or by a purchasing broker to his registered nominee to be held by such nominee for the same purpose as if held by the broker; or

(2) *Nominees of corporations.* From a corporation to a registered nominee of such corporation, or from one such nominee to another such nominee, provided that in each instance such shares, certificates, or rights are to be held by the nominee for the same purpose as if retained by the corporation; or from such nominee to such corporation.

(b) *Certain odd-lot transactions*—(1) *Exemption.* The tax imposed by section 4321 shall not apply to any odd-lot sale by an odd-lot dealer if the shares, certificates, or rights are delivered or transferred to a broker pursuant to an order of a customer of such broker for such shares, certificates, or rights.

(2) *Definitions.* For purposes of paragraph (1)—

(A) The term "odd-lot sale" means an odd-lot transaction under the rules of the securities exchange of which the odd-lot dealer is a member.

(B) The term "odd-lot dealer" means a person who is (i) a member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange, and (ii) registered under the rules of such exchange as an odd-lot dealer or as a specialist.

(c) *Other exemptions.* For other exemptions, see sections 4341, 4342, 4343, 4344, and 4382.

[Sec. 4322 as amended and in effect Jan. 1, 1959]

§ 47.4322-1 Exemptions.

(a) *Transfer from customer to broker.* (1) If stock is transferred to the name of a broker, or to the name of a broker's registered nominee, solely for the purpose of enabling such broker to sell the stock for the customer, the transfer is exempt from tax provided the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 47.4345-1. For provisions relating to the registration of nominees, see paragraph (a) of § 47.4351-1.

(2) A transfer to the name of a selling agent other than a broker, as for

example, a bank, whether the sale be made by the agent direct or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers to brokers (but see paragraph (b) of § 47.4342-1). However, liability is not incurred by the mere delivery of a certificate of stock to an agent who obtains no legal title or other interest in the stock.

(b) *Transfer from broker to customer.* (1) If stock is transferred to the name of a purchasing broker or his registered nominee who holds the stock for the same purpose as if held by the broker and tax on such transfer is paid, transfer may thereafter be made to the name of the purchaser (for whom and upon whose order the broker has purchased such stock) without payment of tax. If the tax was paid upon the transfer to the name of the purchasing broker, transfer may be made to the name of his registered nominee and from such nominee to the name of the purchaser without payment of tax. However, no exemption will be allowed under this paragraph unless the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 47.4345-1. For provisions relating to the registration of nominees, see paragraph (a) of § 47.4351-1.

(2) Delivery to, or transfer to the name of, the customer may not be made tax free in any case in which the stock was transferred from the seller to the broker or his registered nominee without payment of the tax, since the law requires that the tax shall be paid on the transfer or transfers between the actual seller and actual buyer. A transfer from the name of a purchasing agent other than a broker, as, for example, a bank, whether the purchase be made directly or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers from brokers (but see paragraph (b) of § 47.4342-1). However, liability is not incurred by the mere delivery to the principal of a certificate of stock by an agent having no legal title or other interest in the stock, or by a broker for the account of such agent.

(c) *Transfers between corporations and nominees.* The tax does not apply to the delivery or transfer of stock from a corporation to a registered nominee of such corporation, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such corporation; or from such nominee to such corporation. No exemption is granted unless the nominee is registered in the manner provided in paragraph (a) of § 47.4351-1. Nor shall the exemption be granted in any case unless the delivery or transfer is accompanied by an exemption certificate, executed by the person making the exempt transfer, in substantially the form prescribed in § 47.4345-1.

(d) *Certain odd-lot transactions.* The tax imposed by section 4321 shall not apply to any odd-lot sale by an odd-lot dealer if the shares, certificates, or rights

are delivered or transferred to a broker pursuant to an order of a customer of such broker for such shares, certificates, or rights and the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 47.4345-1. Actual physical delivery or transfer of the shares, certificates, or rights sold is not required if the effect of the transaction is a sale to a customer of the broker. Thus, if an odd-lot dealer executes odd-lot purchase and sale orders in a particular stock for a broker pursuant to orders of the broker's customers during a given day and only the net balance of such stock for that day is physically delivered or transferred to the broker, all of the odd-lot sales which contributed to such net balance are exempt. The term "odd-lot sale" means an odd-lot transaction under the rules of the securities exchange of which the odd-lot dealer making the sale is a member. The term "odd-lot dealer" means a person who is (1) a member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange, and (2) registered under the rules of such exchange as an odd-lot dealer or as a specialist.

§ 47.4323 Statutory provisions; affixing of stamps.

SEC. 4323 *Affixing of stamps*—(a) *Books of the corporation.* The stamps representing the tax imposed by section 4321 shall be affixed to the books of the corporation in case of a sale where the evidence of transfer is shown only by the books of the corporation.

(b) *Certification as to value by transferor or transferee.* Where shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, are presented for transfer and the tax thereon is paid by the use of adhesive stamps, such shares, certificates, or rights shall be accompanied by a certification signed by the transferor or his agent or the transferee or his agent as to the actual value of the shares, certificates, or rights so transferred, and any corporation or transfer agent to whom such shares, certificates, or rights are presented shall be entitled to rely on such certification without further inquiry.

(c) *Other evidences of sale or transfer.* For provisions applicable to the affixing of stamps in cases of sale or transfer shown otherwise than only by the books of the corporation, see section 4352.

[Sec. 4323 as amended and in effect Jan. 1, 1959 and as further amended by sec. 5(b), Act of Sept. 21, 1959 (Pub. Law 86-344, 73 Stat. 619)]

§ 47.4323-1 Affixing of stamps.

(a) *Books of the corporation.* (1) Except as provided in section 4353 and § 47.4353-1, only documentary stamps shall be used in payment of the tax imposed by section 4321. In the case of a sale or transfer evidenced only by the books of the corporation or other organization, the requisite stamps shall be affixed to such books. In the case of a sale or transfer evidenced otherwise than only by the books of the corporation or other organization, see section 4352 and § 47.4352-1 for provisions relating to the affixing of the requisite stamps. See also §§ 47.6804-1 and 47.6804-2 for the appropriate use, denominations, and cancellation of such stamps. For pro-

visions relating to payment, through a national securities exchange or a clearinghouse for such exchange, of tax without use of stamps, see § 47.4353-1.

(2) Documentary stamps may be purchased, and requisitions for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802-1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801-1.

(b) *Certification as to value by transferor or transferee.* Where shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, are presented for transfer and the tax thereon is paid by the use of documentary stamps or through a national securities exchange or a clearinghouse for such exchange without the use of stamps (see section 4353(b)), such shares, certificates, or rights shall be accompanied by a certification signed by the transferor or his agent or the transferee or his agent as to the actual value of the shares, certificates, or rights so transferred and any corporation or transfer agent to whom such shares, certificates, or rights are presented shall be entitled to rely on such certification without further inquiry. The certification shall show the basis used for establishing actual value and shall be in substantially the following form:

It is hereby certified that the actual value of the accompanying instrument(s) submitted for transfer is \$-----, as determined by ----- (basis of valuation—sale price, mean selling price on market, etc.)

Signature of transferor, transferee,
or agent of either

§ 47.4324 Statutory provisions; cross references.

SEC. 4324 *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4345, 4351, 4353, 4381, and 4384, and subtitle F.

[Sec. 4324 as amended and in effect Jan. 1, 1959]

§ 47.4324-1 Cross references.

(a) For definitions, see section 4351 and § 47.4351-1, section 4381 and § 47.4381-1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271-1.

(c) For other general and administrative provisions, see section 4345 and § 47.4345-1, section 4352 and § 47.4352-1, section 4353 and § 47.4353-1, section 4384 and § 47.4384-1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart E—Tax on Sales or Transfers of Certificates of Indebtedness

§ 47.4331 Statutory provisions; imposition of tax.

SEC. 4331 *Imposition of tax.* There is hereby imposed, on each sale or transfer of

any certificates of indebtedness issued by a corporation, a tax at the rate of 5 cents on each \$100 or fraction thereof of the face value.

[Sec. 4331 as amended and in effect Jan. 1, 1959]

§ 47.4331-1 Imposition of tax.

(a) *Scope of tax.* Section 4331 imposes a tax on each sale or transfer (as defined in section 4351(b)) within the territorial jurisdiction of the United States of certificates of indebtedness issued by a corporation. See section 4381 and § 47.4381-1 for definitions of the terms "certificates of indebtedness" and "corporation". The tax attaches at the time of making the sale or transfer, regardless of the time or manner of delivery of the certificate or agreement or memorandum of sale. As to sales or transfers of warrants to subscribe for or purchase certificates of indebtedness, see § 47.4331-3. For requirements in respect of records and memoranda of such sales or transfers, see §§ 47.4331-4 and 47.4352-1. For provisions relating to the application of the tax imposed by section 4331 in the case of certain changes in a partnership, see section 4383 and § 47.4383-1.

(b) *Rate and computation of tax.* (1) Where by sale or otherwise certificates of indebtedness of the same issue of a single corporation are transferred by a single transferor to a single transferee, the tax is 5 cents on each \$100 of face value, or fraction thereof, of the aggregate face value of all the certificates. Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of certificates of two or more corporations or of two or more classes issued by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee, and with respect to the certificates of each corporation and of the certificates of each class issued by a single corporation. The foregoing rule may be illustrated by the following examples:

Example (1). M, owning 25 class A bonds of the X Corporation and 25 class B bonds of the same corporation, and 50 class A bonds of the Y Corporation, transfers all the bonds to N. In this situation there are three taxable transfers, and a separate tax computation must be made with respect to the aggregate face value of the bonds involved in each.

Example (2). M, owning 100 class A bonds of the X Corporation, sells 50 bonds to N and 50 bonds to O. In this situation, there are two sales of 50 bonds each, and the tax is measured by the aggregate face value of the bonds sold to each purchaser.

Example (3). A husband and wife, each owning \$50,000 face amount of class A bonds of the X Corporation, simultaneously give their bonds to their son. In this situation, there are two gifts, and a separate computation must be made with respect to the aggregate face value of the bonds included in each gift.

(2) The separate tax computation required will result in a difference in the amount of tax only where the face value of the certificates transferred is not \$100 or multiples thereof.

(c) *Affixing of stamps.* (1) Except as provided in section 4353 and § 47.4353-1,

only documentary stamps shall be used in payment of the tax imposed by section 4331. For provisions relating to the affixing of the requisite stamps in case of a sale or transfer of certificates of indebtedness, see section 4352 and § 47.4352-1. See also §§ 47.6804-1 and 47.6804-2 for the appropriate use, denominations, and cancellation of such stamps. For provisions relating to payment, through a national securities exchange or a clearinghouse for such exchange, of tax without use of stamps, see § 47.4353-1.

(2) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802-1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801-1.

§ 47.4331-2 Illustrations.

(a) *Sales and transfers subject to tax.* The tax on sales or transfers of certificates of indebtedness imposed by section 4331 is similar in scope to the tax on stock transfers imposed by section 4321. Accordingly, the various examples set forth in paragraph (a) of § 47.4321-2 of sales and transfers of stocks subject to the stock transfer tax apply, with certain exceptions, to sales and transfers of certificates of indebtedness unless such sales and transfers of certificates of indebtedness are exempt from tax under a specific provision of the Internal Revenue Code (see sections 4332, 4341 to 4344, inclusive, 4382, and 4383(a) with respect to such exemptions). These exceptions are the examples stated in paragraphs (a) (9) and (10) of § 47.4321-2.

(b) *Sales and transfers not subject to tax.* In addition to the exemptions prescribed in sections 4382 and 4383(a) which apply to documentary stamp taxes generally and to the specific exemptions provided in sections 4332, and 4341 to 4344, inclusive, and the regulations thereunder, the examples set forth in paragraph (b) of § 47.4321-2 of sales and transfers of stocks not subject to the stock transfer tax illustrate sales and transfers of certificates of indebtedness which are not subject to the tax imposed by section 4331.

§ 47.4331-3 Tax on warrants.

(a) *To subscribe for certificates of indebtedness.* Warrants entitling the holder to subscribe for unissued certificates of indebtedness are not subject to tax under section 4331.

(b) *To purchase issued certificates of indebtedness.* Warrants entitling the holder to purchase issued certificates of indebtedness are, upon issuance, subject to tax under section 4331, as agreements to sell certificates (see definition of "sale or transfer" in section 4351(b) and paragraph (b) of § 47.4351-1). Subsequent transfers of such warrants are not subject to the transfer tax since the statute does not impose a tax upon transfers of agreements to sell certificates of indebted-

ness. For rate and computation of tax, see paragraph (b) of § 47.4331-1. If the transfer tax is paid upon issuance of a warrant, the subsequent transfer of the certificate pursuant to the exercise of such warrant is not subject to the transfer tax. However, the person transferring the certificate shall furnish and attach thereto a statement substantially as follows:

It is hereby certified that the transfer of the attached certificates of indebtedness,

(description and face value of certificates) to -----

(name of transferee)

is made pursuant to the exercise of a warrant which is in the possession of the undersigned, and that the requisite stamps due upon the issuance of such warrant have been affixed thereto.

(Signature)

§ 47.4331-4 Records of sales and transfers of certificates of indebtedness.

The provisions of § 47.6001-1 relating to records of sales and transfers of stock are also applicable to sales and transfers of certificates of indebtedness, except that the records of sales of certificates of indebtedness need not show the sales prices, since the selling price is immaterial for purposes of the tax imposed by section 4331.

§ 47.4331-5 Registration of nominees.

The provisions of paragraph (a) of § 47.4351-1 relating to registration requirements in connection with transactions involving stock are also applicable to transactions involving certificates of indebtedness.

§ 47.4331-6 Rules applicable to securities exchanges and clearinghouses.

For rules applicable to securities exchanges and clearinghouses, see § 47.4353-1.

§ 47.4332 Statutory provisions; exemptions.

SEC. 4332 Exemptions—(a) Brokers. The tax imposed by section 4331 shall not apply to any delivery or transfer to a broker for sale, nor upon any delivery or transfer by a broker to a customer for whom and upon whose order he has purchased the certificates of indebtedness.

(b) *Installment purchase of obligations.* The tax imposed by section 4331 shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 percent of the cash amount to which entitled upon maturity of the instrument.

(c) *Other exemptions.* For other exemptions, see sections 4341, 4342, 4343, 4344, and 4382.

[Sec. 4332 as amended and in effect Jan. 1, 1959]

§ 47.4332-1 Exemptions.

(a) *Transfer to or from brokers.* The rules stated in paragraphs (a) and (b) of § 47.4322-1 with respect to the exemption of transfers to or by brokers from the tax imposed by section 4321 also apply with respect to the tax imposed by section 4331.

(b) *Other exemptions.* For other exemptions with respect to the tax imposed

on sales or transfers of certificates of indebtedness, see sections 4341, 4342, 4343, 4344, and 4382 and the regulations thereunder.

§ 47.4333 Statutory provisions; cross references.

SEC. 4333 *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4345, 4381, and 4384; sections 4351 to 4353 inclusive; and subtitle F.

[Sec. 4333 as amended and in effect Jan. 1, 1959]

§ 47.4333-1 Cross references.

(a) For definitions, see section 4351 and § 47.4351-1, section 4381 and § 47.4381-1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271-1.

(c) For other general and administrative provisions, see section 4345 and § 47.4345-1, section 4352 and § 47.4352-1, section 4353 and § 47.4353-1, section 4384 and § 47.4384-1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart F—Provisions Common to Sales or Transfers of Capital Stock and Certificates of Indebtedness

EXEMPTIONS

§ 47.4341 Statutory provisions; transfers as security.

SEC. 4341 *Transfers as security.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Collateral security.* To a lender as collateral security for money loaned thereon, if such collateral security is not actually sold, or by such lender as a return of such collateral security.

(2) *Security for performance.* To a trustee or public officer made pursuant to Federal or State law as security for the performance of an obligation, or by such trustee or public officer as a return of such security.

[Sec. 4341 as amended and in effect Jan. 1, 1959]

§ 47.4341-1 Transfers as security.

(a) *Stock or certificates of indebtedness deposited as collateral security.* The tax imposed by section 4321 or 4331 does not apply to an agreement evidencing a deposit of certificates of stock or certificates of indebtedness as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of the certificates so deposited. The exemption applies also to transfers of stock or certificates of indebtedness to a nominee of the lender and from such nominee back to the lender, if the stock or certificates of indebtedness are at all times held as collateral security for the loan; and to the return of the stock or certificates of indebtedness to the borrower by the lender or his nominee upon payment of the loan. The exemption does not apply, however, to deposits of stock or certificates of indebtedness as collateral security made otherwise than in connec-

tion with money loaned on such stock or certificates. The person making an exempt transfer under this paragraph shall, at the time of transfer or delivery, furnish an exemption certificate in substantially the form prescribed in § 47.4345-1. If the delivery or transfer is not accompanied by the required exemption certificate the person making the delivery or transfer will be required to pay the tax imposed by section 4321 or 4331. However, if an exemption certificate is furnished after the transfer or delivery, such person will be entitled to a refund of the tax paid upon filing a timely claim for refund.

(b) *Transfer of stock or certificates of indebtedness made pursuant to Federal or State law to secure the performance of obligations.* The tax imposed by section 4321 or section 4331 does not apply to any delivery or transfer of stock or certificates of indebtedness to a trustee or public officer, which is made pursuant to Federal or State law to secure the performance of an obligation, or to a redelivery or retransfer of such stock or certificates of indebtedness to the transferor. The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345-1.

§ 47.4342 Statutory provisions; fiduciaries and custodians.

SEC. 4342 *Fiduciaries and custodians.* The taxes imposed by section[s] 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Fiduciaries.* From a fiduciary to his nominee, or from one nominee of the fiduciary to another nominee, provided that in each instance such instruments are to be held by the nominee for the same purpose as if retained by the fiduciary; or from the nominee to such fiduciary; or

(2) *Custodians.* (A) From the owner to a custodian if under a written agreement between the parties such instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner; or

(B) From a custodian as specified in subparagraph (A) to a registered nominee of such custodian, or from one such nominee to another such nominee, provided that in each instance such instruments are to be held by the nominee for the same purpose as if retained by the custodian; or from such nominee to such custodian.

[Sec. 4342 as amended and in effect Jan. 1, 1959]

§ 47.4342-1 Transfers to or by fiduciaries or custodians.

(a) *Transfers between fiduciaries and their nominees.* The tax imposed by section 4321 or 4331 does not apply to deliveries or transfers of stock or certificates of indebtedness from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if the stock or certificates of indebtedness are to be held by such nominee for the same purpose as they would be held if retained by such fiduciary. Nor does the tax apply to deliveries or transfers from a nominee of a fiduciary to such fiduciary. The exemption provided under this paragraph

shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345-1.

(b) *Transfers to or by a custodian.*

(1) The tax imposed by section 4321 or 4331 does not apply to the delivery or transfer of stock or certificates of indebtedness from the owner thereof to a custodian if, under a written agreement between the owner and the custodian, the instruments so delivered or transferred are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or the delivery or transfer of stock or certificates of indebtedness from such custodian to such owner.

(2) The tax also does not apply to the delivery or transfer of stock or certificates of indebtedness from a custodian specified in subparagraph (1) of this paragraph to a registered nominee of such custodian, or from the owner direct to such registered nominee, or from one such nominee to another such nominee, if the stock or certificates of indebtedness are to be held by the nominee for the same purpose as they would be held if retained by such custodian. Nor does the tax apply to deliveries or transfers from a nominee of a custodian to such custodian or to the owner. No exemption is granted unless the nominee is registered in the manner provided in paragraph (a) of § 47.4351-1.

(3) Moreover, the tax does not apply to the delivery or transfer of stock or certificates of indebtedness from a custodian of the owner to another custodian of the owner or from a registered nominee of the first custodian to the second custodian or to the registered nominee of the latter, if the transfer would have been exempt under subparagraph (1) or (2) of this paragraph if made by the owner direct to the second custodian or to the registered nominee of the latter.

(4) For purposes of this paragraph, a custodian is a person to whom stock or certificates of indebtedness are delivered or transferred to be held or disposed of by such person for, and subject at all times to the instructions of, the owner and not otherwise. The term "custodian", as used in this paragraph, does not include a trustee. A custodian is to be distinguished from a nominee who merely lends his name and usually does not retain possession of the securities registered in his name.

(5) The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345-1.

§ 47.4343 Statutory provisions; transfers by operation of law.

SEC. 4343 *Transfers by operation of law—*
(a) *Exempt transfers.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Decedents.* From a decedent to his executor or administrator.

(2) *Minors.* From a minor to his guardian, or from a guardian to his ward upon attaining majority.

(3) *Incompetents.* From an incompetent to his committee or similar legal representative, or from a committee or similar legal

representative to a former incompetent upon removal of disability.

(4) *Financial institutions.* From a bank, trust company, financial institution, insurance company, or other similar entity, or nominee, custodian, or trustee therefor, to a public officer or commission, or person designated by such officer or commission or by a court, in the taking over of its assets, in whole or part, under Federal or State law regulating or supervising such institutions, nor upon redelivery or retransfer by any such transferee or successor thereto.

(5) *Bankrupts.* From a bankrupt or person in receivership due to insolvency to the trustee in bankruptcy or receiver, from such receiver to such trustee, or from such trustee to such receiver, nor upon redelivery or retransfer by any such transferee or successor thereto.

(6) *Successors.* From a transferee under paragraphs (1) to (5), inclusive, to his successor acting in the same capacity, or from one such successor to another.

(7) *Foreign governments and aliens.* From a foreign country or national thereof to the United States or any agency thereof, or to the government of any foreign country, directed pursuant to the authority vested in the President by section 5(b) of the Trading With the Enemy Act, as amended by the First War Powers Act, 1941 (50 U.S.C. App. sec. 5).

(8) *Trustees.* From trustees to surviving, substituted, succeeding, or additional trustees of the same trust.

(9) *Survivors.* Upon the death of a joint tenant or tenant by the entirety, to the survivor or survivors.

(b) *Nonexempt transfers.* No delivery or transfer shall be exempt because effected by operation of law unless an exemption is otherwise specifically provided.

[Sec. 4343 as amended and in effect Jan. 1, 1959]

§ 47.4343-1 Transfers by operation of law.

No delivery or transfer shall be exempt from the tax imposed by section 4321 or 4331 because effected by operation of law unless an exemption is otherwise specifically provided. Each of the transfers specified in section 4343(a) is exempt from tax, but only if the delivery or transfer is accompanied by an exemption certificate as provided in § 47.4345-1.

§ 47.4344 Statutory provisions; certain other transfers.

Sec. 4344 *Certain other transfers—(a) Loans.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections to a borrower as a loan of such instruments, or to the lender as a return of such loan.

(b) *Worthless stock and obligations.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections by an executor or administrator to a legatee, heir, or distributee, if it is shown to the satisfaction of the Secretary or his delegate that the value of such instrument is not greater than the amount of the tax which would otherwise be imposed on such delivery or transfer.

(c) *Transfers between certain revocable trusts.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections by one revocable trust to another revocable trust if—

(1) The grantor of both trusts is the same person, and

(2) At the time of such delivery or transfer, such grantor is treated under section 676 as the owner of both trusts.

For purposes of the preceding sentence, if 2 or more grantors are treated under section 676 as owners in the same relative proportions of both trusts, such grantors shall be treated as the same person.

[Sec. 4344 as added and in effect Jan. 1, 1959]

§ 47.4344-1 Certain other transfers.

(a) *Loan of stock or certificate of indebtedness and the return thereof.* A mere loan of stock or certificates of indebtedness or the return of stock or certificates of indebtedness loaned is exempt from the taxes imposed by sections 4321 and 4331 if the loan or return is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345-1.

(b) *Transfers of worthless stock or certificates of indebtedness by executors, etc.* The taxes imposed by sections 4321 and 4331 do not apply to deliveries or transfers of stock or certificates of indebtedness by an executor or administrator to a legatee, heir, or distributee, if it is shown to the satisfaction of the district director that the value of the stock or certificates of indebtedness so delivered or transferred is not greater than the amount of tax that would otherwise be imposed on such delivery or transfer.

(c) *Transfers between certain revocable trusts.* The taxes imposed by sections 4321 and 4331 do not apply to any delivery or transfer of stock or certificates of indebtedness by one revocable trust to another revocable trust if (1) the grantor of both trusts is the same person, (2) at the time of such delivery or transfer such grantor is treated under section 676 and the regulations thereunder as the owner of the entire interest in both trusts, and (3) the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 47.4345-1. If two or more grantors are treated under section 676 as owners in the same relative proportions of the entire interest in both trusts, such grantors shall be treated as the same person. For regulations under section 676, see Part 1 of this chapter (Income Tax Regulations).

§ 47.4345 Statutory provisions; exemption certificates.

Sec. 4345 *Exemption certificates.* Except as provided in regulations prescribed by the Secretary or his delegate, no exemption shall be granted under sections 4322, 4332(a), 4341, 4342, 4343(a), or 4344 (a) or (c) unless the delivery or transfer is evidenced by a certificate setting forth such facts as the Secretary or his delegate may by regulations prescribe.

[Sec. 4345 as amended and redesignated and in effect Jan. 1, 1959]

§ 47.4345-1 Exemption certificates.

No exemption shall be granted under sections 4322, 4332(a), 4341, 4342, 4343(a), or 4344 (a) or (c) unless the delivery or transfer is accompanied by a certificate in substantially the following manner:

It is hereby certified that the transfer of the accompanying instrument(s) is made under such circumstances as to come within one of the exemptions specified in sections 4322, 4332(a), 4341, 4342, 4343(a), or 4344 (a) or (c) of the Internal Revenue Code,

and that the evidence in proof of the exemption is maintained by the undersigned and is available for inspection by internal revenue officers.

(Signature)

§ 47.4346 Statutory provisions; cross references.

Sec. 4346 *Cross references.* For other exemptions, see sections 4322, 4332, and 4382.

[Sec. 4346 as redesignated and in effect Jan. 1, 1959]

MISCELLANEOUS PROVISIONS

§ 47.4351 Statutory provisions; definitions.

Sec. 4351 *Definitions—(a) Registered nominee.* For purposes of this subchapter, the term "registered nominee" means any person registered in accordance with such regulations as the Secretary or his delegate shall prescribe.

(b) *Sale or transfer.* For purposes of this subchapter, the term "sale or transfer" means any sale, agreement to sell, memorandum of sale or delivery, or transfer of legal title, whether or not shown by the books of the corporation or other organization (or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale), and whether or not the holder acquires a beneficial interest in the instruments.

[Sec. 4351 as amended and in effect Jan. 1, 1959]

§ 47.4351-1 Definitions.

(a) *Registered nominee.* For purposes of the regulations in this part, the term "registered nominee" means any person appointed as nominee of a broker, custodian, or corporation if the person so appointed is registered with the district director for the district in which the principal office of the broker, custodian, or corporation is located. No special form is prescribed for use in registering a nominee. Substitution of a nominee may be effected by the registration of the successor nominee. Upon registration of any person as a nominee of a broker, custodian, or corporation, the district director shall issue to the broker, custodian, or corporation a certificate of registration signed by him and setting forth the date of issue, the name of the person registered as nominee, and the name of the broker, custodian, or corporation on whose behalf the nominee is registered. Such certificate shall be kept at the principal place of business of the broker, custodian, or corporation to whom the certificate is issued. The certificate of registration issued as provided in this paragraph shall be held available for ready inspection by internal revenue officers.

(b) *Sale or transfer.* For purposes of the regulations in this part, the term "sale or transfer" includes sales of, agreements to sell, or memoranda of sales of, stock or certificates of indebtedness; deliveries of stock or certificates of indebtedness with intent to pass title; transfer of legal title to stock or certificates of indebtedness; transfers of rights to subscribe for stock; and transfers of rights to receive stock. The taxes imposed by sections 4321 and 4331 apply to the specified dealings or transactions in stock or certificates of indebtedness, whether effected by any assignment in

blank, or by any delivery, or by any paper, agreement, memorandum or other evidence of transfer or sale (and in the case of stock, whether made before, after, or without the issuance of a certificate and whether made upon or shown by the books of the corporation or other organization), and without regard to whether the holder or transferee of the stock or certificate of indebtedness (or specified right in the case of stock) is entitled to any beneficial interest therein.

(c) *Agreement to sell.* As used in the regulations in this part, unless otherwise specified or indicated by the context, the term "agreement to sell" includes contracts to sell, either written or oral, and whether on the deferred or partial payment plan or otherwise, options, calls, offers, indemnities, and privileges.

(d) *Clearinghouse.* For definition of the term "clearinghouse", see paragraph (d) of § 47.4353-1.

§ 47.4352 Statutory provisions; affixing of stamps.

SEC. 4352 *Affixing of stamps.* The stamps representing the taxes imposed by section 4321 and section 4331 shall be affixed to—

(1) *Instrument.* The instrument where the change of ownership is by transfer of the instrument.

(2) *Bill or memorandum of sale.* The bill or memorandum of sale in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank. Such bill or memorandum of sale shall be made and delivered by the seller to the buyer, and shall show the date thereof, the name of the seller, the amount of the sale, and the instrument to which it refers.

[Sec. 4352 as amended and redesignated and in effect Jan. 1, 1959]

§ 47.4352-1 Affixing of stamps.

(a) *Documents to which stamps to be affixed.* (1) In all cases where the change of ownership of stock or a certificate of indebtedness is by transfer or by delivery of the stock or certificate of indebtedness under special endorsement, i.e., by insertion of the name of the transferee in the endorsement on the back of the certificate, the stamps shall be affixed to the certificate, whether or not the change of ownership results from a sale.

(2) In cases of agreements to sell stock or certificates of indebtedness and in cases of transfers of title thereto by delivery of certificates assigned in blank, the stamps shall be affixed to the memoranda of such transactions. See paragraph (b) of this section. For cases where the evidence of sale or transfer of stock is shown only by the books of the corporation or other organization, see paragraph (a)(1) of § 47.4323-1.

(b) *Requirement of memoranda of agreements to sell, etc.* Every person who makes an agreement to sell stock or certificates of indebtedness, or who, by sale or otherwise, transfers title to stock or certificates of indebtedness by delivery of certificates assigned in blank, shall, as a part of the transaction, promptly make and deliver to the buyer or transferee, a bill or memorandum of such agreement to sell, sale, or transfer, duly signed by the seller, or transferor, or his agent. Such bill or memorandum shall show the date of the transaction,

the names of the parties thereto, the description and number of shares of stock or certificates of indebtedness, the tax paid on the transaction, and, where a sale of stock is involved, the sale price. No more than one stamped bill or memorandum shall be required in respect of a single transaction. (See § 47.4353-1 relative to rules applicable to securities exchanges and clearinghouses.)

(c) *In general.* In no event shall any corporation or transfer agent transfer any shares, certificates of stock, or certificates of indebtedness unless stamps for the transfer tax due have been properly affixed and cancelled as required by the regulations in this part or unless tax has been paid without the use of stamps as provided in § 47.4353-1.

§ 47.4353 Statutory provisions; payment of tax through national securities exchanges without use of stamps.

SEC. 4353 *Payment of tax through national securities exchanges without use of stamps—*(a) *General rule.* Under regulations prescribed by the Secretary or his delegate, if a member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange appoints such exchange, or the clearinghouse for such exchange, as his agent for purposes of paying the taxes imposed by sections 4321 and 4331 in respect of his transactions, the taxes imposed by such sections in respect of such transactions may be paid through such agent without the use of stamps.

(b) *Treatment as stamp tax.* For purposes of this title—

(1) Any tax which is payable as provided under subsection (a) shall be treated as tax payable by stamp, and

(2) Any amount of tax which is paid as provided under subsection (a) shall be treated as tax paid by stamp.

[Sec. 4353 as added and in effect Jan. 1, 1959]

§ 47.4353-1 Payment of tax through national securities exchanges or their clearinghouses.

(a) *Appointment of agent.* A member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange may appoint in writing such exchange or the clearinghouse for such exchange as his agent for the purpose of paying the tax required in respect of his transactions in stock or certificates of indebtedness.

(b) *Conditions for payment through agent.* The privilege granted by paragraph (a) of this section may be exercised only upon compliance with the following conditions:

(1) *Authorization.* The member shall authorize and require the exchange or the clearinghouse to pay the tax in respect of all transactions in stock or certificates of indebtedness, including rights to subscribe for or to receive stock, arising in the conduct of his business, irrespective of whether the stock or certificates of indebtedness are listed or unlisted, whether the transactions are clearable or not, and including transactions involving over-the-counter sales.

(2) *Daily report of member.* The member shall make a daily report to the exchange or clearinghouse for each business day showing the total amount of tax payable on all his business transac-

tions as specified in subparagraph (1) of this paragraph. The report shall be filed with the exchange or clearinghouse on the day on which the transactions covered thereby are due for settlement (blotter date).

(3) *Daily records to be kept by member.* The member shall maintain complete and adequate daily records, such as a blotter or similar book of original entry, of all transactions in stock or certificates of indebtedness as specified in subparagraph (1) of this paragraph, whether the transaction is taxable or not. In the case of taxable transactions, the daily record shall show the amount of tax payable in respect of each transaction. In the case of nontaxable transactions, the daily record shall disclose the basis on which the exemption from the tax is claimed. Such daily records shall be kept in permanent form for a period of at least 3 years from the date any part of the tax is paid on the transaction and must be available for ready inspection by internal revenue officers.

(4) *Payment of tax.* The exchange or clearinghouse shall pay to the district director for the district in which the exchange or clearinghouse is located the total tax shown on the daily reports specified in subparagraph (2) of this paragraph. Any such payment of tax shall be made on the day on which the report specified in subparagraph (2) of this paragraph is received by the exchange or clearinghouse. Each daily payment of tax to the district director shall be accompanied by a statement, in substantially the following form:

The accompanying check No. _____ in the amount of \$_____ is in payment of the total documentary stamp transfer tax liability as shown to be due on the reports received by the exchange or clearinghouse for _____.

(Date)

(Name of stock exchange or clearinghouse)
by _____
(Name) (Title)

(5) *Records to be kept by exchange or clearinghouse.* The daily reports received from its members shall be kept in permanent form by the exchange or clearinghouse for a period of at least 3 years from the date any part of the tax is paid with respect to any transaction reported therein, and must be available for ready inspection by internal revenue officers.

(6) *Endorsement showing payment of tax.* The member shall make and deliver to the buyer the bill or memorandum required by paragraph (b) of § 47.4352-1 and shall make an endorsement on the bill or memorandum substantially in the following form:

It is hereby certified that the Federal stamp tax applicable to this transaction has been paid through the _____

(Insert name of stock exchange or clearinghouse) on our behalf.

(Member) (Stock Exchange)

If so desired, the member may also make a similar endorsement on the certificates of stock or certificates of in-

debtedness covered by the bill or memorandum. In that event, the endorsement shall be in substantially the following form:

It is hereby certified that the Federal stamp tax applicable to the transfer of ----- shares of this certificate (or applicable to the transfer of this certificate of indebtedness) has been paid through -----

(Insert name of ----- on our stock exchange or clearinghouse) behalf.

(Date) (Member ----- Stock Exchange)

The endorsement (including a facsimile signature of the member) may be made on the bill or memorandum and on the accompanying certificate of stock or certificates of indebtedness by a hand-stamped impression, if (i) the hand-stamp is held at all times in the custody of the person authorized to make such impression, and (ii) the records of the member contain sufficient information to establish the identity of the person so authorized.

(c) *Treatment of payment of tax without use of stamps.* For purposes of the regulations in this chapter, any tax payable under section 4353 and the regulations in this section shall be treated as tax payable by stamp, and any amount of tax paid as provided thereunder shall be treated as tax paid by stamp.

(d) *Definition of clearinghouse.* The term "clearinghouse" includes every corporation, and every association of individuals, partnerships, or corporations, wholly or partly engaged in the business of clearing, settling or adjusting transactions in the purchase, sale, receipt, or delivery of stock, certificates of indebtedness, rights, or warrants, whether or not a part or department of a securities exchange or an independent body.

§ 47.4354 Statutory provisions; cross references.

SEC. 4354 *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see section 4384 and subtitle F.

[Sec. 4354 as amended and in effect Jan. 1, 1959]

§ 47.4354-1 Cross references.

(a) For other definitions, see section 4381, § 47.4381-1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271-1.

(c) For other general and administrative provisions, see section 4384, § 47.4384-1, Subpart J, and the applicable sections of subtitle F and regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart G—Tax on Conveyances

§ 47.4361 Statutory provisions; imposition of tax.

SEC. 4361 *Imposition of tax.* There is hereby imposed, on each deed, instrument, or writing by which any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance re-

maining thereon at the time of sale) exceeds \$100, a tax at the rate of 55 cents for each \$500 or fractional part thereof.

[Sec. 4361 as amended and in effect Jan. 1, 1959]

§ 47.4361-1 Imposition of tax.

(a) *Scope of tax.* (1) Section 4361 imposes a tax upon deeds, instruments, or other writings, whereby realty sold is granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or, at his direction, any other person, when the consideration for, or value of, the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100.

(2) The tax is limited to conveyances of realty sold and does not apply to other conveyances (see paragraph (b) of § 47.4361-2). The tax attaches at the time the deed or other instrument of conveyance is delivered, irrespective of the time when the sale is made. Deeds deposited in escrow become subject to the tax upon delivery to the grantee. A conveyance of realty subject to an equity of redemption is taxable when made, not when the time for redemption expires.

(3) For purposes of the tax imposed by section 4361, the determination of what constitutes "realty" is not controlled by the definition or scope of that term under State law. State law determines the character of the rights conveyed by an instrument, but whether such conveyance constitutes a conveyance of "realty" is to be determined under Federal law.

(4) For purposes of the regulations in this part—

(i) The term "realty" includes—

(a) Those interests in real property which endure for a period of time, the termination of which is not fixed or ascertained by a specific number of years, such as an estate in fee simple, life estate, perpetual easement, etc., and

(b) Those interests enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consist of a bundle of rights approximating those of the class of interests mentioned in (a) of this subdivision.

(ii) The term "sold" imports a transfer of an interest for a valuable consideration, which may involve money or anything of value.

(iii) The term "deed" includes any instrument or writing whereby realty is assigned, transferred, or otherwise conveyed to, or vested in, the purchaser, or at his direction, any other person.

(b) *Rate and computation of tax.* The rate of tax is 55 cents on each \$500 or fractional part thereof of the net consideration paid for, or the net value of, the realty conveyed, that is, the gross consideration or gross value less, in either case, the amount of all liens or encumbrances on the realty existing before the sale and not removed thereby. The tax is based upon the net consideration where it is definite in amount, or may be definitely determined. The tax is based upon net value where the amount of the consideration is indefinite, or is left open to be fixed by future contingencies. In determining the amount

of the net consideration for, or net value of, the realty conveyed, only the amount of the liens and encumbrances on the property existing before the sale and not removed thereby may be deducted. Thus, for example, taxes or assessments which are liens on the property before the sale and are not paid at the time of sale are deductible. No deduction shall be made on account of any lien or encumbrance placed upon the property in connection with the sale, or by reason of deferred payments of the purchase price whether represented by notes or otherwise.

§ 47.4361-2 Illustrations.

(a) *Conveyances subject to tax.* The following are examples of conveyances subject to the tax:

(1) A conveyance of realty in exchange for other property; also the conveyance of the other property, if it is realty.

(2) A conveyance of realty in consideration of life maintenance. The tax is computed on the net value of the realty conveyed.

(3) A conveyance by a defaulting mortgagor to the mortgagee in consideration of the cancellation of the mortgage debt. The tax is computed on the amount of the unpaid mortgage debt plus unpaid accrued interest.

(4) Deeds given by masters in chancery, sheriffs, clerks of court, etc., for realty sold under foreclosure or execution. The tax is computed on the amount bid for the property plus the costs if paid by the purchaser, whether the purchaser is the mortgagee, judgment creditor, or any other person.

(5) A conveyance of realty by a judgment or decree in a condemnation proceeding under the power of eminent domain, or a conveyance of such property under threat or imminence of such proceeding.

(6) Conveyances to or by building and loan associations. However, the tax does not apply to a conveyance of realty to a building and loan association for the purpose of securing a loan thereon, nor to the reconveyance of the realty to its owner as part of the loan transaction.

(7) A conveyance of realty to a corporation in exchange for shares of its capital stock.

(8) A conveyance of realty by a corporation in liquidation or in dissolution to its shareholders subject to the debts of the corporation; however, if there are no corporate debts and the conveyance is made solely for the cancellation and retirement of the capital stock, the tax does not apply.

(9) Deeds to standing timber and to mines. (For definition of the term "deed", see paragraph (a)(4)(iii) of § 47.4361-1.)

(10) In jurisdictions where common-law dower still exists, an instrument conveying the estate acquired by a widow upon assignment of dower. However, an instrument purporting to convey the inchoate right of dower of a wife, or the consummate right of dower of a widow prior to assignment of dower, is not subject to the tax. Where by statute dower has been abolished and in lieu thereof a

different interest in the husband's real property conferred upon the wife, the taxability of an instrument purporting to convey such interest prior to its assignment must be determined by the nature of the wife's interest as fixed by the statutes and decisions of the jurisdiction in which the real estate is located.

(11) A conveyance of real estate sold to or by the United States (see, however, paragraph (a) of § 47.4384-1).

(12) A conveyance of realty by a partner to the partnership as a contribution of partnership assets. See section 4383 and § 47.4383-1 for application of tax in case of a termination of a partnership owning realty.

(b) *Conveyances not subject to tax.* In addition to the various exemptions prescribed in sections 4362 and 4382 and in the Bankruptcy Act as amended, the following are examples of conveyances not subject to tax:

(1) The reconveyance of realty, conveyed to secure a debt, upon payment of such debt.

(2) Conveyances of realty without consideration and otherwise than in connection with a sale, including a deed conveying realty as a bona fide gift, although the deed may recite a consideration for the transfer, such as "natural love and affection and \$1", "desire to promote public welfare and \$1", or "\$1 and other valuable consideration"; a gift of realty by a husband to his wife accomplished through the conveyance of the property for an ostensible consideration to a "straw man" who immediately reconveys the property to the wife; and a deed to or by a trustee not pursuant to a sale.

(3) A deed to confirm title already vested in the grantee, such as a quit claim deed to correct a flaw in title.

(4) A deed given by an executor in accordance with the terms of the will; however, if, by reason of a consideration passing between devisees, one of them takes a greater share in the realty than that to which he is entitled under the will, the deed given by the executor to convey such greater share is subject to a tax computed upon the amount of such consideration.

(5) A deed from an agent to his principal conveying real estate purchased for and with funds of the principal.

(6) An option for the purchase of real property or a contract for the sale of real property, if the contract does not vest legal title.

(7) Partition deeds, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess.

(8) Ordinary leases of real property for a definite term of years (see, however, paragraph (a)(4)(i) of § 47.4361-1).

(9) A deed executed by a debtor conveying property to a trustee for the benefit of his creditors; however, when the trustee conveys such property to a creditor or sells it to any other person, the deed executed by him is taxable.

(10) Conveyance to a receiver of realty included in the receivership assets, and reconveyance of such realty upon termination of the receivership.

(11) A deed conveying real estate situated in a foreign country.

(12) Transfer of real estate in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation.

§ 47.4361-3 Affixing of stamps.

(a) Only documentary stamps shall be used in payment of the tax imposed by section 4361. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. See §§ 47.6804-1 and 47.6804-2 for the appropriate use, denominations, and cancellation of such stamps.

(b) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802-1. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801 (§ 47.6801), 6802 (§ 47.6802), and 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration) and § 47.6801-1.

§ 47.4362 Statutory provisions; exemptions.

SEC. 4362 *Exemptions*—(a) *Security for debt.* The tax imposed by section 4361 shall not apply to any instrument or writing given to secure a debt.

(b) *State and local government conveyances.* No State or Territory, or political subdivision thereof, or the District of Columbia, shall be liable for the tax imposed by section 4361 with respect to any deed, instrument, or writing to which it is a party, and affixing of stamps thereby shall not be deemed payment for the tax, which may be collected by assessment from any other party liable therefor.

(c) *Other exemptions.* For other exemptions, see section 4382.

[Sec. 4362 as amended and in effect Jan. 1, 1959]

§ 47.4362-1 Exemptions.

(a) *Security for debt.* Section 4362 expressly exempts from the tax imposed by section 4361 any instrument or writing, such as a mortgage or a deed of trust, given to secure a debt.

(b) *Conveyance to which State is party.* No State or Territory, or political subdivision thereof, or the District of Columbia shall be liable for the tax imposed by section 4361 in respect of a conveyance to which it is a party regardless of the capacity in which it acts. However, the conveyance is not exempt from tax, and the nonexempt party to the conveyance shall be liable for the tax. The affixing of stamps to the deed or other instrument of conveyance by the exempt governmental body does not constitute payment of the tax, and the nonexempt party remains liable for the tax in such case. Where all parties to a taxable conveyance are governmental bodies exempt under section 4362, no tax shall be imposed.

(c) *Other exemptions.* For other exemptions, see section 4382 and § 47.4382-1.

§ 47.4363 Statutory provisions; cross references.

SEC. 4363 *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see section 4384 and subtitle F.

[Sec. 4363 as amended and in effect Jan. 1, 1959]

§ 47.4363-1 Cross references.

(a) For definitions, see section 4381, § 47.4381-1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271-1.

(c) For other general and administrative provisions, see section 4384, § 47.4384-1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart H—Tax on Policies Issued by Foreign Insurers

§ 47.4371 Statutory provisions; imposition of tax.

SEC. 4371 *Imposition of tax.* There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

(1) *Casualty insurance and indemnity bonds.* Four cents on each dollar, or fractional part thereof, of the premium charged on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d).

(2) *Life insurance, sickness, and accident policies, and annuity contracts.* One cent on each dollar, or fractional part thereof, of the premium charged on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819.

(3) *Reinsurance.* One cent on each dollar, or fractional part thereof, of the premium charged on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

[Sec. 4371 as amended and in effect Jan. 1, 1959, and as further amended by sec. 3(f)(3) Life Insurance Income Tax Act 1959 (73 Stat. 140)]

§ 47.4371-1 Imposition of tax on policies issued by foreign insurers; scope of tax.

(a) *Certain insurance policies, and indemnity, fidelity, or surety bonds.* Section 4371(1) imposes a tax upon each policy of insurance (other than those referred to in paragraph (b) of this section), upon each indemnity, fidelity, or surety bond, or upon each certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance of the character involved or an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which the insurer is authorized to do business; and

(2) To or for, or in the name of, a domestic corporation, domestic partner-

ship, or an individual resident of the United States, against or with respect to hazards, risks, losses, or liabilities wholly or partly within the United States; or

(3) To or for, or in the name of, a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States with respect to hazards, risks, or liabilities wholly within the United States.

For definition of the term "indemnity bond", see section 4372(c).

(b) *Life insurance, sickness, and accident policies and annuity contracts.* Section 4371(2) imposes a tax upon each policy of insurance or annuity contract, or certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance or an annuity contract is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which such insurer is authorized to do business, or if not so signed or countersigned, the insurer is not subject to tax under section 819; and

(2) To any person with respect to the life or hazards to the person of a citizen or resident of the United States.

(c) *Reinsurance.* Section 4371(3) imposes a tax upon each policy of reinsurance, certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of reinsurance is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as reinsurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the reinsurer in a State, Territory, or the District of Columbia in which such reinsurer is authorized to do business; and

(2) To any person against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts described in section 4371 (1) or (2).

(d) *Exempt indemnity bonds.* The tax imposed by section 4371 does not apply to any indemnity bond described in section 4373(2).

§ 47.4371-2 Rate and computation of tax.

(a) *Rate of tax.* (1) The tax under section 4371(1) is imposed at the rate of 4 cents on each dollar, or fractional part thereof, of the premium charged.

(2) The tax under section 4371 (2) and (3) is imposed at the rate of 1 cent on each dollar, or fractional part thereof, of the premium charged.

(b) *Computation of tax.* The tax is measured strictly by the amount of the premium charged. The time and method of payment of the premium are immaterial; the tax liability attaches if the insurance becomes effective, even though the premium is never paid. The

full rate of tax applies to each fractional part of a dollar of the premium charged. For example, upon a premium charge of \$10.10, the tax at the rate of 4 cents amounts to 44 cents, and at the rate of 1 cent amounts to 11 cents.

(c) *Meaning of premium.* For purposes of the regulations in this part, the term "premium" means the agreed price or consideration for assuming and carrying the risk or obligation, and includes any additional assessment or charge which may be assessed or charged under the contract, whether payable in one sum or installments.

§ 47.4372 Statutory provisions; definitions.

SEC. 4372 *Definitions.*—(a) *Foreign insurer or reinsurer.* For purposes of this subchapter, the term "foreign insurer or reinsurer" means an insurer or reinsurer who is a nonresident alien individual, foreign partnership, or a foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond.

(b) *Policy of casualty insurance.* For purposes of section 4371(1), the term "policy of casualty insurance" means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed.

(c) *Indemnity bond.* For purposes of this subchapter, the term "indemnity bond" means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

(d) *Insured.* For purposes of section 4371(1), the term "insured" means—

(1) A domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

(2) A foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liabilities within the United States.

(e) *Policy of life, sickness, or accident insurance, or annuity contract.* For purposes of section 4371(2), the term "policy of life, sickness, or accident insurance, or annuity contract" means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

(f) *Policy of reinsurance.* For purposes of section 4371(3), the term "policy of reinsurance" means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

[Sec. 4372 as amended and in effect Jan. 1, 1959]

§ 47.4373 Statutory provisions; exemptions.

SEC. 4373 *Exemptions.* The tax imposed by section 4371 shall not apply to—

(1) *Domestic agent.* Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business.

(2) *Indemnity bond.* Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check, issued by the United States.

[Sec. 4373 as amended and in effect Jan. 1, 1959]

§ 47.4374 Statutory provisions; affixing of stamps.

SEC. 4374 *Affixing of stamps.* Any person to or for whom or in whose name any policy, indemnity bond, or annuity contract referred to in section 4371 is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such instrument shall affix the proper stamps to such instrument.

[Sec. 4374 as originally enacted and in effect Jan. 1, 1959]

§ 47.4374-1 Affixing of stamps.

(a) *General.* (1) *Documentary stamps shall be used in payment of the tax. Requisite stamps must be affixed to the first instrument whereby the taxable contractual relationship is created, continued, or renewed, whether it be a letter of acceptance, a cablegram, or other instrument by whatever name called. Where the instrument which creates or evidences the contractual relationship is confirmed by a subsequent instrument, the latter shall bear a notation designating such prior instrument (referred to in this section as the original instrument) and showing that the requisite stamps have been affixed thereto and canceled.*

(2) *In any case where the amount of the premium is not definitely determined at the time of entering into the taxable contractual relationship, the stamps may be affixed to the receipts for monthly or other payments if proper notation be made upon such receipts identifying the original instruments to which they apply.*

(3) *The stamps shall be affixed by any person who is a party to the taxable contractual relationship, including any solicitor or broker acting for or on behalf of such person.*

(b) *Subsequent instruments.* In case a subsequent instrument provides for the payment of a premium greater than that provided for in the original instrument, the subsequent instrument must have affixed thereto stamps equal to the tax imposed upon the additional premium charged and must bear a notation of the stamps affixed to the original instrument.

(c) *Affixing of stamps.* (1) *Only documentary stamps shall be used in payment of the tax imposed by section 4371. See also §§ 47.6804-1 and 47.6804-2 for the appropriate use, denominations, and cancellation of such stamps.*

(2) *Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, from the sources and in the manner provided in § 47.6802-1. For provisions relating to distribution, supply, and redemption of stamps, see sections*

6801 (§ 47.6801), 6802 (§ 47.6802), 6805 (§ 47.6805), and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration), and § 47.6801-1.

(d) *Instruments without stamps or notation of stamping.* For provisions relating to the penalty for failure to comply with the requirements of section 4374, see § 47.7270.

(e) *Record requirements.* For provisions relating to the requirements concerning records and the retention of policies for a period of 3 years, see § 47.6001-2.

§ 47.4375 Statutory provisions; cross references.

Sec. 4375. *Cross references.* For penalties and other general and administrative provisions, see section 4384 and subtitle F.

[Sec. 4375 as amended and in effect Jan. 1, 1959]

§ 47.4375-1 Cross references.

(a) For definitions, see section 4381, § 47.4381-1, and section 7701 (§ 47.7701).

(b) For penalties, see section 7271 and § 47.7271-1.

(c) For other general and administrative provisions, see section 4384, § 47.4384-1, Subpart J, and the applicable sections of subtitle F and the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

Subpart I—Miscellaneous Provisions Applicable to Documentary Stamp Taxes

§ 47.4381 Statutory provisions; definitions.

Sec. 4381 *Definitions*—(a) *Certificates of indebtedness.* For purposes of the taxes imposed by sections 4311 and 4331, the term "certificates of indebtedness" means bonds, debentures, or certificates of indebtedness; and includes all instruments, however termed, issued by a corporation with interest coupons or in registered form, known generally as corporate securities.

(b) *Corporation.* For purposes of the taxes imposed by this chapter, the term "corporation" includes any investment trust or similar organization (or any person acting in behalf of such investment trust or similar organization) issuing, holding or dealing in shares or certificates of stock, or in certificates of indebtedness. For purposes of the tax imposed by section 4311, the term "corporation" also includes any receiver, trustee in bankruptcy, assignee, or other person having custody of property of, or charge of the affairs of, the corporation. Nothing contained in this subsection shall be construed to limit the effect of the definition of the term "corporation" provided in section 7701(a)(3).

(c) *Shares or certificates of stock.* For purposes of the taxes imposed by sections 4301 and 4321, the term "shares or certificates of stock" includes shares or certificates of profits or of interest in property or accumulations.

[Sec. 4381 as amended and in effect Jan. 1, 1959]

§ 47.4381-1 Definitions.

(a) *Certificates of indebtedness.* The term "certificates of indebtedness" includes bonds, debentures, and certificates of indebtedness. Such term also includes all instruments, however termed,

issued by a corporation with interest coupons or in registered form and known generally as corporate securities. The essence of a corporate security is marketability. An instrument is ordinarily considered to be marketable if it is issued in series, under a trust indenture, and in registered form or with interest coupons attached. For example, an instrument containing the essential features of a promissory note is included within the meaning of the term "certificates of indebtedness" if it has, in addition, the general characteristics of a corporate security. Whether or not an instrument is a certificate of indebtedness within the meaning of section 4381(a) is not determined by its name alone, but depends upon all the facts which can be derived from the face of the instrument, such as the form and terms of the instrument. The nature of the transaction or any act appearing outside of the instrument itself is immaterial for purposes of making such determination.

(b) *Corporation.* For purposes of the taxes imposed by sections 4301, 4311, 4321, 4331, 4361, and 4371, the term "corporation" includes associations, joint-stock companies, and insurance companies (see § 47.7701), as well as any investment trust or similar organization (or any person acting in behalf of such investment trust or similar organization) issuing, holding or dealing in shares or certificates of stock, or in certificates of indebtedness. In addition, for purposes of the tax imposed by section 4311, the term "corporation" also includes any receiver, trustee in bankruptcy, assignee, or other person having custody of property, or charge of the affairs, of the corporation.

(c) *Shares or certificates of stock.* For purposes of the regulations in this part, the term "stock" includes shares or certificates of stock. The term "stock" also includes shares in an association, joint-stock company, or insurance company (see § 47.7701). For purposes of the tax imposed by section 4321, the term "stock" also includes rights to subscribe for or to receive shares or certificates of stock (see paragraph (a) of § 47.4321-1). For purposes of the taxes imposed by sections 4301 and 4321, the term "shares or certificates of stock" includes shares or certificates of profits or of interest in property or accumulations.

(d) *Cross references.* For other definitions of general application, see §§ 47.0-2 and 47.7701.

§ 47.4382 Statutory provisions; exemptions.

Sec. 4382 *Exemptions*—(a) *Governments; certain associations.* The taxes imposed by this chapter shall not apply to—

(1) *Government and State obligations.* Any certificate of indebtedness, note, or other instrument, issued by the United States, or by any foreign government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power.

(2) *Domestic building and loan associations and mutual ditch or irrigation companies.* Shares or certificates of stock and certificates of indebtedness issued by domestic building and loan associations, sav-

ings and loan associations, cooperative banks, and homestead associations substantially all the business of which is confined to making loans to members, or by mutual ditch or irrigation companies.

(3) *Farmers', fruit growers', or cooperative associations.* Shares or certificates of stock and certificates of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in section 521.

(b) *Certain reorganizations, etc.* The taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 shall not apply to—

(1) *Corporate and railroad reorganization.* The issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, to make effective any plan of reorganization or adjustment—

(A) Confirmed under the Bankruptcy Act, as amended (11 U.S.C.),

(B) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in section 77(m) of the Bankruptcy Act, as amended (11 U.S.C. 205(m)),

(C) Approved in an equity receivership proceeding in a court involving a corporation, as defined in section 106(3) of the Bankruptcy Act, as amended (11 U.S.C. 506), or

(D) Whereby a mere change in identity, form, or place or organization is effected, but only if the issuance, transfer, or exchange of securities, or the making, delivery, or filing of instruments of transfer or conveyances, occurs within 5 years from the date of such confirmation, approval, or change.

(2) *Orders of the Securities and Exchange Commission.* The issuance, transfer, or exchange of securities, or making or delivery of conveyances, to make effective any order of the Securities and Exchange Commission as defined in section 1083(a); but only if—

(A) The order of the Securities and Exchange Commission in obedience to which such issuance, transfer, exchange, or conveyance is made recites that such issuance, transfer, exchange, or conveyance is necessary or appropriate to effectuate the provisions of section 11(b) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)),

(B) Such order specifies and itemizes the securities and other property which are ordered to be issued, transferred, exchanged, or conveyed, and

(C) Such issuance, transfer, exchange, or conveyance is made in obedience to such order.

[Sec. 4382 as amended and in effect Jan. 1, 1959]

§ 47.4382-1 Exemptions.

(a) *Government and State obligations.* Section 4382(a)(1) exempts from the tax imposed by section 4311 or 4331 any certificate of indebtedness issued by the United States, or by any foreign government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power.

(b) *Stocks and certificates of indebtedness of domestic building and loan associations, etc.* Section 4382(a)(2) exempts from the tax imposed by section 4301, 4311, 4321, or 4331 any stock or certificate of indebtedness issued by a (1) domestic building and loan association, savings and loan association, cooperative bank, or homestead association, substantially all the business of which is confined to making loans to members, or (2) mutual ditch or irrigation com-

pany. For definition of the term "domestic building and loan association", see § 47.7701.

(c) *Stocks and certificates of indebtedness of farmers, fruit growers, or cooperative associations.* Section 4382(a) (3), exempts from the tax imposed by section 4301, 4311, 4321, or 4331 any stock or certificate of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in section 521. For regulations under section 521, see Part 1 of this chapter (Income Tax Regulations).

(d) *Corporate and railroad reorganizations.* (1) Section 4382(b)(1) exempts from the taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 the issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, to make effective any plan of reorganization or adjustment—

(i) Confirmed under the Bankruptcy Act, as amended (11 U.S.C.) ;

(ii) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in section 77(m) of the Bankruptcy Act, as amended (11 U.S.C. 205(m)) ;

(iii) Approved in an equity receivership proceeding in a court involving a corporation, as defined in section 106(3) of the Bankruptcy Act, as amended (11 U.S.C. 506) ; or

(iv) Whereby a mere change in identity, form, or place of organization is effected,

if the issuance, transfer, or exchange of securities, or the making, delivery, or filing of instruments of transfer or conveyance, occurs within 5 years from the date of such confirmation, approval, or change.

(2) Section 267 of the Bankruptcy Act (11 U.S.C. 667) also exempts from stamp tax the issuance, transfer, or exchange of securities, or the making or delivery of instruments of transfer under any plan of reorganization confirmed under chapter X of the Bankruptcy Act, as amended. However, by reason of the provisions of section 4382(b)(1) the exemption conferred by section 267 has no application to the issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, which occurs after 5 years from the date of confirmation or approval of the plan of reorganization.

(e) *Orders of the Securities and Exchange Commission.* Section 4382(b)(2) exempts from the taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 the issuance, transfer, or exchange of securities, or the making or delivery of conveyances, to make effective any order of the Securities and Exchange Commission as defined in section 1083(a), if (1) the order of the Securities and Exchange Commission in obedience to which such issuance, transfer, or exchange of securities or conveyance is made recites that such issuance, transfer, or exchange of securities or conveyance is necessary or appropriate to effectuate the provisions of section 11(b) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)) ; (2) such

order specifies and itemizes the securities and other property which are ordered to be issued, transferred, exchanged, or conveyed; and (3) such issuance, transfer, exchange, or conveyance is made in obedience to such order.

(f) *Alteration and modification of securities under the Interstate Commerce Act.* Section 20b of the Interstate Commerce Act (49 U.S.C. 20b) provides for alteration or modification of securities of a carrier as defined in section 20a(1). Paragraph (12) of such section 20b (by application of section 7852) makes sections 4301, 4311, 4321, 4331, and 4361, and any amendments thereto, unless specifically provided to the contrary, inapplicable to the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any alteration or modification effected pursuant to section 20b.

§ 47.4383 Statutory provisions; certain changes in partnerships.

SEC. 4383 *Certain changes in partnerships*—(a) *Continuing partnerships.* In the case of any share, certificate, right, or realty held by a partnership, no tax shall be imposed under section 4321, 4331, or 4361 by reason of any transfer of an interest in a partnership or otherwise, if—

(1) Such partnership (or another partnership) is considered as a continuing partnership (within the meaning of section 708), and

(2) Such continuing partnership continues to hold the share, certificate, right, or realty concerned.

(b) *Terminated partnerships.* If there is a termination of any partnership (within the meaning of section 708)—

(1) For purposes of this chapter, such partnership shall be treated—

(A) As having transferred all shares, certificates, and rights held by such partnership at the time of such termination; and

(B) As having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination; but

(2) Not more than one tax shall be imposed under section 4321, 4331, or 4361, as the case may be, by reason of such termination (and any transfer pursuant thereto) with respect to the shares, certificates, rights, or realty held by such partnership at the time of such termination.

[Sec. 4383 as added and in effect Jan. 1, 1959]

§ 47.4383-1 Certain changes in partnerships.

(a) *Continuing partnerships.* No tax shall be imposed under section 4321, 4331, or 4361 by reason of any transfer of an interest in a partnership holding shares, certificates, rights, or realty if such partnership (or another partnership) is considered to be a continuing partnership within the meaning of section 708 and if such shares, certificates, rights, or realty continue to be held, regardless of the name in which held, by the continuing partnership (or the continuing partnerships if more than one). For rules relating to continuations of partnerships, see section 708 and the regulations thereunder in Part 1 of this chapter (Income Tax Regulations). To the extent that the shares, certificates, rights, or realty do not continue to be so held, the taxes imposed by sections 4321,

4331, and 4361 will apply. For example, if a partner withdraws from a partnership under such circumstances that the withdrawal does not constitute a termination of the partnership under the provisions of section 708 and the regulations thereunder, and if the partnership transfers to him, in consideration for his withdrawal, stock owned by the partnership, the stock so transferred will be subject to tax. However, if the partner receives cash in consideration for his withdrawal, and the partnership retains the stock, no tax is imposed since the stock is held by a continuing partnership.

(b) *Termination of partnerships.* If there is a termination, within the meaning of section 708, of a partnership holding shares, certificates, rights, or realty, the partnership is considered, for purposes of the taxes imposed by sections 4321, 4331, and 4361, as having transferred at the time of such termination all of such shares, certificates, and rights, and as having executed at the time of such termination an instrument conveying, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all of such realty. However, not more than one tax shall be imposed under each section with respect to such shares, certificates, rights, or realty by reason of a termination and any transfer pursuant thereto. Tax should be computed with respect to the transfer or conveyance deemed to occur under this paragraph. Any other deemed or actual transfer or conveyance which occurs by reason of the transaction resulting in the termination is not subject to tax. The operation of this paragraph may be illustrated by the following examples:

Example (1). Partnership AB owns 150 shares of X Corporation stock having a total actual value of \$13,000 and real estate having a fair market value (exclusive of the value of any lien or encumbrance thereon) of \$10,000. Partner B retires and receives 100 shares of X Corporation stock in liquidation of his entire partnership interest. Partner A receives the remainder of the partnership properties in liquidation of his entire partnership interest, and he continues to run the business as a sole proprietor. Partnership AB is terminated within the meaning of section 708 since the partnership business is no longer carried on by a partnership. Partnership AB is, therefore, considered to have executed an instrument conveying the real estate for \$10,000 and to have transferred the X Corporation stock having a total actual value of \$13,000. The transaction is subject to the taxes imposed by sections 4321 and 4361. No tax is imposed on the actual transfer of 100 shares of X Corporation stock to partner B or on the actual transfer and conveyance of the remaining stock and realty to partner A since such conveyance and transfers are made by reason of the transaction resulting in the termination.

Example (2). Partnership ABCD owns 1,000 shares of Y Corporation stock having a total actual value of \$60,000. Partner A owns a 40 percent interest in the capital and profits of the partnership and partners B, C, and D each have a 20 percent interest. In January, 1960, partner A sells his partnership interest to E, and in September, 1960, partner B sells his partnership interest to F thereby causing a termination of the partnership within the meaning of section 708. The partnership is, therefore, considered to have transferred in September, 1960, the

1,000 shares of Y Corporation stock, and there is a tax under section 4321 with respect to such shares. No further tax is imposed with respect to the transaction. Inasmuch as A is not a partner in the partnership at the time of its termination, he incurs no liability for the tax imposed with respect to the 1,000 shares of stock.

Example (3). Partnership ABCDE terminates within the meaning of section 708 by reason of the sale by E of his partnership interest to F. Pursuant to the termination transaction, partners A and B withdraw from the partnership, receiving stock owned by the partnership in consideration for their withdrawal, under such circumstances that the withdrawal constitutes a liquidation under section 708 and the regulations thereunder. All of the stock owned by the partnership is considered to be transferred on termination and tax is imposed with respect to such stock, but no additional tax is imposed with respect to the stock actually distributed to partners A and B in liquidation of their partnership interest. Furthermore, no tax will be imposed on the transfer by partners A and B of the stock distributed to them to a new partnership AB if such transfer is made pursuant to an agreement entered into concurrently with and as a result of the transaction in which partnership ABCDE is terminated.

(c) *Application of section.* Only those partnership changes occurring on or after January 1, 1959, shall be considered in determining whether a partnership is a continuing or terminated partnership under section 708.

§ 47.4384 Statutory provisions; liability for tax.

Sec. 4384 Liability for tax. The taxes imposed by this chapter shall be paid by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes imposed by this chapter, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax with respect to an instrument to which it is a party, and affixing of stamps thereby shall not be deemed payment for the tax, which may be collected by assessment from any other party liable therefor.

[Sec. 4384 as amended and redesignated and in effect Jan. 1, 1959]

§ 47.4384-1 Liability for tax.

(a) *In general.* Except as otherwise provided in paragraphs (c) and (d) of this section, the tax is payable by any of the parties to a taxable transaction. For example, in the case of the transfer of stock, the liability therefor is imposed upon the transferor, the transferee, and the corporation whose stock is transferred (if there is a transfer of record). The parties to the transaction may agree among themselves as to which shall pay the tax, but such agreement does not relieve the others from their liability in the event it is not carried out. No provisions, by-laws, or rules, of any exchange, and no custom, shall exempt any person from payment of the tax imposed.

(b) *Liability of subscriber for tax on issuance of stock.* The liability of a subscriber for the tax imposed by section 4301 on an issuance of stock to him by a corporation extends only to that portion of the total tax on all issuances of stock by such corporation for the day that the total actual value of the

shares or certificates of stock issued to him in that day bears to the total actual value of all shares or certificates issued by the corporation in such day. For example, if a total of 100 shares of stock having a total actual value of \$1,800 are issued in one day by a corporation, the tax would be \$1.80. If A were issued in that day 10 shares of such stock having a total value of \$180, his liability for tax would be 18 cents.

(c) *United States as party to transaction.* The United States or any agency or instrumentality thereof shall not be liable for tax in respect of an instrument to which it is a party regardless of the capacity in which it acts. However, the transaction is not exempt from tax, and the nonexempt party to the transaction shall be liable for the tax. The affixing of stamps to the instrument by the United States or any agency or instrumentality thereof does not constitute payment of the tax, and the nonexempt party remains liable for the tax in such case.

(d) *State as party to transaction.* Except with respect to the tax imposed by section 4361, where a State or a political subdivision thereof, acting in its governmental capacity, is a party to a taxable transaction, under chapter 34 of the Code, the transaction will not be exempt from the documentary stamp tax merely by reason of the governmental character of one of the parties. The legal incidence of the tax in such a case rests upon the other party to the transaction. However, if in a taxable transaction with a private party, a State or political subdivision thereof is acting in its proprietary function, both parties will be liable for the tax. Where all parties to a transaction are States or political subdivisions thereof, acting in their governmental capacity, no tax shall be imposed. See section 4362(b) and paragraph (b) of § 47.4362-1 for the exemption of any State, Territory, political subdivision thereof, or the District of Columbia from the tax imposed by section 4361 on conveyances of realty to which it is a party, regardless of the capacity in which it acts.

Subpart J—Administrative Provisions Applicable to Documentary Stamp Taxes

§ 47.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.

Sec. 6001 Notice or regulations requiring records, statements, and special returns. Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

[Sec. 6001 as originally enacted and in effect Jan. 1, 1959]

§ 47.6001-1 Records of sales and transfers of stock.

(a) *Brokers, dealers, etc.* All persons who are wholly or partly engaged in the business of buying, selling, or transferring stock, either at public or private sale, whether or not they are members of an exchange, including persons engaged in transactions known as "matched", "on-order", "pass-outs", or "give-ups", or transactions which are settled directly between the seller and buyer or which are cleared or adjusted through a clearinghouse or otherwise, or persons (other than those described in paragraph (b) of this section) engaged in accepting and procuring the transmission of orders for purchase or sale of shares of stock shall keep a record as to each transaction showing:

- (1) Date of transaction.
- (2) Name of customer for whom sold or loaned, or for whom bought or borrowed.
- (3) Name of party to whom sold or loaned, or from whom bought or borrowed.
- (4) Name of correspondent broker, if any.
- (5) Number of shares involved.
- (6) Name and description of stock.
- (7) Selling price of stock, per share.
- (8) Amount of tax paid.

(b) *Correspondent brokers.* Persons engaged in accepting and procuring the transmission of orders for the purchase or sale of stock, to be executed at a brokerage office or at an exchange, board of trade, or similar place, shall keep a record as to each transaction showing:

- (1) Date of acceptance and transmission of order.
- (2) Name of person from whom accepted.
- (3) Name and address of person to whom transmitted.
- (4) Name and description of stock.
- (5) Number of shares involved.
- (6) Whether purchase or sale.
- (7) Selling price of stock, per share.
- (8) Date of execution of order.

(c) *Floor brokers, etc.* Brokers known as strictly "floor brokers", "two-dollar men", or "room traders", whether their transactions are settled directly between seller and buyer, by "matched", "on-order", "pass-out", "scratch sale", or "give-up", or by any other kind of sale or purchase, or whether their transactions are cleared through a clearinghouse or otherwise, shall, in lieu of the record prescribed in paragraph (a) of this section, keep a record as to each transaction showing:

- (1) Date of transaction.
- (2) Name of seller.
- (3) Name of purchaser.
- (4) Name and description of stock.
- (5) Number of shares involved.
- (6) Selling price of stock, per share.
- (7) Whether the transaction is "matched", "on-order", "pass-out", "scratch sale", or "give-up".
- (8) Name of person to whom "given-up".

(d) *General.* Persons keeping records as prescribed in this section may incorporate therein additional information for their own use, which should be en-

tered, however, so as not to interfere with the recording of the information required by this section. These records must be kept in permanent form for a period of at least three years from the date any part of the tax is paid on the transaction and must be available for ready inspection by internal revenue officers.

§ 47.6001-2 Records with respect to foreign insurance policies.

(a) *Records to be kept by solicitors, brokers, etc.* No return or statement showing a list of policies or other instruments subject to the tax imposed by section 4371 is required from any person to or for whom, or in whose name, such policy or other instrument is issued, or from the solicitor or broker acting directly or indirectly for or on behalf of such person. However, each person, solicitor, or broker, accepting, placing, soliciting, or making, directly or indirectly, or paying or receiving compensation with respect to, a policy or other instrument subject to the tax imposed by section 4371 shall keep a record of such policy or other instrument for a period of at least three years from the date any part of the tax was paid with respect to the issuance thereof and shall be prepared to furnish full information to the district director at any time upon demand.

(b) *Records to be kept by policy holder.* The person having control or possession of a policy of insurance, or reinsurance, or other instrument to which documentary stamps must be affixed shall retain such instrument for at least 3 years from the date any part of the tax was paid with respect to the issuance thereof to enable internal revenue officers to ascertain whether the requisite stamps have been affixed and cancelled.

§ 47.6801 Statutory provisions; authority for establishment, alteration, and distribution.

Sec. 6801 *Authority for establishment, alteration, and distribution.*—(a) *Establishment and alteration.* The Secretary or his delegate may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the laws relating to internal revenue.

(b) *Preparation and distribution of regulations, forms, stamps and dies.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, and stamps; and shall provide proper and sufficient adhesive stamps and other stamps or dies for expressing and denoting the several stamp taxes.

[Sec. 6801 as originally enacted and in effect Jan. 1, 1959]

§ 47.6801-1 Establishment of meter machines and stamps.

The Commissioner of Internal Revenue or his delegate shall have the authority to set the standards for and to approve meter machines for use in the sale of documentary stamps and to prescribe instructions and requirements governing the circumstances and conditions under which such machines may be used. In addition to the documentary stamps customarily sold and used for the payment of taxes imposed under

chapter 34 of the Code, stamps produced by authorized documentary stamp meter machines shall be proper for such use. See paragraph (a) (5) of § 47.0-2 for the definition of the term "documentary stamps".

§ 47.6802 Statutory provisions; supply and distribution.

Sec. 6802 *Supply and distribution.* The Secretary or his delegate shall furnish, without prepayment, to—

(1) *Postmaster General.* The Postmaster General a suitable quantity of adhesive stamps (other than the stamps on playing cards), coupons, tickets, or such other devices as may be prescribed by the Secretary or his delegate pursuant to section 6302(b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) Are located in county seats, or
(B) Are certified by the Secretary to the Postmaster General as necessary;

(2) *Designated depository of the United States.* Any designated depository of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depository;

(3) *State agents.* Any person who is—

(A) Duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and

(B) Designated by the Secretary or his delegate for the purpose,

a suitable quantity of such adhesive stamps as are required by section 4301, to be kept on sale by such person.

[Sec. 6802 as originally enacted and in effect Jan. 1, 1959]

§ 47.6802-1 Where stamps may be purchased and where requisition forms for the purchase of such stamps may be obtained and filed.

(a) *Where stamps may be purchased.* Documentary stamps may be purchased from (1) district directors and other duly authorized officials; (2) postmasters in all post offices of the first and second classes and such post offices of the third and fourth class as are located in county seats; (3) designated depositories of the United States (see section 6802(2) (§ 47.6802)); and (4) State agents designated under paragraph (3) of section 6802 (§ 47.6802).

(b) *Requests for purchase of stamps.* A request for the purchase of documentary stamps (other than stamps issued by authorized meter machines) from a district director, designated United States depository, or designated State agent shall be made in writing. Form 427 may be used for this purpose. Copies of this form may be procured from any district director.

(c) *Use or resale of unused documentary stamps.* Unused documentary stamps may be used at any time in payment of any tax imposed by section 4301, 4311, 4321, 4331, 4361, or 4371, or may be resold by the owner at any time. For redemption of stamps see section 6805 (§ 47.6805).

§ 47.6804 Statutory provisions; attachment and cancellation.

Sec. 6804 *Attachment and cancellation.* Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, canceled, obliterated, and destroyed, in such

manner and by such instruments or other means as the Secretary or his delegate may prescribe by rules or regulations.

[Sec. 6804 as originally enacted and in effect Jan. 1, 1959]

§ 47.6804-1 Stamps to be used and denominations thereof.

(a) *Documentary stamps only to be used.* Except as provided in section 4353 and § 47.4353-1, documentary stamps only shall be used in payment of the stamp taxes imposed by sections 4301, 4311, 4321, 4331, 4361, and 4371. Ordinary postage stamps shall not be used in payment of documentary stamp taxes.

(b) *Use of stamps.* Wherever feasible, a stamp tax shall be paid by the use of a single stamp. If a stamp of a denomination equal to the tax is not readily available, the smallest practical number of stamps shall be used. A stamp affixed to an instrument and canceled cannot lawfully be removed therefrom and affixed to another instrument requiring a stamp (see section 7208 (§ 47.7208), relating to penalties).

(c) *Denominations of documentary stamps.* Documentary stamps (other than stamps issued by authorized meter machines) are issued in the following denominations: 1 cent, 2 cents, 3 cents, 4 cents, 5 cents, 8 cents, 10 cents, 20 cents, 25 cents, 40 cents, 50 cents, 55 cents, 80 cents, \$1, \$1.10, \$1.65, \$2, \$2.20, \$2.75, \$3, \$3.30, \$4, \$5, \$10, \$20, \$30, \$50, \$60, \$100, \$500, \$1,000, \$2,500, \$5,000, and \$10,000.

§ 47.6804-2 Cancellation of stamps.

A person using or affixing a stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his initials and the day, month, and year when the affixing occurs. (See section 7271(1) (§ 47.7271), relating to penalties.) Such marking shall be made by writing or stamping in indelible ink or by perforating with a machine or punch. However, the stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

§ 47.6805 Statutory provisions; redemption of stamps.

Sec. 6805 *Redemption of stamps.*—(a) *Authorization.* The Secretary or his delegate, subject to regulations prescribed by him, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of any internal revenue law, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use.

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Secretary or his delegate, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the Secretary or his delegate, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) *Time for filing claims.* No claim for the redemption of, or allowance for, stamps shall be allowed under this section unless presented within 3 years after the purchase of such stamps from the Government.

(d) *Finality of decisions.* The findings of fact in and the decision of the Secretary or his delegate upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

[Sec. 6805 as amended and in effect Jan. 1, 1959]

§ 47.6805-1 Redemption of stamps.

For provisions with respect to redemption of stamps, see the regulations under section 6805 in Part 301 of this chapter (Regulations on Procedure and Administration).

§ 47.7208 Statutory provisions; offenses relating to stamps.

Sec. 7208 *Offenses relating to stamps.* Any person who—

(1) *Counterfeiting.* With intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed under authority of this title for the collection or payment of any tax imposed by this title, or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device; or

(2) *Mutilation or removal.* Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title; or

(3) *Use of mutilated, insufficient, or counterfeited stamps.* Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title,

(A) Any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or

(B) Any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or

(C) Any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article; or

(4) *Reuse of stamps—(A) Preparation for reuse.* Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used; or

(B) *Trafficking.* Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(C) *Possession.* Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article; or

(5) *Emptied stamped packages.* Commits the offense described in section 7271 (relating to disposal and receipt of stamped packages) with intent to defraud the revenue, or to defraud any person;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than

\$10,000, or imprisoned not more than 5 years, or both.

[Sec. 7208 as originally enacted and in effect Jan. 1, 1959]

§ 47.7209 Statutory provisions; unauthorized use or sale of stamps.

Sec. 7209 *Unauthorized use or sale of stamps.* Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Secretary or his delegate under this title for the collection or payment of any tax imposed by this title, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 6 months, or both.

[Sec. 7209 as originally enacted and in effect Jan. 1, 1959]

§ 47.7209-1 Use or resale of unused stamps.

For provisions with respect to the use or resale of unused stamps, see paragraph (c) of § 47.6802-1. For provisions with respect to the unauthorized use or sale of stamps, see the regulations under section 7209 in Part 301 of this chapter (Regulations on Procedure and Administration).

§ 47.7270 Statutory provisions; insurance policies.

Sec. 7270 *Insurance policies.* Any person who fails to comply with the requirements of section 4374 (relating to the affixing of stamps on insurance policies, etc.), with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

[Sec. 7270 as originally enacted and in effect Jan. 1, 1959]

§ 47.7271 Statutory provisions; penalties for offenses relating to stamps.

Sec. 7271 *Penalties for offenses relating to stamps.* Any person who with respect to any tax payable by stamps—

(1) *Failure to attach or cancel stamps, etc.* Fails to comply with rules or regulations prescribed pursuant to section 6804 (relating to attachment, cancellation, etc., of stamps), unless such failure is shown to be due to reasonable cause and not willful neglect; or

(3) *Instruments.* Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

shall be liable for each such offense to a penalty of \$50.

[Sec. 7271 as originally enacted and in effect Jan. 1, 1959]

§ 47.7271-1 Cross references.

For other provisions relating to penalties, see the applicable sections of the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

§ 47.7701 Statutory provisions; definitions.

Sec. 7701 *Definitions.* (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual a trust, estate, partnership, association, company or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) *Domestic.* The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) *Stock.* The term "stock" includes shares in an association, joint-stock company, or insurance company.

(9) *United States.* The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) *State.* The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Delegate—(A) In general.* The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more delegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

(13) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(19) *Domestic building and loan association.* The term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association, substantially all the business of which is confined to making loans to members.

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(d) *Cross references—(1) Other definitions.* For other definitions, see the following sections of Title 1 of the United States Code:

(1) Singular as including plural, section 1.

(2) Plural as including singular, section 1.

(3) Masculine as including feminine, section 1.

[Sec. 7701 as originally enacted and in effect Jan. 1, 1959, and as amended by sec. 22 (g) and (h) of the Alaska Omnibus Act (78

Stat. 146, 147); sec. 18 (l) and (j) of the Hawaii Omnibus Act (74 Stat. 416); sec. 103(t) of the Social Security Amendments 1960 (74 Stat. 941)]

§ 47.7805 Statutory provisions; rules and regulations.

SEC. 7805 Rules and regulations—(a) Authorization. Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) Retroactivity of regulations or rulings. The Secretary or his delegate shall prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) Preparation and distribution of regulations, forms, stamps, and other matters. The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

[Sec. 7805 as originally enacted and in effect Jan. 1, 1959]

§ 47.7805-1 Promulgation of regulations.

In pursuance of section 7805 of the Internal Revenue Code of 1954, the foregoing regulations are hereby prescribed. (See § 47.0-3 relating to the scope of the regulations.)

[F.R. Doc. 60-11944; Filed, Dec. 23, 1960; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 902]

[Docket No. AO-298-A3]

MILK IN WASHINGTON, D.C., MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Washington, D.C., marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER.

The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Washington, D.C., on September 28 and 29, 1960, pursuant to notice thereof which was issued September 6, 1960 (25 F.R. 8745).

The material issues on the record of the hearing relate to:

1. Modification of the definition of "handler" to cover a cooperative association with respect to farmers' milk delivered to pool plants in trucks owned, operated, or controlled by the association;

2. Permitting unlimited diversion of a producer's milk in certain circumstances;

3. Accounting for milk received from a nonpool plant to which producer milk is diverted from a pool plant;

4. Accounting for shrinkage;

5. The price level for Class I milk;

6. The price for milk used in the manufacture of butter and cheese;

7. Establishment of a base-excess plan; and

8. Miscellaneous provisions.

Proposals 9 and 10 in the notice of hearing were not supported by any testimony at the hearing and, accordingly, no findings or conclusions with respect to those proposals are contained herein. Issues Nos. 1, 2, 3, 4, 6, 7, and 8 are reserved for a further decision on this record.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

5. **Price for Class I milk.** No change should be made in the pricing formula for Class I milk, except to extend it in its present form for another 18 months.

Official notice is taken of market data published by the market administrator for months subsequent to those for which data appear in the record.

Official notice is taken, also, of the decisions of the Assistant Secretary issued May 1, 1959, on milk in the Washington, D.C., marketing area (24 F.R. 3630) and on November 20, 1959, on milk in the Upper Chesapeake Bay marketing area (24 F.R. 9441).

A producer organization proposed that the present pricing mechanism be changed, first, by increasing the prices by 40 cents per hundredweight for each of the months of April through February, and secondly, by including March in the group of months with the higher seasonal price. This would raise the annual average of Class I prices about 43.8 cents. The producer organization also asked that the price adjustment mechanism based upon the average of the Federal order Class I prices in Philadelphia, New York and Chicago, be modified to eliminate any effect of those markets' supply-demand adjusters upon prices in this market.

There has been substantial variation in the monthly volumes of producer milk received at handlers' plants since the

order was made effective July 1, 1959. A large part of this variation undoubtedly represents normal seasonal changes in production per cow. Production per farm varied from 1001 pounds per day in November 1959, to 1,298 per day in May 1960. Production for the market also varied because there were substantial changes in the number of producers. From a figure of 2,109 in July 1959, the number increased steadily to 2,332 in December 1959 and then decreased to 2,125 in July 1960. Subsequent months show an increase in the number of producers, and in October 1960 the number was 2,351.

The volume of Class I sales likewise has varied considerably from month to month during the period since the order was established. The daily average sales, in each month ranged from a low of 1,540,000 pounds in July 1960, to 1,875,000 pounds in October 1959. Daily Class I sales, however, for September 1960 were at approximately the same level as a year before.

In July, August and October 1960, production for the market was higher in relation to Class I disposition than a year earlier, but in September 1960 the supply-sales ratio was very close to that of September a year previous. Although a definite trend in the supply-sales relationship is not clear from the available data, the relatively higher level of supply in some recent months than a year previous raises the question of whether the supply is tending to expand at the present price level. In the decision of May 1, 1959, it was concluded: "It is apparent that there is, and has been, a somewhat larger than necessary supply * * *". Because of the similarity of conditions then and now, there is no basis in the local supply situation for a different conclusion as to price level.

The relationship of the Class I price to prices in other markets was a primary consideration in the decision issued May 1, 1959, for establishing the appropriate price level in the Washington market. As indicated in the record of this hearing, the Department contemplates a hearing in the near future on Federal orders in the Northeastern markets, particularly for the purpose of establishing prices which reflect proper relationships among the markets and to the manufacturing milk price level. Since the effective date of the Washington, D.C., order, Order No. 127 has also been issued for the Upper Chesapeake Bay marketing area, effective February 1, 1960. In issuing the latter order, the Department found that the Class I price should be the same as under the Washington order. The two markets draw milk supplies, in large part, from the same areas. Under Order No. 127, also, the Class I price was established for an initial period of 18 months.

The necessity to co-ordinate the local price level with prices in other principal markets also bears on the proposal to change the price adjustment mechanism based on average Class I prices in Chicago, Philadelphia and New York-New Jersey Federal orders. This proposal would eliminate the effect on the price for this market of supply-demand

adjusters under the other orders. Proponent recommended, however, that no supply-demand adjustment based on statistics for this market be substituted in place of price adjustments resulting from the supply-demand adjustments in other markets as reflected in the three-market average. Proponent argued that adequate data for a local supply-demand adjustment are not yet available, but urged that such a supply-demand adjustment be reconsidered when adequate data are available.

This proposal is denied. Prices in such markets are a significant factor affecting the availability of supplies for this market and were so recognized in the relationship of this market to the other markets established in the decision of May 1, 1959. There has been no fundamental change in this situation and pending a possible new approach to price relationships among all such markets, the current Washington formula should serve to provide reasonable price coordination.

The change in the seasonal prices proposed by a producer association which would increase the price in March may not be accommodated unless the price in some other month is reduced; otherwise an unsupported increase in price level would result. Without some definite plan as to how the seasonal pricing may be improved while retaining the same annual price level, it is concluded that the proposal to increase the price for March should be denied.

Because of the foregoing considerations it is concluded that the present Class I pricing mechanism should be retained in the Washington order for another 18-month period.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and

other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Washington, D.C., marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

In § 902.50 delete paragraph (a) and substitute the following:

(a) **Class I price.** During the period January 1961 and subsequent months through and including June 1962 the price for Class I milk shall be \$5.55 for the months of July through February and \$5.10 for the months of March through June: *Provided*, That such price in any month shall be adjusted to reflect the deviation of the average of the Federal order Class I prices for the Philadelphia, New York-New Jersey and Chicago markets for such month from such average price in the corresponding month of 1958, as follows:

3-market average deviation from corresponding month of 1958 (cents), plus or minus:	Washington price or minus adjustment (cents), plus
0-15-----	0
15.1-35-----	20
35.1-55-----	40
55.1-75-----	60
75.1-95-----	80

Issued at Washington, D.C., this 20th day of December 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-11931; Filed, Dec. 23, 1960; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Great Lakes Pilotage Administration

[46 CFR Part 401]

GREAT LAKES PILOTAGE REGULATIONS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be promulgated by the Acting Administrator, Great Lakes Pi-

lotage Administration. Prior to the final adoption of such regulations, hearings will be held by the Acting Administrator at 10:00 a.m. on January 10, 11, and 12, 1961, in the Federal Courthouse at Cleveland, Ohio. Interested persons may submit such written data, views, or arguments as they may desire directly to the Acting Administrator, Great Lakes Pilotage Administration, Department of Commerce, Washington 25, D.C., prior to completion of the hearings. Persons desiring to present their views at the hearings are requested to notify the Acting Administrator prior to the hearings. The proposed regulations are to be issued under the authority contained in Sections 4 and 5 of the Great Lakes Pilotage Act of 1960 (74 Stat. 260, 261; 46 U.S.C. 216).

Dated: December 23, 1960.

A. T. MESCHER,
Acting Administrator,
Great Lakes Pilotage Administration.

Approved:

FREDERICK H. MUELLER,
Secretary of Commerce.

Explanatory statement. Pursuant to the authority vested in him by the Great Lakes Pilotage Act of 1960 (74 Stat. 259, 46 U.S.C. 216) the President of the United States has by Proclamation dated December 23, 1960 designated the following United States waters of the Great Lakes as those in which registered vessels of the United States and foreign vessels will be required to have in their service a United States registered pilot or a Canadian registered pilot to direct the navigation of the vessel, subject to the customary authority of the master:

(1) **District 1.** All United States waters of the St. Lawrence River between the international boundary at St. Regis and a line at the head of the river running (at approximately 127° True) between Curruthers Point Light and South Side Light extended to the New York shore.

(2) **District 2.** All United States waters of Lake Erie westward of a line running (at approximately 026° True) from Sandusky Pierhead Light at Cedar Point to Southeast Shoal Light; all waters contained within the arc of a circle of one mile radius eastward of Sandusky Pierhead Light; the Detroit River; Lake St. Clair; the St. Clair River, and Northern approaches thereto south of latitude 43°05'30" N.

(3) **District 3.** All United States waters of the St. Marys River, Sault Sainte Marie Lock and approaches thereto between latitude 45°57' N at the Southern approach and a line running (at approximately 020° True) from Point Iroquois Light to the westward tangent of Jackson Island.

The Great Lakes Pilotage Act of 1960 also requires registered vessels of the United States and foreign vessels navigating United States waters of the Great Lakes which are not designated by the President to have on board a United States registered pilot or a Canadian registered pilot or other officer qualified for the waters concerned who will be available to direct the navigation of the

vessel in such undesignated waters at the discretion of and subject to the customary authority of the master.

The head of the Department in which the Coast Guard is operating is responsible for enforcement of these provisions of the Act.

The Secretary of Commerce is responsible for carrying out those provisions of the Act relating to the registration of United States pilots, the formation of pools by voluntary associations of United States registered pilots, and the establishment of the rates, charges, and other conditions or terms for services performed by registered pilots. In carrying out these responsibilities, the Secretary of Commerce is authorized to enter into arrangements with an appropriate agency of Canada.

The Secretary of Commerce delegated authority to the Administrator, Great Lakes Pilotage Administration by Department Order No. 169, effective September 8, 1960 (25 F.R. 10142) to perform the functions and to exercise the authority vested in the Secretary of Commerce under the Great Lakes Pilotage Act of 1960, except for the appointment of members of the Advisory Committee authorized by such Act, and the imposition, remission, or mitigation of penalties under such Act.

Subpart A—General

- 401.100 Purpose.
401.110 Definitions.

Subpart B—Registration of Pilots

- 401.200 Application for registration.
401.210 Requirements and qualifications for registration.
401.220 Registration of pilots.
401.230 Certificates of Registration.
401.240 Renewal of Certificates of Registration.
401.250 Suspension and revocation of Certificates of Registration.

Subpart C—Establishment of Pools by Voluntary Associations of United States Registered Pilots

- 401.300 Authorization for establishment of pools.
401.310 Application for establishment of pools.
401.320 Requirements and qualifications for authorization to establish pools.
401.330 Certificates of Authorization.

Subpart D—Rates and Charges for Pilotage Services

- 401.400 Rates and charges on designated waters.
401.410 Rates and charges on undesignated waters.
401.420 Dismissal.
401.430 Prohibited charges.

Subpart E—Penalties; Operations Without Registered Pilots

- 401.500 Penalties for violations.
401.510 Operations without registered pilots.

AUTHORITY: § 401.110 to 410.510 issued under sections 4 and 5, 74 Stat. 260, 261; 46 U.S.C. 216.

Subpart A—General

§ 401.100 Purpose.

The purpose of this part is to carry out those provisions of the Great Lakes Pilotage Act of 1960 (74 Stat. 259, 46 U.S.C. 216) relating to the registration of United States pilots, the formation of pools by voluntary associations of United

States registered pilots and the establishment of rates, charges, and other conditions or terms for services performed by registered pilots to meet the provisions of the Act.

§ 401.110 Definitions.

(a) The following terms where used in this part shall have the following meanings:

(1) "Act" means the Great Lakes Pilotage Act of 1960. P.L. 86-555 (74 Stat. 239, 46 U.S.C. 216).

(2) "Administrator" means the Administrator, Great Lakes Pilotage Administration, U.S. Department of Commerce.

(3) "Canadian registered pilot" means a person, other than a member of the regular complement of a vessel, who holds a master's certificate or equivalent license authorizing navigation on the Great Lakes and suitably endorsed for pilotage on routes specified therein, issued by an appropriate agency of Canada, and is registered by a designated agency of Canada on substantially the same basis as registration by the Administrator under the provisions of Subpart B of this part.

(4) "Foreign vessels" means all foreign merchant vessels except Canadian vessels whose operations are exclusively upon the Great Lakes or between ports in the Great Lakes and the St. Lawrence River, or whose operations while predominately as aforesaid fall of being exclusively so only because of an occasional voyage to a port or ports in the maritime provinces of Canada in the Canadian coastal trade.

(5) "Great Lakes" means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the St. Lawrence River as far east as Saint Regis, and adjacent port areas.

(6) "Other officer" means the master of any other member of the regular complement of the vessel concerned who is qualified for the navigation of those United States waters of the Great Lakes which are not designated by the President in Proclamation No. 3385 dated December 23, 1960 and who is either licensed by the head of the Department in which the Coast Guard is operating under regulations issued by him or certificated by an appropriate agency of Canada.

(7) "Secretary" means the Secretary of Commerce.

(8) "United States registered pilot" means a person, other than a member of the regular complement of a vessel, who holds an unlimited master's license authorizing navigation on the Great Lakes and suitably endorsed for pilotage on routes specified therein, issued by the head of the Department in which the Coast Guard is operating under regulations issued by him, and is registered by the Administrator under the provisions of Subpart B of this part.

Subpart B—Registration of Pilots

§ 401.200 Application for registration.

An application for registration as a United States registered pilot shall be made on the form to be prescribed by

the Administrator. A check or money order, in the amount of five dollars (\$5.00), drawn to the order of the United States Department of Commerce shall accompany an application for registration.

§ 401.210 Requirements and qualifications for registration.

(a) No person shall be registered as a United States registered pilot unless:

(1) He holds an unlimited master's license authorizing navigation on the Great Lakes and suitably endorsed thereon for pilotage on routes specified therein, issued by the head of the Department in which the Coast Guard is operating.

(2) He is a citizen of the United States.

(3) He is of good moral character and temperate habits.

(4) He passes a physical examination equivalent to that required for issuance of an original deck officer's license by the Coast Guard.

(5) He has not reach the age of 65.

(6) He possesses a validated Merchant Mariner's Document issued by the Coast Guard.

(7) He agrees that he will be continuously available for service under such terms and conditions as may be prescribed.

(8) He agrees to comply with all applicable provisions of this part and amendments thereto.

(b) Notwithstanding the provisions of subparagraph (5) of paragraph (a) of this section, the Administrator may, if he determines that it is in the public interest, issue a Certificate of Registration to a person who has reached the age of 65 if satisfactory evidence is furnished that such person is physically fit to perform the duties of a registered pilot.

§ 401.220 Registration of pilots.

(a) The Administrator shall determine the number of pilots required to be registered in order to assure adequate and efficient pilotage service in the United States waters of the Great Lakes and to provide for equitable participation of United States registered pilots with Canadian pilots in the rendering of pilotage services. In the event that the number of qualified applicants exceeds the number of pilots determined by the Administrator to be necessary to accomplish these objectives, preference shall be given of those applicants having (1) the greatest number of years as a pilot; (2) the greatest experience in piloting vessels over the waters for which application is made; and (3) experience in piloting oceangoing vessels.

(b) Subject to the provisions of paragraph (a) of this section, a pilot found to be qualified under this subpart shall be issued a Certificate of Registration, valid for a term of two (2) years or until the expiration of his unlimited master's license, whichever occurs first.

§ 401.230 Certificates of Registration.

(a) A Certificate of Registration shall describe the part or parts of the Great Lakes within which the pilot is authorized to perform pilotage and such

description shall not be inconsistent with the terms of the pilotage authorization in his unlimited master's license.

(b) A Certificate of Registration shall not authorize the holder to board any vessel, or to serve as a pilot of any vessel, without the permission of the owner or master. A Certificate of Registration shall be in the possession of a pilot at all times when he is in the service of a vessel, and shall be displayed upon demand of the owner or master, any United States Coast Guard officer or inspector, or a representative of the Administrator.

(c) A Certificate of Registration shall not be pledged, deposited, or surrendered to any person except as authorized by this part. A Certificate of Registration may not be photostated or copied.

(d) An application for replacement of a lost, damaged or defaced Certificate of Registration shall be made on the form to be prescribed by the Administrator. A check or money order in the amount of five dollars (\$5.00), drawn to the order of the United States Department of Commerce, shall accompany any such application. A damaged or defaced certificate which is to be replaced must be submitted with the application. A certificate issued as a replacement for a lost, damaged or defaced certificate shall be marked so as to indicate that it is a replacement.

(e) The Administrator shall advise the Coast Guard of the name, Coast Guard license number, and registration number of each pilot who is issued a Certificate of Registration.

§ 401.240 Renewal of Certificates of Registration.

(a) An application for renewal of a Certificate of Registration shall be made on the form to be prescribed by the Administrator, and shall be filed with the Administrator at least fifteen (15) days prior to the expiration date of the existing certificate. Failure of a registered pilot to comply with this requirement may constitute cause for withholding renewal of the Certificate of Registration.

(b) No Certificate of Registration shall be renewed unless an applicant meets the requirements and qualifications set forth in § 401.210 for issuance of an original Certificate of Registration.

(c) If the Administrator determines that there is good cause for withholding renewal of a Certificate of Registration, the applicant shall be notified in writing of such determination and the cause thereof. The applicant may thereupon apply within fifteen (15) days for a hearing in regard to such cause for the withholding of a renewal of the certificate, which hearing shall be granted. Such hearing shall be subject to the procedures provided in § 401.250 with respect to suspension and revocation of Certificates of Registration.

(d) Upon receipt of a renewed Certificate of Registration, the expired certificate shall be surrendered to the Administrator.

§ 401.250 Suspension and revocation of Certificates of Registration.

(a) A Certificate of Registration issued pursuant to the provisions of this sub-

part may be suspended or revoked by the Administrator upon a determination by him on the record, after a hearing in accordance with the Administrative Procedure Act (5 U.S.C. 1001), that the pilot has violated any provision of this part or is no longer eligible for registration. Specific procedures to be followed in such a hearing will be prescribed in the Notice of Hearing.

(b) Notwithstanding the provisions of paragraph (a) of this section, the basis for suspension or revocation of a Certificate of Registration shall not extend to or include matters which may be the basis for suspension or revocation of the pilot's unlimited master's license by the Coast Guard under section 4450, Revised Statutes (46 U.S.C. 239), or under any law or regulation administered or prescribed by the Coast Guard, except that suspension or revocation by the Coast Guard of such license shall operate as an automatic suspension or revocation of a Certificate of Registration.

(c) When a Certificate of Registration which is about to expire is suspended, the renewal of such certificate may be withheld until the expiration of the period of suspension.

(d) The Administrator shall advise the Coast Guard of the name, Coast Guard license number, and registration number of each pilot whose Certificate of Registration has been suspended or revoked.

Subpart C—Establishment of Pools by Voluntary Associations of United States Registered Pilots

§ 401.300 Authorization for establishment of pools.

(a) Voluntary associations of United States registered pilots will be authorized to establish a pool or pools in the following areas of the United States waters of the Great Lakes designated by the President in a Proclamation dated December 23, 1960 or in such other areas as the Administrator may deem necessary to assure adequate and efficient pilotage services for the United States waters of the Great Lakes:

(1) *District No. 1.* All United States waters of the St. Lawrence River between the international boundary at St. Regis and a line at the head of the river running (at approximately 127° True) between Carruthers Point Light and South Side Light extended to the New York shore.

(2) *District No. 2.* All United States waters of Lake Erie westward of a line running (at approximately 026° True) from Sandusky Pierhead Light at Cedar Point to Southeast Shoal Light; all waters contained within the arc of a circle of one mile radius eastward of Sandusky Pierhead Light; the Detroit River; Lake St. Clair; the St. Clair River, and Northern approaches thereto south of latitude 43° 05' 30" N.

(3) *District No. 3.* All United States waters of the St. Marys River, Sault Sainte Marie Lock and approaches thereto between latitude 45° 57' N. at the Southern approach and a line running (at approximately 020° True)

from Point Iroquois Light to the westward tangent of Jackson Island.

(b) The Administrator shall determine the number of pools that will be authorized for establishment by voluntary associations of United States registered pilots in order to assure adequate and efficient pilotage services for the United States waters of the Great Lakes.

§ 401.310 Application for establishment of pools.

An application by a voluntary association for authorization to establish a pool shall be filed on the form to be prescribed by the Administrator. The form shall require, among other things, furnishing of the following information:

(1) The name and address of the association.

(2) The names and addresses of all officers of the association.

(3) Type of organization (partnership, corporation, etc.).

(4) Copies of articles of incorporation, bylaws, partnership agreements, etc.

(5) A copy of the financial statements of the association.

(6) The names, addresses and Certificate of Registration numbers of all member pilots.

(7) The District or area in which members of the association desire to render pilotage services.

(8) An inventory of owned or leased boats, launches, radio equipment, vehicles, etc. which may be used in the performance of pilotage services.

§ 401.320 Requirements and qualifications for authorization to establish pools.

No voluntary association shall be authorized to establish a pool unless:

(a) The Administrator determines that a pool is necessary for the efficient dispatching of vessels and the providing of pilotage services in the area concerned.

(b) The management and control of the voluntary association is exercised by member registered pilots, and no stock or other financial interest is held by any persons other than member registered pilots.

(c) The voluntary association establishes that it possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain an efficient and effective pilotage service.

(d) The voluntary association agrees that:

(1) Pilotage services to vessels will be provided on a first-come first-serve basis in accordance with working rules approved by the Administrator;

(2) it will adopt and use the uniform system of accounts, records and reports to be prescribed by the Administrator;

(3) it shall be subject to audit and inspection by the Administrator, and will submit annually at its own expense an audit report prepared by an independent certified public accountant; and

(4) it will be subject to such other provisions as may be prescribed by the Administrator governing the operation of pools.

§ 401.330 Certificates of Authorization.

(a) Subject to the provisions of paragraph (b) of § 401.300, an association found to be qualified to establish a pool in a District or area shall be issued a Certificate of Authorization, which shall be valid until withdrawn by the Administrator.

(b) A Certificate of Authorization shall be in such form as the Administrator may prescribe, but shall describe the area of the Great Lakes in which the pool will perform pilotage services. A Certificate of Authorization shall be posted in the principal place of business of an association in such manner so as to be available for examination by members of the association and the public.

Subpart D—Rates and Charges for Pilotage Services

§ 401.400 Rates and charges on designated waters.

(a) The following rates and charges shall be payable for services performed by United States or Canadian registered pilots in the following Districts of the United States waters of the Great Lakes described in § 401.300:

(1) District No. 1. (1) Snell Locks to Cape Vincent.....	\$180
(11) Trips commencing or terminating at any point other than the limits of the District, an amount computed on a pro-rata basis according to the distance piloted shall be charged as pilotage dues with a minimum charge therefor of.....	25
(2) District No. 2. (1) Port Colburne (Southeast Shoal) to Huron Light (includes direct transit of undesignated Lake Erie waters).....	125
(11) Port Colburne (Southeast Shoal) to any point on Lake Erie west of Southeast Shoal (includes transit of undesignated Lake Erie waters)....	80
(111) Any point on Lake Erie west of Southeast Shoal to any point on the St. Clair River or to Huron Light....	125
(1v) Any point on Lake Erie west of Southeast Shoal to any point on the Detroit River.....	80
(v) Any point on the Detroit River to any point on the St. Clair River or to Huron Light.....	80
(vi) Any point on the Detroit River or the St. Clair River to any point on the same river, or from any point on Lake Erie west of Southeast Shoal to any other point on Lake Erie west of Southeast Shoal.....	50
(3) District No. 3. Detour Island to Gros Cap Reefs Light.....	170

§ 401.410 Rates and charges on undesignated waters.

The rates or charges for pilotage services in the undesignated waters of the Great Lakes payable for each 24-hour period or part thereof, including travel time to port of origin if traveled, shall be \$50.

§ 401.420 Dismissal.

The rates or charges for pilots dismissed by a master or owner of vessel shall be as follows:

(a) Within one hour after reporting on board.....	\$25
(b) For each additional hour (but not to exceed \$50 in any one day).....	5

§ 401.430 Prohibited charges.

No rate or charge shall be applied against any vessel, owner or master thereof, by a registered pilot which differs from the rates and charges set forth in this part, nor shall any rate or charge be made for pilotage services other than those for which a rate is prescribed in this part, without the approval of the Administrator.

Subpart E—Penalties; Operations Without Registered Pilots

§ 401.500 Penalties for violations.

Any person who violates any provision of this part shall be liable to the United States in a civil penalty not exceeding \$500 for each violation. Such penalty may be remitted or mitigated, upon application therefor, by the Secretary upon such terms as he, in his discretion, shall think proper.

§ 401.510 Operations without registered pilots.

Section 8 of the Act provides that:

Notwithstanding any other provision of this Act, a vessel may be navigated in the United States waters of the Great Lakes without a United States or Canadian registered pilot when—

- (a) the Secretary, or his designee, with the concurrence of the head of the Department in which the Coast Guard is operating, or his designee, notifies the master that a United States or Canadian registered pilot is not available, or
- (b) the vessel or its cargo is in distress or jeopardy.

The provisions of this part shall become effective upon the first day of the fourth month following the date of its issuance by the Administrator.

[F.R. Doc. 60-12027; Filed, Dec. 23, 1960; 8:51 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Public Roads

[23 CFR Part 20]

NATIONAL STANDARDS FOR REGULATION BY STATES OF OUTDOOR ADVERTISING SIGNS, DISPLAYS AND DEVICES ADJACENT TO THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Notice of Proposed Rule Making

Notice is hereby given that the Department of Commerce has under study an amendment set forth in tentative form below which if adopted would amend § 20.8(g) of the National Standards for Regulation by States of Outdoor Advertising Signs, Displays and Devices Adjacent to the National System of Interstate and Defense Highways (23 F.R. 8793) by modifying the square-footage limitation applicable to the erection or maintenance of Class 3 signs

(within 12 miles of advertised activities) and Class 4 signs (in the specific interest of the traveling public) outside of informational sites, and to the erection or maintenance of Class 2 signs (on premises). Prior to action on the final adoption of such amendment, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Federal Highway Administrator, Bureau of Public Roads, Washington 25, D.C., on or before January 17, 1961.

Dated: December 22, 1960.

FREDERICK H. MUELLER,
Secretary of Commerce.

GENERAL PROVISIONS

The National Standards for Regulation by States of Outdoor Advertising Signs, Displays and Devices Adjacent to the National System of Interstate and Defense Highways (23 F.R. 8793) are hereby amended by:

Deleting all of paragraph (g) of § 20.8 and by substituting in lieu thereof the following:

(g) No sign may be permitted to exceed 25 feet in length, width or height, or 300 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

[F.R. Doc. 60-12009; Filed, Dec. 23, 1960; 8:50 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 522]

EMPLOYMENT OF LEARNERS

Men's and Boys' Clothing Industry

Pursuant to authority in section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1068, 29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR, 1949-1953 Comp., p. 1004), and General Order No. 45-A of the Secretary of Labor, I propose to amend 29 CFR 522 by adding a centerhead and a new section to read as follows:

MEN'S AND BOYS' CLOTHING INDUSTRY

§ 522.104 General denial policy.

All applications for the employment of learners at wages lower than \$1.00 an hour in the men's and boys' clothing industry shall be denied. For the purpose of this section, the men's and boys' clothing industry is defined as the industry which manufactures men's, youths', and boys' suits, coats, and overcoats.

Any person interested in this proposed amendment may file a written statement of data, views, or arguments in support

or opposition to the proposal with the Administrator of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor, Constitution Avenue and 14th Street NW., Washington 25, D.C., within fifteen days after this notice is published in the FEDERAL REGISTER.

Signed at Washington, D.C., this 19th day of December 1960.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 60-11921; Filed, Dec. 23, 1960;
8:46 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 60-LA-68]

FEDERAL AIRWAYS AND CONTROL AREAS

Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6004 and 601.6004 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 4 extends from Seattle, Wash., to Herndon, Va. The Federal Aviation Agency is considering extending Victor 4 and its associated control areas northwestward from the Seattle VOR via the intersection of the Seattle VOR 322° and the 090° True radial of a VOR to be installed approximately March 1, 1961, near Port Angeles, Wash., at Lat. 48°08'28" N, Long. 123°25'08" W; the Port Angeles VOR, to the Neah Bay, Wash., radio range, excluding the portion which would coincide with the Juan De Fuca Restricted Area (R-236) and the portion outside the United States.

This would provide a route between Seattle and Neah Bay for VOR equipped aircraft operating between Seattle and Kodiak, Alaska, and between Seattle and Homer, Alaska. The Canadian Department of Transport has agreed to designate the portion of this airway within Canada.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences

must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue, NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 19, 1960.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 60-11906; Filed, Dec. 23, 1960;
8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-KC-49]

CONTROL AREAS

Alteration of Control Area Extension

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1103 of the regulations of the Administrator, the substance of which is stated below.

The Minot, N. Dak., control area extension (§ 601.1103) is designated within a 15-mile radius of the Minot, N. Dak., VOR. The Federal Aviation Agency is considering a proposal by the Department of the Air Force to alter this control area extension by redesignating it within a 35-mile radius of Minot AFB, and within 35 miles of the Minot VOR extending clockwise from the 091° True radial to the 147° True radial of the VOR. The proposed 35-mile radius control area extension centered on Minot AFB would provide protection for aircraft arriving and departing the airbase while being vectored by application of radar air traffic control procedures. The proposed control area extension based on the Minot VOR would provide protection for aircraft executing prescribed VOR instrument approach procedures at Minot AFB.

If this action is taken, the Minot, N. Dak., control area extension would be redesignated within a 35-mile radius of Minot AFB (Lat. 48°25'18" N, Long. 101°22'08" W), and within a 35-mile radius of the Minot VOR extending clockwise from the 091° True radial to the 147° True radial of the VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed

amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 20, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-11899; Filed, Dec. 23, 1960;
8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-WA-168]

CONTROL AREAS

Modification and Revocation of Control Area Extensions

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1132 of the regulations of the Administrator, the substance of which is stated below.

The West Palm Beach, Fla., control area extension (§ 601.1132), is presently designated within 5 miles either side of the 036° True radial of the West Palm Beach VOR extending from the VOR to its intersection with the 109° True radial of the Orlando, Fla., VOR thence northwestward within 5 miles either side of the Orlando VOR 109° True radial to its intersection with the centerline of the Wilmington, N.C., control area extension No. 1150, excluding the portion below 2,000 feet MSL which lies outside the continental limits of the United States.

The Federal Aviation Agency is considering modifying this control area extension by redesignating it as the area east of Vero Beach, Fla., bounded on the north by a line five miles south of and parallel to the 071° True radial of the Orlando, Fla., VOR, on the east by the 79th meridian and the Miami Oceanic/Nassau Control Area boundary, on the south by the West Palm Beach control area extension (§ 601.1235), and on the west by VOR Federal airway No. 3, excluding the portion which would coincide with the Banana River, Fla., restricted area (R-162), and excluding the portion below 2,000 feet MSL which

PROPOSED RULE MAKING

[14 CFR Part 601]

[Airspace Docket No. 60-WA-167]

CONTROL AREAS

Modification and Revocation of Control Area Extensions

lies outside the United States. The portion of this control area extension which would coincide with portions of Warning Area W-497B would be used during IFR weather conditions only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control. This modification would consolidate presently designated control area extensions and the areas between such extensions, east of Vero Beach, into one control area to facilitate the management of air traffic arriving and departing airports in the vicinity of Vero Beach. This modification would also permit more effective utilization of the Miami, Fla., Air Route Traffic Control Center long-range radar by providing area for radar vectors to expedite the high volume of air traffic east of Vero Beach. In addition, the caption to § 601.1132 would be changed to "Control area extension (Vero Beach, Fla.)" to more accurately describe the location of the proposed control area extension.

Concurrently with this action, the presently designated Vero Beach control area extensions (§§ 601.1163 and 601.1448) would be revoked since these extensions would be encompassed by the control area extension proposed herein.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 20, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-11902; Filed, Dec. 23, 1960;
8:45 a.m.]

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1232 of the regulations of the Administrator, the substance of which is stated below.

The Miami, Fla., control area extension (601.1232) is presently designated as that airspace bounded by a line beginning on the eastern edge of Amber Federal airway No. 7 at Lat. 25°53'00" N, extending easterly to the western boundary of the Miami Oceanic/Nassau Control Area at Lat. 25°55'00" N, Long. 79°00'00" W, thence due south along that boundary to Lat. 24°40'00" N, Long. 79°00'00" W, thence southeasterly to Lat. 24°00'00" N, Long. 78°03'00" W, thence due west to Lat. 24°00'00" N, Long. 80°25'00" W, thence due north to the southern edge of Miami control area extension (601.1230), and the southern edge of Amber Federal airway No. 7, thence along Amber Federal airway No. 7, to Lat. 25°53'00" N point of beginning, excluding the portion below 1000' mean sea level which lies outside of the continental limits of the United States.

The Federal Aviation Agency is considering modifying this control area extension by redesignating it as the airspace east of Miami, Fla., bounded on the east by the Miami Oceanic/Nassau control area boundary, on the south by Lat. 24°00'00" N, on the west by a line beginning at Lat. 24°00'00" N, Long. 80°25'00" W; thence due north to the southern edge of VOR Federal airway No. 51; thence east along the southern edge of Victor 51 and north along the eastern edge of VOR Federal airway No. 3 to the southern boundary of the West Palm Beach, Fla., control area extension (601.1235); and on the north by the southern boundary of the West Palm Beach control area extension (601.1235), excluding the portion below 2,000 MSL which lies outside the United States. The portion of this control area extension which would coincide with Warning Area (W-497-B) would be used during IFR weather conditions only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control. This modification would consolidate presently designated control area extensions and the area between the extensions east of Miami, Fla., into one control area to facilitate the management of air traffic arriving and departing airports in the Miami, Fla., area. This modification would also permit more effective utilization of the Miami, Fla., Air Route Traffic Control Center long-range radar by providing area for radar vectors to expedite the high volume of air traffic east of Miami.

Concurrently with this action, the presently designated West Palm Beach, Fla., control area extension (601.1036), and the Miami, Fla., control area extensions (601.1389 and 601.1427), would be revoked since these extensions would be encompassed by the control area extension proposed herein.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 20, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-11901; Filed, Dec. 23, 1960;
8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-WA-166]

CONTROL AREAS

Modification and Revocation of Control Area Extensions

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1408 of the regulations of the Administrator, the substance of which is stated below.

The Miami control area extension (601.1408) is presently designated as the airspace south of Miami bounded on the north by Miami control area extension (601.1230) and Amber Federal airway No. 7, on the east by Miami control area extension (601.1232), on the south by Blue Federal airway No. 48 and on the

northwest by Blue Federal airway No. 19; the airspace southwest of Miami bounded on the north by Miami control area extension (601.1230), on the east and southeast by Blue Federal airway No. 19 and on the west by the Marathon control area extension (601.1234); the airspace west of Miami bounded on the north by the Miami control area extension (601.1230), on the southeast by the Key West control area extension (601.1434), and on the southwest by a line 3 miles southwest of and parallel to the coastline. The Federal Aviation Agency is considering modifying the Miami control area extension (601.1408) by redesignating it as the area bounded on the north by a line extending from Lat. 25°49'00" N, Long. 81°47'00" W, to Lat. 25°46'40" N, Long. 81°09'15" W, to Lat. 25°30'30" N, Long. 80°51'20" W, to Lat. 25°34'00" N, Long. 80°25'00" W; on the east by Long. 80°25'00" W; on the south by VOR Federal airway No. 35; and on the west by VOR Federal airway No. 225, excluding the portion below 2000 feet mean sea level which lies outside the United States and that portion above 20,000 feet mean sea level which coincides with the Key West Warning Area (W-173).

This modification would consolidate presently designated control area extensions and the area between such extensions southwest of Miami, Fla. This modification would also permit more effective utilization of the Miami, Fla., Federal Aviation Agency Air Route Traffic Control Center long-range radar by providing area for radar vectors to expedite the high volume of air traffic southwest of Miami.

Concurrently with this action, the presently designated Key West control area extension (601.1434) would be revoked since this extension would be encompassed by the control area extension proposed herein.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue

NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C. on December 20, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-11900; Filed, Dec. 23, 1960;
8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-NY-60]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (Section 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2005 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration modification of the Boston, Mass., control zone. The Boston control zone is presently designated within a 5-mile radius of Logan International Airport; within 2 miles either side of the north course of the Boston radio range extending from the radio range station to a point 10 miles north, and within 2 miles either side of the ILS localizer course extending from the airport to a point 10 miles beyond the outer marker and within 2 miles either side of the 144° True radial of the Boston VOR extending from the VOR to a point 12 miles southeast.

It is proposed to decrease the length of these extensions and to designate 3 new extensions as described herein. The northeast extension, based on the northeast course of the L/MF range would terminate at the Peabody fan marker. The south extension based on the 144° True radial of the Boston VOR would terminate 7 miles south of the VOR. The southwest extension based on the ILS localizer serving Runway 4R would terminate at the outer marker. The instrument approach procedures which these extensions serve have been modified to eliminate the requirement for the portions of control zone proposed for revocation herein. The additional extensions would be based on the 001° and 071° True radials of the Boston VOR and the southeast course of the localizer for the ILS system being installed to serve Runway 33. The extensions would extend from the 5-mile radius zone to 12 miles north and east of the VOR, and to the outer marker. These extensions would provide protection to aircraft executing instrument approach procedures based on the Boston VOR and the Runway 33 ILS System.

The Boston High Density Air Traffic Zone, which is associated with the Boston control zone, is so designated that

it would automatically conform to the modified control zone. Accordingly, no amendment relating to the High Density Air Traffic Zone would be necessary.

If these actions are taken, the Boston, Mass., control zone would be designated within a 5-mile radius of the Logan International Airport (Lat. 42°21'47" N., Long. 71°00' 19" W.); within 2 miles either side of the 001° True radial of the Boston VOR extending from the 5-mile radius zone to 12 miles north of the VOR; within 2 miles either side of the north course of the Boston radio range extending from the 5-mile radius zone to the Peabody, Mass., fan marker; within 2 miles either side of the 071° True radial of the Boston VOR extending from the 5-mile radius zone to 12 miles east of the VOR; within 2 miles either side of the southeast course of the ILS localizer serving Runway 33 extending from the 5-mile radius zone to the outer marker; within 2 miles either side of the 144° True radial of the Boston VOR extending from the 5-mile radius zone to 7 miles south of the VOR; and within 2 miles either side of the southwest course of the ILS localizer serving Runway 4R extending from the 5-mile radius zone to the outer marker.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 20, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.D. Doc. 60-11905; Filed, Dec. 23, 1960;
8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-KC-87]

CONTROL ZONES**Alteration**

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2070 of the regulations of the Administrator, the substance of which is stated below.

The St. Louis, Mo., control zone is presently designated within a 5-mile radius of Lambert-St. Louis Municipal Airport, within 2 miles either side of the east course of the St. Louis radio range extending from the radio range station to 10 miles east, within 2 miles either side of the front course of the St. Louis ILS localizer extending from the localizer to 5 miles east of the outer compass locator and within 2 miles either side of the back course of the ILS localizer extending from the localizer to 10 miles southwest of the Lake radio beacon, and within 2 miles either side of the 323° and 143° True radials of the St. Louis VOR extending from the airport to 10 miles northwest of the VOR.

The Federal Aviation Agency has under consideration alteration of the St. Louis, Mo., control zone as follows:

1. Revoke the control zone extensions based on the east course of the St. Louis radio range and on the St. Louis ILS localizer northeast course. These control zone extensions would no longer be required for the protection of aircraft as the prescribed instrument approach procedure based on the radio range is to be cancelled and the procedure based on the northeast course of the ILS localizer is to be changed so that adequate protection would be provided by the 5-mile radius zone.

2. Alter the control zone extension based on the St. Louis VORTAC 143° True radial by basing it on the St. Louis VORTAC 142° True radial, and shortening it to terminate at the VORTAC. The prescribed VORTAC instrument approach procedures are being revised to eliminate the requirement for the portion of the control zone extension northwest of the VORTAC, and the extension would be realigned to coincide with the prescribed instrument approach procedure final approach course.

3. Lengthen the control zone extension based on the St. Louis ILS localizer southwest course to 12 miles southwest of the Lake radio beacon. The increased length of this extension is required for the protection of aircraft executing the prescribed instrument approach procedures utilizing the southwest course of the St. Louis ILS or the Lake radio beacon.

If these actions are taken, the St. Louis, Mo., control zone would be redesignated within a 5-mile radius of the Lambert-

St. Louis Municipal Airport, (Lat. 38°44'50" N, Long. 90°21'55" W), within 2 miles either side of the Lambert-St. Louis ILS localizer southwest course extending from the 5-mile radius zone to 12 miles southwest of the Lake radio beacon, and within 2 miles either side of the 142° True radial of the St. Louis VORTAC extending from the 5-mile radius zone to the VORTAC.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 20, 1960.

CHARLES W. CARMODY,
Chief, Airspace Utilization Division.

[F.R. Doc. 60-11904; Filed, Dec. 23, 1960;
8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-FW-100]

CONTROL ZONES**Alteration**

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2327 of the regulations of the Administrator, the substance of which is stated below.

The Baton Rouge, La., control zone is presently designated within a 5-mile radius of Ryan Airport and within a 3-mile radius of Downtown Airport,

Baton Rouge, within 2 miles either side of the Baton Rouge radio range north-west course extending from the radio range to 10 miles northwest, within 2 miles either side of the 313° and 133° True track through the Baton Rouge ILS Outer Marker Compass locator extending from the Ryan Airport control zone to 10 miles northwest and 19 miles southeast of the ILS outer marker compass locator, and within 2 miles either side of the Baton Rouge VOR 071° and 251° True radials extending from the Ryan Airport control zone to 10 miles southwest of the VOR.

The Federal Aviation Agency has under consideration alteration of the Baton Rouge control zone by revoking the control zone extensions to the northwest and southeast and reducing the extension to the southwest to terminate it at the Baton Rouge VOR. The prescribed instrument approach procedures based on the Baton Rouge ILS, VOR and compass locator are being revised and the prescribed instrument approach procedures based on the Baton Rouge radio range is being cancelled. These revisions of the prescribed instrument approach procedures would eliminate the requirement for the portions of the Baton Rouge control zone proposed for alteration and revocation herein.

If these actions are taken, the Baton Rouge, La., control zone would be redesignated within a 5-mile radius of Ryan Airport (Lat. 30°31'55" N, Long. 91°09'00" W), and within a 3-mile radius of Downtown Airport (Lat. 30°26'45" N, Long. 91°06'25" W), and within 2 miles either side of the Baton Rouge VOR 071° True radial extending from the Ryan Airport 5-mile radius zone to the VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue

NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 19, 1960.

J. R. BAILEY,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 60-11903; Filed, Dec. 23, 1960;
8:45 a.m.]

FEDERAL RESERVE SYSTEM

[12 CFR Part 206]

[Reg. F]

TRUST POWERS OF NATIONAL BANKS

Extension of Time for Receipt of Comments

In the FEDERAL REGISTER for December 6, 1960 (25 F.R. 12479) notice was given of a proposed amendment to subparagraph (3) of paragraph (a) of § 206.17 with respect to the eligibility of various

kinds of trusts for participation in Common Trust Funds.

To aid in the consideration of this matter, the Board stated that it would be glad to receive from interested persons, not later than January 13, 1961, any relevant data, views or arguments. The time for submission of such data, views or arguments, in writing, has been extended to March 15, 1961.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 60-11909; Filed, Dec. 23, 1960;
8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 60-73]

ACCEPTANCE OF CERTIFICATES AND/OR REGISTERS ISSUED BY NATIONAL CARGO BUREAU, INC.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167-14, dated November 26, 1954 (19 F.R. 8026), 167-20, dated June 18, 1956 (21 F.R. 4894), CGFR 56-28, dated July 24, 1956 (21 F.R. 5659), and 167-38, dated October 26, 1959 (24 F.R. 8857), and the applicable inspection laws administered in conjunction with R.S. 4405, as amended, 4462, as amended (46 U.S.C. 375, 416), and the regulations in 46 CFR 71.25-25(a) (5) and 91.25-25(a) (3): *It is ordered, That:*

(a) The valid current certificates and/or registers issued by the National Cargo Bureau, Inc., with home office at 99 John Street, New York 38, New York, attesting to the tests and surveys of shipboard cargo gear on a passenger, cargo, or miscellaneous vessel conducted by or for such Bureau, may be accepted as prima facie evidence of the condition and suitability of such gear by the Coast Guard when performing an inspection of a vessel as further described in 46 CFR Part 71. 25-25 or 91.25-25: *Provided, That:*

(1) Such certificates and/or registers shall be maintained currently and shall indicate that the described shipboard cargo gear for the particular vessel described therein complies with the standards respecting shipboard cargo gear as set forth in the Convention Concerning the Protection Against Accidents of Workers Employed in Loading or Unloading Ships (Revised) (International Labor Organization Convention No. 32); and,

(2) The dates when such tests or surveys were conducted, together with the signatures or initials of the competent persons performing them shall be recorded therein.

(b) This approval and permission to accept valid current certificates and/or registers of the National Cargo Bureau, Inc., shall become effective on the date of publication of this document in the FEDERAL REGISTER and shall be in effect until suspended, amended, or canceled by proper authority.

Dated: December 19, 1960.

[SEAL]

A. C. RICHMOND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 60-11941; Filed, Dec. 23, 1960;
8:48 a.m.]

13730

[CGFR 60-77]

EQUIPMENT, INSTALLATIONS, OR MATERIALS

Approval Notice

1. Various items of lifesaving, fire-fighting, and miscellaneous equipment, installations, and materials used on merchant vessels subject to Coast Guard inspection or on certain motorboats and other pleasure craft are required by law and various regulations in 46 CFR Ch. I to be of types approved by the Commandant, United States Coast Guard. The procedures governing the granting of approvals, and cancellation, termination or withdrawal of approvals are set forth in 46 CFR 2.75-1 to 2.75-40 (25 F.R. 6138, 6139), and 2.75-50. For certain types of equipment, installations, and materials, specific specifications have been prescribed by the Commandant and are published in 46 CFR Parts 160 to 164, inclusive (Subchapter Q—Specifications), and detailed procedures for obtaining approvals are also described therein.

2. The Commandant's approval of a specific item is intended to provide a control over its quality. Therefore, such approval applies only to the item constructed or installed in accordance with the applicable requirements and the details described in the specific approval. If a specific item when manufactured does not comply with the details in the approval, then such item is not considered to have the Commandant's approval, and the certificate of approval issued to the manufacturer does not apply to such modified item. For example, if an item is manufactured with changes in design or material not previously approved, the approval does not apply to such modified item.

3. After a manufacturer has submitted satisfactory evidence that a particular item complies with the applicable laws and regulations, a Certificate of Approval (Form CGHQ-10030) will be issued to the manufacturer certifying that the item specified complies with the applicable laws and regulations and approval is given, which will be in effect for a period of 5 years from the date given unless sooner cancelled or suspended by proper authority.

4. The purpose of this document is to notify all concerned that certain approvals were granted, as described in this document, during the period from October 11, 1960 through November 7, 1960. These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

5. Delegations of authority for the Coast Guard's actions with respect to approvals may be found in Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167-14, dated November 26, 1954 (19 F.R. 8026), 167-15, dated

January 3, 1955 (20 F.R. 840), 167-20, dated June 18, 1956 (21 F.R. 4894), CGFR 56-28, dated July 24, 1956 (21 F.R. 5659), or 167-38, dated October 26, 1959 (24 F.R. 8857), and the statutory authority may be found in R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, sections 1, 2, 49 Stat. 1544, as amended, section 17, 54 Stat. 166, as amended, section 3, 54 Stat. 346, as amended, section 3, 70 Stat. 152 (46 U.S.C. 405, 416, 481, 489, 367, 526p, 1333, 390b), section 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)), or section 3(c) of 68 Stat. 675 (50 U.S.C. 198), and implementing regulations in 46 CFR Ch. I or 33 CFR Ch. I.

6. In Part I of this document is listed the approvals granted which shall be in effect for a period of 5 years from the dates granted, unless sooner cancelled or suspended by proper authority.

PART I—APPROVALS OF EQUIPMENT, INSTALLATIONS, OR MATERIALS

BUOYANT APPARATUS

Approval No. 160.010/59/0, 4.17' x 3.0' (8" x 8" body section) rectangular buoyant apparatus, fibrous glass reinforced plastic shell with unicellular plastic foam core, 7-person capacity, The Plasti-Kraft Corp., Oldsmar, Florida, dwg. No. BA-2 dated June 6, 1958, and specifications as revised October 12, 1960, manufactured by The Plasti-craft Corp., Oldsmar, Florida, for The American Pad & Textile Co., 511 North Solomon Street, New Orleans 19, La., effective October 24, 1960.

Approval No. 160.010/60/0, 6.17' x 3.67' (9" x 9" body section) rectangular buoyant apparatus, fibrous glass reinforced plastic shell with unicellular plastic foam core, 13-person capacity, The Plasti-Kraft Corp., Oldsmar, Florida, dwg. No. BA-2 dated June 6, 1958, and specifications as revised October 12, 1960, manufactured by The Plasti-Kraft Corp., Oldsmar, Florida, for The American Pad & Textile Co., 511 North Solomon Street, New Orleans 19, La., effective October 24, 1960.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS

Approval No. 160.011/12/2, MSA Ammonia Mask, part No. 15775 having the All-Vision facepiece assembly, or part No. 48448 having the All-Vision Clear-tone speaking diaphragm facepiece assembly which may be used in conjunction with the MSA Maskfone, or part No. 84006 having the Clearvue facepiece assembly, Bureau of Mines Approval No. BM-1406, dwg. Nos. 1128-1, Rev. 17 dated January 26, 1958, and 84006 Rev. 2, dated October 2, 1959, manufactured by Mine Safety Appliances Co., 201 North Braddock Avenue, Pittsburgh 8, Pa., effective October 25, 1960. (It supersedes Approval No. 160.011/12/1

published in the FEDERAL REGISTER November 11, 1955.)

Approval No. 160.011/15/3, MSA Model "S" All-Service Gas Mask, part No. 42021 having the Model "S" canister and the All-Vision facepiece assembly, or part No. 48446 having the Model "S" canister and the All-Vision Cleartone speaking diaphragm facepiece assembly which may be used in conjunction with the MSA Maskfone, or part No. 84000 having the Model "S" canister and the Clearvue facepiece assembly, or part No. 81226 having the Model "S" Window-Cator canister and the All-Vision Cleartone speaking diaphragm facepiece assembly which may be used in conjunction with the MSA Maskfone, or part No. 83998 having the Model "S" Window-Cator canister and the Clearvue facepiece assembly, Bureau of Mines Approval No. 1434A; dwg. Nos. 1128-1, Rev. 17 dated January 26, 1958; 84000, Rev. 2 dated August 21, 1959; 81226, Rev. 3 dated August 24, 1959; 81227, Rev. 3 dated August 24, 1959; and 83998, Rev. 2 dated September 21, 1959, manufactured by Mine Safety Appliances Co., 201 North Braddock Avenue, Pittsburgh 8, Pa., effective October 25, 1960. (It supersedes Approval No. 160.011/15/2 published in the FEDERAL REGISTER March 16, 1960.)

Approval No. 160.011/18/2, MSA Standard All-Service Gas Mask, part No. 15765 having the All-Vision facepiece assembly, or part No. 48442 having the All-Vision Cleartone speaking diaphragm facepiece assembly which may be used in conjunction with the MSA Maskfone, or part No. 83999 having the Clearvue facepiece assembly, Bureau of Mines Approval No. BM-1405, dwg. Nos. 1128-1, Rev. 17, dated January 26, 1958, and 83999, Rev. 2 dated August 21, 1959, manufactured by Mine Safety Appliances Co., 201 North Braddock Ave., Pittsburgh 8, Pa., effective October 25, 1960. (It supersedes Approval No. 160.011/18/1 published in the FEDERAL REGISTER November 11, 1955.)

Approval No. 160.011/30/0, Globe Guardsman Air Breathing Protector, permissible one-half hour self-contained compressed air breathing apparatus, at least one extra fully charged cylinder of breathing air to be included as part of the complete unit, Bureau of Mines Approval No. 13D-11 only for use with BM 13D-11 facepiece and BM 13D-11 pressure regulator and assembly, assembly dwg. No. 1795-2 GA Rev. C dated June 13, 1960, manufactured by Globe Industries, Inc., 125 Sunrise Place, Dayton 7, Ohio, effective October 18, 1960.

LADDERS, EMBARKATION-DEBARKATION (FLEXIBLE)

Approval No. 160.017/4/6, Model 241-A, Type II, embarkation-debarkation ladder, chain suspension, steel ears, dwg. No. 241-A, dated February 21, 1950, revised July 21, 1959, approval limited to ladders 65 feet or less in length, manufactured by Great Bend Manufacturing Corp., 243 Godwin Ave., Paterson, N.J. (Plant: Great Bend, Pa.), effective October 19, 1960. (It supersedes Approval No. 160.017/4/5, dated December 17, 1959.)

Approval No. 160.017/10/2, Model 241-A/GR, Type II embarkation-debarkation ladder, chain suspension, steel ears, steel rungs, dwg. No. 241-A/GR, dated January 10, 1952, revised November 21, 1956, approval limited to ladders 61 feet or less in length, manufactured by Great Bend Manufacturing Corp., 243 Godwin Ave., Paterson, N.J. (Plant: Great Bend, Pa.), effective October 19, 1960. (It supersedes Approval No. 160.017/10/1, dated January 30, 1957.)

Approval No. 160.017/11/2, Model CTL-6, Type II embarkation-debarkation ladder, chain suspension, steel rungs, dwg. No. CTL-6, dated January 14, 1952, revised November 21, 1956, approval limited to ladders 67 feet or less in length and for use where stowage facilities require special consideration of the ladders used, manufactured by Great Bend Manufacturing Corp., 243 Godwin Ave., Paterson, N.J. (Plant: Great Bend, Pa.), effective October 19, 1960. (It supersedes Approval No. 160.017/11/1, dated January 30, 1957.)

Approval No. 160.017/16/2, Model 10 PL-S, Type II embarkation-debarkation ladder, chain suspension, steel ears, dwg. dated November 28, 1956, approval limited to ladders 65 feet or less in length, manufactured by H. K. Metal Craft Manufacturing Co., 3775-3789 10th Ave. at 203d St., New York 34, New York, effective October 19, 1960. (It supersedes Approval No. 160.017/16/1, dated April 10, 1957.)

Approval No. 160.017/24/1, Viking Model A-1, Type II embarkation-debarkation ladder, chain suspension, wood ears, dwg. No. 561-S16-15, dated September 1956, revised December 28, 1956, approval limited to ladders 65 feet or less in length, manufactured by Viking Marine Co., 2614 Western Ave., Seattle 1, Washington, effective October 19, 1960. (It supersedes Approval No. 160.017/24/0, dated April 10, 1957.)

Approval No. 160.017/27/2, Model E-1004D, Type II embarkation-debarkation ladder, chain suspension, steel ears, The Marine Ladder Mfg. Co. dwg. No. LC-104, Rev. 3, dated July 15, 1958, approval limited to ladders 65 feet or less in length, manufactured by Don D. Fleming, Inc., 460 Bay Street, San Francisco 11, California, effective October 19, 1960. (It supersedes Approval No. 160.017/27/1, dated December 31, 1958.)

LIFE RAFTS

Approval No. 160.018/16/0, Type "B" MK2, life raft, for other than ocean and coastwise service, 9.58' x 8.0' x 2.33', 18-person capacity, with polyurethane foamed, fibrous glass reinforced plastic tanks, identified by general arrangement dwg. No. M-99-17 dated May 6, 1959 and revised September 20, 1960, manufactured by Marine Safety Equipment Corp., Point Pleasant Beach, New Jersey, effective October 18, 1960.

LIFE FLOATS

Approval No. 160.027/55/0, 4.17' x 3.0' (8" x 8" body section) rectangular life float, fibrous glass reinforced plastic shell with unicellular plastic foam core, 6-person capacity, dwg. No. LF-2 dated

June 6, 1958, and revised specification dated October 12, 1960, manufactured by The Plasti-Kraft Corp., Oldsmar, Florida for The American Pad & Textile Co., 511 North Solomon Street, New Orleans 19, La., effective October 24, 1960.

Approval No. 160.027/56/0, 6.17' x 3.67' (9' x 9' body section) rectangular life float, fibrous glass reinforced plastic shell with unicellular plastic foam core, 11-person capacity, dwg. No. LF-2 dated June 6, 1958, and revised specification dated October 12, 1960, manufactured by The Plasti-Kraft Corp., Oldsmar, Florida, for The American Pad & Textile Co., 511 North Solomon Street, New Orleans 19, La., effective October 24, 1960.

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/463/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Swan Products Co., Inc., 130-30 180th Street, Springfield Gardens 34, N.Y., for Viking Products Co., 145-92 228th Street, Springfield Gardens 13, N.Y., effective November 4, 1960.

Approval No. 160.047/464/0, Type I, Model CKM-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Swan Products Co., Inc., 130-30 180th Street, Springfield Gardens 34, N.Y., for Viking Products Co., 145-92 228th Street, Springfield Gardens 13, N.Y., effective November 4, 1960.

Approval No. 160.047/465/0, Type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Swan Products Co., Inc., 130-30 180th Street, Springfield Gardens 34, N.Y., for Viking Products Co., 145-92 228th Street, Springfield Gardens 13, N.Y., effective November 4, 1960.

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/188/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Kahler's Upholstery Shop, 820 Seventh Street, Tell City, Indiana, effective October 24, 1960.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/31/2, group approval for rectangular or trapezoidal unicellular plastic foam buoyant cushions with vinyl dip coatings, sizes to be as per Table 160.049-4(c)(1), and dwg. No. 1, dated September 15, 1960, manufactured by Jones & Yandell Division, American Tent Co., P.O. Box 270, Canton, Mississippi, effective October 21, 1960. (It

supersedes Approval No. 160.049/31/1, dated July 13, 1960 and published in the FEDERAL REGISTER August 31, 1960.)

Approval No. 160.049/34/1, group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049-4(c) (1), manufactured by Massoud Marine Upholstery, Inc., 110 Manufacturing St., Dallas, Texas and 1817 East Wayne Street, Fort Wayne, Indiana, effective October 24, 1960. (It supersedes Approval No. 160.049/34/1 dated August 4, 1960 to show change of address.)

Approval No. 160.049/38/0, group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049-4(c) (1), manufactured by See Bentz & Sons Upholstery, 111 Fifth Street, Watertown, Wisconsin, effective October 24, 1960.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/26/0, 20-inch ring life buoy, fibrous glass reinforced plastic shell with unicellular plastic foam core, The Plasti-Kraft Corp., Oldsmar, Florida, dwg. dated Feb. 1, 1958 and specifications as amended Oct. 12, 1960, approved as alternate construction to that provided by U.S.C.G. Specification Subpart 160.050, manufactured by The Plasti-Kraft Corp., Oldsmar, Florida for The American Pad & Textile Co., 511 North Solomon Street, New Orleans 19, La., effective October 24, 1960.

Approval No. 160.050/27/0, 24-inch ring life buoy, fibrous glass reinforced plastic shell with unicellular plastic foam core, The Plasti-Kraft Corp., Oldsmar, Florida, dwg. dated Feb. 1, 1958 and specifications as amended Oct. 12, 1960, approved as alternate construction to that provided by U.S.C.G. Specification Subpart 160.050, manufactured by The Plasti-Kraft Corp., Oldsmar, Florida for The American Pad & Textile Co., 511 North Solomon Street, New Orleans 19, La., effective October 24, 1960.

Approval No. 160.050/28/0, 30-inch ring life buoy, fibrous glass reinforced plastic shell with unicellular plastic foam core, The Plasti-Kraft Corp., Oldsmar, Florida, dwg. dated Feb. 1, 1958 and specifications as amended Oct. 12, 1960, approved as alternate construction to that provided by U.S.C.G. Specification Subpart 160.050, manufactured by The Plasti-Kraft Corp., Oldsmar, Florida, for The American Pad & Textile Co., 511 North Solomon Street, New Orleans 19, La., effective October 24, 1960.

FIRE EXTINGUISHERS, PORTABLE, HAND, CARBON-DIOXIDE TYPE

Approval No. 162.005/74/1, Fire Chex Model FC-5, 5-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. No. CO-5-A revised August 2, 1957, name plate dwg. No. CO-5-3, Rev. 5 dated July 1, 1960 (Coast Guard classification: Type B, Size I; and Type C, Size I), formerly Model CO-5, manufactured by Fire Chex Corp., 36136 Harper Ave., Mt. Clemens, Mich., effective October 14, 1960. (It supersedes Approval No. 162.005/74/0 published in FEDERAL REGISTER January 22, 1958.)

Approval No. 162.005/75/1, Fire Chex Model FC-10, 10-lb. carbon dioxide hand portable type fire extinguisher, assembly dwg. No. CO-10-A dated December 4, 1952, name plate dwg. No. CO-10-3A, Rev. C dated July 1, 1960 (Coast Guard classification: Type B, Size I; and Type C, Size I), manufactured by Fire Chex Corp., 36136 Harper Ave., Mt. Clemens, Mich., effective October 14, 1960. (It supersedes Approval No. 162.005/75/0 published in FEDERAL REGISTER dated March 14, 1959.)

Approval No. 162.005/76/1, Fire Chex Model FC-15, 15-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. No. CO-15-A revised August 2, 1957, name plate dwg. No. CO-15-3A, Rev. B dated July 1, 1960 (Coast Guard classification: Type B, Size II; and Type C, Size II), formerly Model CO-15, manufactured by Fire Chex Corp., 36136 Harper Ave., Mt. Clemens, Mich., effective October 14, 1960. (It supersedes Approval No. 162.005/76/0 published in FEDERAL REGISTER January 22, 1958.)

FIRE EXTINGUISHERS, PORTABLE, HAND, CHEMICAL-FOAM TYPE

Approval No. 162.006/32/2, Fyr-Fyter Model No. 18-24, 2½-gal. chemical foam type hand portable fire extinguisher, assembly dwg. No. 18-24, Rev. D dated May 27, 1960, name plate dwg. No. 4708, Rev. J dated March 27, 1960 (Coast Guard classification: Type A, size II; and Type B, Size II), formerly Model No. 18-24 C.G. and formerly Model 18-26, manufactured by The Fyr-Fyter Co., 221 Crane St., Dayton 1, Ohio, effective October 13, 1960. (It supersedes Approval No. 162.006/32/1 published in FEDERAL REGISTER January 22, 1958.)

Approval No. 162.006/33/2, Buffalo Model 18-25, 2½-gal. chemical foam type hand portable fire extinguisher, assembly dwg. No. 18-25, Rev. D dated May 27, 1960, name plate dwg. No. 4709, Rev. H dated May 27, 1960 (Coast Guard classification: Type A, Size II; and Type B, Size II), formerly Model No. 18-25 C. G. and formerly Model No. 18-27, manufactured by The Fyr-Fyter Co., 221 Crane St., Dayton 1, Ohio, effective October 13, 1960. (It supersedes Approval No. 162.006/33/1 published in FEDERAL REGISTER July 28, 1959.)

Approval No. 162.006/48/0, Pyrene Model PS13, 2½-gal. chemical foam type hand portable fire extinguisher, assembly dwg. No. P13, Rev. D dated May 27, 1960, name plate dwg. No. 7068, Rev. E dated May 27, 1960 (Coast Guard classification: Type A, Size II; and Type B, Size II), manufactured by The Fyr-Fyter Co., 221 Crane St., Dayton 1, Ohio, effective October 13, 1960.

VALVES, PRESSURE-VACUUM RELIEF AND SPILL

Approval No. 162.017/84/0, Model MV-250 pressure-vacuum relief valve, enclosed pattern screwed inlet, weight loaded discs, all bronze construction, dwg. No. MV-250A dated April 18, 1960, approved for 2½" pipe size, manufactured by The Staytite Company, 3606-12 Polk Avenue, Houston 3, Texas, effective October 12, 1960.

APPLIANCES, LIQUEFIED PETROLEUM GAS CONSUMING

Approval No. 162.020/132/0, Basmor Champion Model No. 320E liquefied petroleum gas hot water heater, approved by the American Gas Association, Inc. under Certificate No. 3-798-1.301, manufactured by Bastian-Morley Co., Inc., La Porte, Indiana, effective November 7, 1960.

Approval No. 162.020/133/0, Basmor Champion Model No. 320GE liquefied petroleum gas hot water heater, approved by the American Gas Association, Inc., under Certificate No. 3-798-1.301, manufactured by Bastian-Morley Co., Inc., La Porte, Indiana, effective November 7, 1960.

Approval No. 162.020/134/0, Basmor Champion Model No. 330E liquefied petroleum gas hot water heater, approved by the American Gas Association, Inc. under Certificate No. 3-798-1.201, manufactured by Bastian-Morley Co., Inc., La Porte, Indiana, effective November 7, 1960.

Approval No. 162.020/135/0, Basmor Champion Model No. 330GE liquefied petroleum gas hot water heater, approved by the American Gas Association, Inc., under Certificate No. 3-798-1.201, manufactured by Bastian-Morley Co., Inc., La Porte, Indiana, effective November 7, 1960.

Approval No. 162.020/136/0, Basmor Champion Model No. 340E liquefied petroleum gas hot water heater, approved by the American Gas Association, Inc. under Certificate No. 3-798-1.101, manufactured by Bastian-Morley Co., Inc., La Porte, Indiana, effective November 7, 1960.

Approval No. 162.020/137/0, Basmor Champion Model No. 340GE liquefied petroleum gas hot water heater, approved by the American Gas Association, Inc. under Certificate No. 3-798-1.101, manufactured by Bastian-Morley Co., Inc., La Porte, Indiana, effective November 7, 1960.

FIRE EXTINGUISHING SYSTEMS, FIXED

"Akron Foghed Systems," water spray type fixed fire extinguishing systems for tank vessel pump rooms, Foghed Models 1" BM-54, 1" DM-24, ½" BM-15, ½" DM-34, and ½" DM-15, typical systems dwg. No. D-6636, Rev. B dated August 12, 1960 (JJ/162.021/Akron), manufactured by Akron Brass Manufacturing Co., Inc., Wooster, Ohio, effective October 11, 1960.

Dated: December 19, 1960.

[SEAL] A. C. RICHMOND.

[F.R. Doc. 60-11942; Filed, Dec. 23, 1960; 8:48 a.m.]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

AMENDMENTS TO STATEMENT OF ORGANIZATION

Effective upon publication in the FEDERAL REGISTER, the following amendments to the Statement of Organization of the Immigration and Naturalization Service

(19 F.R. 8071, December 8, 1954), as amended, are prescribed:

1. Subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of sec. 1.51 *Field Service* is amended in the following respects:

a. The list of ports in District No. 2 is amended to read as follows:

DISTRICT NO. 2—BOSTON, MASS.

Class A

Boston, Mass. (the port of Boston includes, among others, the port facilities at Beverly, Braintree, Chelsea, Everett, Hingham, Lynn, Manchester, Marblehead, Milton, Quincy, Revere, Salem, Saugus, and Weymouth, Mass.)

Gloucester, Mass.

Pittsburg, N.H.

Providence, R.I. (the port of Providence includes, among others, the port facilities at Davisville, Hills Grove, Melville, Newport, Portsmouth, Quonset Point, and Tiverton, R.I.; and at Fall River and Somerset, Mass.)

Class C

New Bedford, Mass.

Newburyport, Mass.

Plymouth, Mass.

Provincetown, Mass.

Woods Hole, Mass.

Portsmouth, N.H.

b. The list of ports in District No. 3 is amended to read as follows:

DISTRICT NO. 3—NEW YORK, N.Y.

Class A

New York, N.Y. (the port of New York includes, among others, the port facilities at Bayonne, Carteret, Edgewater, Elizabeth, Hoboken, Jersey City, Linden, Perth Amboy, Port Newark, Sewaren, and Weehawken, N.J.; and at Poughkeepsie and Yonkers, N.Y.)

c. The list of Class B ports in District No. 7—Buffalo, N.Y., is amended by deleting "Thousand Island Park, N.Y. (June, July, and August only)".

d. The list of Class B ports in District No. 22—Portland, Maine, is amended by deleting "Four Falls Road, Maine".

2. Subparagraph (4) *Immigration offices in foreign countries* of paragraph (c) *Suboffices* of sec. 1.51 *Field Service* is amended by adding "Vienna, Austria" in alphabetical sequence.

Dated: December 21, 1960.

J. M. SWING,
Commissioner of
Immigration and Naturalization.

[F.R. Doc. 60-11950; Filed, Dec. 23, 1960; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 14, 1960.

Notice of an application Serial No. A. 046232, for withdrawal and reservation of lands was published as Federal Register Document No. 59-7220 on page 7043-44 of the issue for Aug. 29, 1959. The

applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Part 295, such lands will be at 12:01 a.m. on 1/19/61 relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Passage Canal—Whittier

Beginning at a point on the westerly boundary of Parcel No. 1 PLO 587 which bears N. 10°00' W., 1,100 feet from the common corner and point of beginning for Parcels No. 1 and No. 3 of PLO 587, thence N. 10°00' W., 1,900 feet; thence N. 58°30' E., 4,000 feet; thence East, 2,200 feet to the West shoreline of Passage Canal; thence Southwesterly 3,600 feet, approximately, along line of mean high water thence West, 770 feet thence S. 17°30' W., 795 feet; thence West, 1,320 feet; thence S. 18°42' W., 907.39 feet; thence West, 566.82 feet, more or less, to the point of beginning. The tract as described contains an area of approximately 198 acres.

L. T. MAIN,
Operations Supervisor.

[F.R. Doc. 60-11939; Filed, Dec. 23, 1960; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

SAM NORRIS

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 as reported in the FEDERAL REGISTER during the last six months.

- A. Deletions: None.
- B. Additions: None.

This statement is made as of December 12, 1960.

SAM NORRIS.

DECEMBER 13, 1960.

[F.R. Doc. 60-11940; Filed, Dec. 23, 1960; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 11986]

ST. CATHARINES FLYING CLUB

Notice of Hearing

In the matter of the application of St. Catharines Flying Club for a foreign air carrier permit issued pursuant to section 402 of the Federal Aviation Act of 1958, as amended, to perform operations of a casual, occasional or infrequent nature in common carriage from Canada into the United States.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on December 29, 1960, at 10:00 a.m., e.s.t., in Room 701, Universal Building,

Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., December 20, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Docket 60-11948; Filed, Dec. 23, 1960; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13871, 13899; FCC 60-1524]

ATLANTA OK BROADCASTING CO., INC., AND WRMA BROADCASTING CO., INC.

Order To Show Cause

In the matter of Atlanta OK Broadcasting Company, Inc., licensee of standard broadcast Station WAOK, Atlanta, Georgia, Docket No. 13871; WRMA Broadcasting Company, Inc., licensee of standard broadcast Station WRMA, Montgomery, Alabama, Docket No. 13899; order to show cause why a Cease and Desist Order should not be issued.

The Commission having under consideration the responses on behalf of Stations WAOK, Atlanta, Georgia, and WRMA, Montgomery, Alabama, to the Commission's inquiry of December 2, 1959, with respect to "payola" practices, and the report of a field inquiry into the affairs of Station WAOK, and

It appearing that Stan Raymond, Zenas Sears, and Dorothy Lester each own a one-third stock interest in Atlanta OK Broadcasting Company, Inc., licensee of standard broadcast Station WAOK, Atlanta, Georgia, and a one-third stock interest in OK Realty & Investment Company, the parent company of WRMA Broadcasting Company, Inc., licensee of standard broadcast Station WRMA, Montgomery, Alabama, and

It further appearing that Zenas Sears, Vice President, Treasurer, Director, and stockholder of the licensee of Station WAOK, and also program director and disc jockey at that station, received monies from certain record manufacturing companies for distribution to on-the-air personnel at Station WAOK; and

It further appearing that in an affidavit dated December 30, 1959, by Stan Raymond, President of the licensee of Station WAOK, which affidavit was submitted in response to the Commission's inquiry of December 2, 1959, concerning "payola," it was acknowledged that payments by record companies had been received by Zenas Sears and distributed by Sears, with the knowledge and consent of the officers and directors of the licensee of Station WAOK, to all disc jockeys of Station WACK in accordance with the amount of broadcast time allotted to each member of the staff; and

It further appearing that a written statement by Zenas Sears on August 20, 1960, confirms the statements made in the Raymond affidavit and acknowledges the receipt of payments in the years 1957, 1958, and 1959 by Sears from cer-

tain record companies, the distribution of said payments to disc jockeys of Station WAOK, and the retention of part of said payments for himself; and

It further appearing that, according to Sears, the distribution of the payments from the record companies was made among the on-the-air personnel "most apt to have played records made by the contributing company;" and

It further appearing that the making of said payments by record manufacturers and the acceptance of said payments with the knowledge and consent of the licensee, its officers and directors is incompatible with allegations by the licensee of Station WAOK that said payments had little or no effect on the selection of records broadcast over Station WAOK facilities; and

It further appearing that said payments constituted a valuable consideration directly or indirectly paid to and accepted by or on behalf of the licensee of Station WAOK to insure or induce the play of records produced by the companies making such payments; and

It further appearing that records produced by companies making such payments to Zenas Sears in 1957, 1958, and 1959 were played and broadcast by Station WAOK without announcement at the time such records were broadcast that a consideration had been received or furnished and by whom, such announcements being required under Section 317 of the Communications Act of 1934, as amended, and § 3.119 of the Commission's rules; and

It further appearing that the failure of the licensee of Station WAOK to make the required announcements at various times during 1957, 1958, and 1959 constitutes wilful and repeated violations of section 317 of the Communications Act and § 3.119 of the Commission's rules; and

It further appearing that the response to the Commission's inquiry of December 2, 1959, on behalf of Station WRMA was substantially similar to that for Station WAOK, and that the same sanctions should be imposed;

It is ordered. This 14th day of December 1960, pursuant to the provisions of section 312(b) of the Communications Act of 1934, as amended, that Atlanta OK Broadcasting Company, Inc., and WRMA Broadcasting Company, Inc., are directed to show cause why the said Atlanta OK Broadcasting Company, Inc., WRMA Broadcasting Company, Inc., and their respective officers, agents, employees, or other parties acting in concert with either the said Atlanta OK Broadcasting Company, Inc., or the said WRMA Broadcasting Company, Inc., or both of them, should not be ordered to cease and desist from violating section 317 of the Communications Act of 1934, as amended, by accepting monies or things of value from anyone for the purpose of inducing the broadcast of phonograph records or other program material over either Radio Station WAOK, Atlanta, Georgia, or Station WRMA, Montgomery, Alabama, or both of them, without the appropriate announcement having been made, as required by section 317 of the Communications Act of 1934, as amended, and to appear and give evi-

dence with respect thereto at a hearing¹ to be held in Washington, D.C., at a time to be specified by subsequent order, said time in no event to be less than 30 days after receipt of this order; and

It is further ordered. That the Acting Secretary of this Commission send a copy of this order by Certified Mail-Return Receipt Requested to the said Atlanta OK Broadcasting Company, Inc., and WRMA Broadcasting Company, Inc.

Released: December 20, 1960.

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

[F.R. Doc. 60-11958; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket No. 13877; FCC 60M-2147]

AUBURN BROADCASTING CO., INC. (WAUD)

Order Scheduling Hearing

In re application of Auburn Broadcasting Company, Incorporated (WAUD), Auburn, Alabama, Docket No. 13877, File No. BP-13077; for construction permit.

It is ordered. This 19th day of December 1960, that Annie Neal Hunting will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 21, 1961, in Washington, D.C.

Released: December 21, 1960.

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

[F.R. Doc. 60-11959; Filed, Dec. 23, 1960;
8:50 a.m.]

¹ Section 1.62 of the Commission's rules provides that a licensee, in order to avail itself of the opportunity to be heard, shall, in person or by its attorney, file with the Commission, within thirty days of the receipt of the Order To Show Cause, a written statement stating that it will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., it should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the Order To Show Cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the Order To Show Cause, the allegations of fact contained in the Order To Show Cause will be deemed as correct and the sanctions specified in the Order To Show Cause will be revoked.

² Concurring Statement of Chairman Ford filed as part of the original document.

[Docket Nos. 13837-13840; FCC 60M-2131]

BERNALILLO BROADCASTING CO. ET AL.

Order Continuing Hearing

In re applications of Oscar E. Reeder, tr/as Bernalillo Broadcasting Co., Albuquerque, New Mexico, Docket No. 13837, File No. BP-12708; Carter M. Waid, tr/as Belen Broadcasting Company, Belen, New Mexico, Docket No. 13838, File No. BP-12822; Phillip B. Rosenthal, tr/as Cosmopolitan Broadcasting Co., Santa Fe, New Mexico, Docket No. 13839, File No. BP-13706; KARA, Incorporated (KARA), Albuquerque, New Mexico, Docket No. 13840, File No. BP-14024; for construction permits.

Pursuant to a prehearing conference in this proceeding as of this date: *It is ordered.* This 16th day of December 1960, that the hearing now scheduled for January 24, 1961, be, and the same is hereby rescheduled for March 27, 1961, 10:00 a.m., in the Commission's Offices, Washington, D.C.

Released: December 19, 1960.

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

[F.R. Doc. 60-11960; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13338, 13870; FCC 60M-2144]

DIXIE RADIO, INC., AND HARRY LLEWELLYN BOWYER, JR.

Order Scheduling Hearing

In re applications of Dixie Radio, Inc., Brunswick, Georgia, Docket No. 13338, File No. BP-13854; Harry Llewellyn Bowyer, Jr., Brunswick, Georgia, Docket No. 13870, File No. BP-12507; for construction permits.

It is ordered. This 19th day of December 1960, that Isadore A. Honig will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 23, 1961, in Washington, D.C.

Released: December 20, 1960.

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

[F.R. Doc. 60-11961; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13882-13883; FCC 60M-2149]

EUGENE BROADCASTERS AND W. GORDON ALLEN

Order Scheduling Hearing

In re applications of Diana Crocker Redington, William H. Crocker II, Thomas J. Davis, Jr., and Robert Sherman, d/b as Eugene Broadcasters (a Joint Venture), Eugene, Oregon, Docket No. 13882, File No. BP-12954; W. Gordon Allen, Eugene, Oregon, Docket No. 13883, File No. BP-13214; for construction permits.

It is ordered. This 19th day of December 1960, that Forest L. McClenning will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 28, 1961, in Washington, D.C.

Released: December 21, 1960.

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

[F.R. Doc. 60-11962; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13879-13881; FCC 60M-2148]

**FORT HAMILTON BROADCASTING
CO. (WMOH) ET AL.**

Order Scheduling Hearing

In re applications of the Fort Hamilton Broadcasting Company (WMOH), Hamilton, Ohio, Docket No. 13879, File No. BP-12869; Lafayette Broadcasting, Inc. (WASK), Lafayette, Indiana, Docket No. 13880, File No. BP-13252; Indiana Broadcasting Corporation (WANE), Fort Wayne, Indiana, Docket No. 13881, File No. BP-13768; for construction permits.

It is ordered. This 19th day of December 1960, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 27, 1961, in Washington, D.C.

Released: December 21, 1960.

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

[F.R. Doc. 60-11963; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13874-13876; FCC 60M-2146]

**FRANKLIN BROADCASTING CO., INC.
(KMAR) ET AL.**

Order Scheduling Hearing

In re applications of Franklin Broadcasting Co., Inc. (KMAR), Winnsboro, Louisiana, Docket No. 13874, File No. BP-12937; John Anthony Lazarone and Irving Ward-Steinman, d/b as Leesville Broadcasting Company (KLLA), Leesville, Louisiana, Docket No. 13875, File No. BP-13165; Yam Broadcasting Company, Incorporated, Opelousas, Louisiana, Docket No. 13876, File No. BP-13864; for construction permits.

It is ordered. This 19th day of December 1960, that Basil P. Cooper will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 13, 1961, in Washington, D.C.

Released: December 21, 1960.

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

[F.R. Doc. 60-11964; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13872-13873; FCC 60M-2145]

**L. M. HUGHEY (WTWB) AND SUGAR-
LAND BROADCASTING CO.**

Order Scheduling Hearing

In re applications of L. M. Hughey (WTWB), Auburndale, Florida, Docket No. 13872, File No. BP-11777; Sugarland Broadcasting Company, Okeechobee, Florida, Docket No. 13873, File No. BP-12513; for construction permits.

It is ordered. This 19th day of December 1960, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 28, 1961, in Washington, D.C.

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

Released: December 21, 1960.

[F.R. Doc. 60-11965; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13887-13890; FCC 60M-2151]

**CAPITOL BROADCASTING CORP.,
INC. (WKXL) ET AL.**

Order Scheduling Hearing

In re applications of Capitol Broadcasting Corporation, Inc. (WKXL), Concord, New Hampshire, Docket No. 13887, File No. BP-12712; Tri-State Area Broadcasting Corporation (WTSA), Brattleboro, Vermont, Docket No. 13888, File No. BP-13126; WMAS, Incorporated (WMAS), Springfield, Massachusetts, Docket No. 13889, File No. BP-13264; Normandy Broadcasting Corporation (WWSC), Glens Falls, New York, Docket No. 13890, File No. BP-13274; for construction permits.

It is ordered. This 19th day of December 1960, that Jay A. Kyle will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 13, 1961, in Washington, D.C.

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

Released: December 21, 1960.

[F.R. Doc. 60-11966; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13884-13886; FCC 60M-2150]

**"JET" BROADCASTING CO., INC.
(WJET) ET AL.**

Order Scheduling Hearing

In re applications of The "Jet" Broadcasting Co., Inc. (WJET), Erie, Pennsylvania, Docket No. 13884, File No. BP-12188; WBNY, Incorporated (WBNY), Buffalo, New York, Docket No. 13885, File No. BP-13285; Lake Shore Broadcasting Company, Inc. (WDOE), Dunkirk, New York, Docket No. 13886, File No. BP-13300; for construction permits.

It is ordered. This 19th day of December 1960, that Thomas H. Donahue will preside at the hearing in the above-en-

titled proceeding which is hereby scheduled to commence on February 16, 1961, in Washington, D.C.

Released: December 21, 1960.

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

[F.R. Doc. 60-11967; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket Nos. 13891-13895; FCC 60M-2152]

JOHN LAURINO ET AL.

Order Scheduling Hearing

In re applications of John Laurino, Waynesboro, Virginia, Docket No. 13891, File No. BP-12428; Radio Danville, Incorporated, (WDTI), Danville, Virginia, Docket No. 13892, File No. BP-13618; Music Productions Incorporated, Waynesboro, Virginia, Docket No. 13893, File No. BP-13714; James J. Williams, Waynesboro, Virginia, Docket No. 13894, File No. BP-13746; Samuel J. Cole and J. R. Mims, Sr. d/b as Blue Ridge Broadcasters, Luray, Virginia, Docket No. 13895, File No. BP-13753; for construction permits.

It is ordered. This 19th day of December 1960, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 13, 1961, in Washington, D.C.

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

[F.R. Doc. 60-11968; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket No. 13853; FCC 60M-2137]

MID-KANSAS, INC.

**Order Scheduling Prehearing
Conference**

In re applications of Mid-Kansas, Inc., Docket No. 13853, for construction permit for a common carrier microwave station at Manhattan, Kansas, File No. 2205-C1-P-60; for construction permit for a common carrier microwave station at Junction City, Kansas, File No. 2206-C1-P-60; for construction permit for a common carrier microwave station at Abilene, Kansas, File No. 2207-C1-P-60; for construction permit for a common carrier microwave station at St. Mary's, Kansas, File No. 224-C1-P-61.

It is ordered. This 19th day of December 1960 that a prehearing conference, in accordance with § 1.111 of the rules, will be held in the above-entitled matter at 10:00 a.m. on January 4, 1961, in the offices of the Commission at Washington, D.C.

Released: December 20, 1960.

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

[F.R. Doc. 60-11969; Filed, Dec. 23, 1960;
8:50 a.m.]

[Docket No. 13896; FCC 60M-2153]

SAWNEE BROADCASTING CO.**Order Scheduling Hearing**

In re application of John T. Pittard, tr/as Sawnee Broadcasting Company, Cumming, Georgia, Docket No. 13896, File No. BP-13266; for construction permit.

It is ordered, This 19th day of December 1960, that Jay A. Kyle will preside

at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 16, 1961, in Washington, D.C.

Released: December 21, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-11970; Filed, Dec. 23, 1960; 8:50 a.m.]

[Canadian List No. 153]

CANADIAN BROADCAST STATIONS**List of Changes, Proposed Changes and Corrections in Assignments**

DECEMBER 5, 1960.

Notification under provisions of part III section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in Assignments of Canadian Broadcast Stations Modifying Appendix containing assignments of Canadian Broadcast Stations (Mimeograph #47214-3) attached to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting.

Call letters	Location	Power	Antenna	Schedule	Class	Expected date of commencement of operation
New.....	Corner Brook, Newfoundland.	560 kilocycles 1.....	DA-N	U	III	Delete assignment—vide 570 kc.
OFCB.....	Corner Brook, Newfoundland.	570 kilocycles 1.....	ND	U	III	Now in operation.
OKKL.....	Thompson Townsite, Manitoba.	610 kilocycles 1.....	ND	U	III	Delete assignment.
CKVD (PO: 1230 kc 0.25 kw ND).	Val D'Or, P.Q.....	1850 kilocycles 1 kw D/0.25 kw N.	ND	U	IV	EIO 11-30-61.
New.....	Kamloops, British Columbia.	1850 kilocycles 1 kw D/0.25 kw N.	ND	U	IV	Delete assignment.
New.....	Dartmouth, Nova Scotia.	5.....	DA-1	U	III	Delete assignment.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-11971; Filed, Dec. 23, 1960; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP61-67]

CITIES SERVICE GAS CO.**Notice of Application and Date of Hearing**

DECEMBER 15, 1960.

Take notice that on September 6, 1960, as supplemented on October 14, 1960, Cities Service Gas Company, Oklahoma City, Oklahoma (Applicant), filed in Docket No. CP61-67 an application pursuant to section 7 of the Natural Gas Act for authorization to abandon certain natural gas facilities by sale or by retirement and for a certificate of public convenience and necessity authorizing the construction and operation of certain other facilities, all as more fully set forth in the application and exhibits, as supplemented, which are on file with the Commission and open to public inspection.

Applicant proposes the following:

A. Vicinity of Kansas City, Kansas:

(1) To construct and operate a new town border meter station, with appurtenant facilities;

(2) To abandon by sale to The Gas Service Company (Gas Service), an existing distributing company customer, a total of approximately 4.9 miles of 4- to 24-inch pipeline, and two meter and regulator settings on these lines;

B. Vicinity of Topeka, Kansas:

(1) To construct and operate two new town border meter stations, with appurtenant facilities, in East Topeka;

(2) To abandon by sale to Gas Service a total of approximately 2.59 miles of 10- to 20-inch pipeline, and five meter and regulator settings on these lines, all in East Topeka;

(3) To abandon and reclaim approximately 2 miles of 12-inch pipeline, and one meter setting thereon, in the eastern part of Topeka;

C. Vicinity of Hutchinson, Kansas:

(1) To construct and operate one high-pressure regulator setting in the southeastern section of Hutchinson where a check meter is now located;

(2) To abandon by sale to Gas Service approximately 3.2 miles of 2- to 10-inch pipeline and six meter and regulator installations thereon in eastern Hutchinson;

D. Vicinity of Pawhuska, Oklahoma:

(1) To construct and operate approximately 3 miles of 6-inch pipeline extending from Applicant's existing 12-inch line in Osage County, Oklahoma, to Pawhuska, and a new town border meter station, with appurtenant facilities, at the western edge of Pawhuska; and

(2) To abandon and reclaim approximately 38.6 miles of 1- to 12-inch pipeline presently extending from Shidler, Oklahoma, to Tallant, Oklahoma, and one town border meter station thereon at the eastern edge of Pawhuska.

Applicant states that the estimated cost of the facilities proposed to be constructed is \$112,150. The estimated cost of reclaiming the facilities to be reclaimed is \$81,300, with salvage credit of \$208,785, for such facilities. The facilities to be sold to Gas Service will be sold for \$163,350. Construction costs will be paid by Applicant from treasury cash.

The subject proposed realignment of properties is stated to stem from Applicant's policy of disposing of pipeline facilities in residential or commercial areas, where possible, to the local distribution company, resulting generally in the elimination of expensive maintenance, operation and relocation work.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

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 on January 17, 1961, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 6, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the in-

intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-11908; Filed, Dec. 23, 1960;
8:45 a.m.]

FOREIGN-TRADE ZONES BOARD

FOREIGN-TRADE ZONE NO. 3, SAN FRANCISCO, CALIFORNIA

Extension of Time for Permanent Relocation

Mr. Cyril Magnin, President, San Francisco Port Authority, San Francisco, California, as representative of the zone grantee, on December 2, 1960, advised the Foreign-Trade Zones Board of their inability to accomplish the permanent relocation of Foreign-Trade Zone No. 3 by the date established in Order No. 46, and requested an extension of time to June 30, 1962.

The Committee of Alternates has reviewed the circumstances in this case and unanimously recommend that the request for an extension of time from May 14, 1961, to June 30, 1962, be granted.

Upon consideration the Board concurs in the Committee's recommendation and hereby adopts the following resolution: "The Foreign-Trade Zones Board, after consideration of the request from the San Francisco Port Authority, Grantee, Foreign-Trade Zone No. 3, for an extension of time from May 14, 1961, to June 30, 1962, to permanently relocate the zone, approves the request."

The Executive Secretary of the Foreign-Trade Zones Board is directed to incorporate this Memorandum, the letters from the Assistant Secretary of the Treasury, A. Gilmore Flues, dated December 13, 1960, and Col. Carl H. Bronn, Army Member, Committee of Alternates, dated December 13, 1960, approving the foregoing Resolution in the official records of the Foreign-Trade Zones Board. The Executive Secretary will publish the foregoing Resolution in the FEDERAL REGISTER.

Dated: December 19, 1960.

FREDERICK H. MUELLER,
Secretary of Commerce, Chairman
and Executive Officer,
Foreign-Trade Zones Board.

[F.R. Doc. 60-11934; Filed, Dec. 23, 1960;
8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 428]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 21, 1960.

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

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

No. MC-FC 63304. By order of December 19, 1960, the Transfer Board approved the transfer to Gentile Distributing Co., Inc., Hurley, Wisconsin, of the operating rights authorized to Nicholas Gentile, doing business as Gentile Distributors, in Permit No. MC 116691 Sub 1, issued February 18, 1960, authorizing the transportation, over irregular routes, of empty shop trailers and shop trailers loaded with miscellaneous fittings, couplings, office furniture, and tools to be used on construction jobs (except house trailers designed to be drawn by passenger automobiles), between points in Michigan, Minnesota, and Wisconsin. Alex J. Raineri, 317 Silver Street, Hurley, Wisconsin, for applicants.

No. MC-FC 63796. By order of December 19, 1960, the Transfer Board approved the transfer to Eldorado Truck Line, Incorporated, El Dorado Springs, Mo., of Certificates Nos. MC 110070, Sub 1, and MC 110070 Sub 2, issued May 16, 1950, May 16, 1950, and April 16, 1958, to Donald B. Lightner, doing business as El Dorado Truck Line, El Dorado Springs, Mo., authorizing the transportation of general commodities, excluding household goods, commodities in bulk, and various specified commodities, over regular route, between Eldorado Springs, Mo., and Kansas City, Mo.; to and from points in the Kansas City, Mo.-Kansas City, Kans. commercial zone as defined by the Commission, as intermediate and off-route points in connection with the above-route; between Bolivar, Mo., and Eldorado Springs, Mo.; between Springfield, Mo., and Clinton, Mo.; household goods over irregular routes, between points in Cedar, St. Clair, and Vernon Counties, Mo., on the one hand, and, on the other, points in Oklahoma, Nebraska, and Iowa and Illinois; and household goods, over irregular routes, between points in Cedar County, Mo., on the one hand, and, on the other, points in Kansas. Rolland V. Cox, 824 Landers Bldg., Springfield, Mo., for applicants.

No. MC-FC 63801. By order of December 19, 1960, The Transfer Board approved the transfer to J. E. Cox and Sons, Inc., Breckenridge, Tex., of the operating rights authorized to Zola M. Cox, J. E. Cox, Jr., Wesley N. Cox, and Genevieve C. Crowley, a Partnership, doing business as J. E. Cox & Sons, in Certificates Nos. MC 41610 and MC 41610 Sub 11, issued January 19, 1953, and January 24, 1956, respectively, authorizing the transportation, over irregular routes, of machinery, materials, equipment, and supplies used in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribu-

tion of natural gas and petroleum and their products and by-products, not including the stringing or pick-up of pipe in connection with the construction or dismantling of pipe lines, and machinery, materials, equipment, and supplies, used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe line, including the stringing and picking-up thereof, except the stringing or picking up of pipe in connection with main or trunk pipe line, machinery and equipment, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and materials and supplies (not including sulphur) used in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, restricted to the transportation of shipments of materials and supplies moving to or from exploration, drilling, production, job, construction, plant (including refining, manufacturing, and processing plant) sites or storage sites, machinery, equipment, materials, and supplies used in or in connection with, the drilling of water wells, and household goods, between specified points in Texas, New Mexico, Louisiana, and Oklahoma. Ewell H. Muse, Jr., 415 Perry Brooks Bldg., Austin 1, Tex., for applicants.

No. MC-FC 63802. By order of December 19, 1960, The Transfer Board approved the transfer to Roy Williams, George Williams and Warren Higginbotham, a partnership, doing business as Williams Trucking Service, Clackamas, Oregon, Certificate No. MC 7155 Sub 1 issued February 20, 1959, in the name of George Williams, Roy Williams, Warren Littlejohn, and Warren Higginbotham, a partnership, doing business as Williams Trucking Service, Clackamas, Oregon, authorizing the transportation over irregular routes of agricultural machinery and equipment, and household goods, between points in Marion, and Linn Counties, Ore., not served by regular route motor carriers, on the one hand, and, on the other, points in Washington; agricultural produce and wool, from points in Marion, and Linn Counties, Ore., not served by regular route interstate motor carriers, to Portland, Ore.; unprocessed agricultural and horticultural products, from points in Washington, and Idaho, to Salem, Ore.; livestock, from points in Marion, and Linn Counties, Ore., to Seattle, Wash.; fertilizer, from Pocatello, Idaho, and points within 5 miles thereof, to points in Deschutes, Jefferson, Marion, Polk, Linn, Lane, and Tillamook Counties, Ore.; fertilizers, from Wendell, and Pocatello, Idaho, and points within 5 miles of each, to points in Columbia, Clatsop, Yamhill, and Benton Counties, Ore.; shingles, from points in Marion, and Linn Counties, Ore., to points in Idaho, except those in and north of Idaho County, Idaho; lumber, from points in Marion, Polk, Linn, and Lane Counties, Ore., to points in Benton, and Franklin Counties, Wash., and points in Idaho, except those

in and north of Idaho County, Idaho; from Idaho, Oreg., to points in Idaho; from points in Columbia, Clatsop, Yamhill, and Benton Counties, Oreg., to points in Idaho except those in and north of Lewis, Nez Perce, and Idaho Counties, Idaho; from points in Marion, Polk, Linn, Lane, Columbia, Clatsop, Yamhill, and Benton Counties, Oreg., to points in Utah; from points in Washington, to points in Utah, points in Idaho except those in and north of Lewis, Nez Perce, and Idaho Counties, Idaho, and points in Oregon in and east of Hood River, Wasco, Jefferson, Deschutes, and Klamath Counties, Oreg. Robert R. Hollis, 1121 Equitable Bldg., Portland 4, Oreg., for applicants.

No. MC-FC 63807. By order of December 19, 1960, The Transfer Board approved the transfer to Ransom Bros., Inc., Brooklyn, N.Y., of Certificate No. MC 84832 issued March 17, 1952, in the name of Alfred A. Ransom, Gordon E. Ransom and Herbert A. Ransom, a partnership, doing business as Ransom Bros., Brooklyn, N.Y., authorizing the transportation of household goods as defined by the Commission, over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in New York, Connecticut, New Jersey, and Pennsylvania. Bernard Kovner, 170 Broadway, New York 38, N.Y., for applicants.

No. MC-FC 63809. By order of December 19, 1960, The Transfer Board approved the transfer to Vess Transfer, Inc., Evansville, Indiana, of Certificate in No. MC 61054, issued November 23, 1940, to Clarence R. Kuhn, doing business as Kuhn Truck Line, Mount Vernon, Indiana, authorizing the transportation of: General commodities (excluding household goods, commodities in bulk, and other specified commodities between Evansville, Ind., and Mount Vernon, Ind.). Ferdinand Born, Attorney at law, 1019 Chamber of Commerce Bldg., Indianapolis 4, Ind., for applicants.

No. MC-FC 63811. By order of December 19, 1960, The Transfer Board approved the transfer to Klappert Moving & Storage, Incorporated, Covington, Ky., of Certificate No. MC 649 issued October 31, 1955, in the name of Hugh Johnson and Mary Johnson, doing business as Klappert Moving & Storage, Covington, Ky., authorizing the transportation of household goods as defined by the Commission, over irregular routes, between points in Campbell, Kenton, and Boone Counties, Ky., on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Missouri, Ohio, Tennessee, and West Virginia. Robert H. Rettig, 227 Scott St., Covington, Ky., for transferee and Hugh Johnson, 229 Scott Blvd., Covington, Ky., for transferor.

No. MC-FC 63826. By order of December 19, 1960, The Transfer Board approved the transfer to Kansas Transportation, Inc., Topeka, Kansas, of Certificate in No. MC 116321 Sub 3, issued June 26, 1959, to Thunderbird Transportation Co., Inc., Hiawatha, Kansas, authorizing the transportation of: Passengers and their baggage, and newspapers, express, and mail in the same vehicle with passengers, between

Kansas City, Mo., and Bonner Springs, Kans., between Bonner Springs, Kans., and Lawrence, Kans., and using an alternate route for operating convenience only when highway becomes impassable from Bonner Springs over Kansas Highway 7 to junction U.S. Highway 40, thence over U.S. Highway 40 to junction Kansas Highway 32 and return over the same route. Clinton C. Marker, Attorney, 512 Garlinghouse Bldg., Topeka, Kans., for applicants.

No. MC-FC 63829. By order of December 19, 1960, The Transfer Board approved the transfer to Interstate Grocery Transport System, Inc., New York, N.Y., of Certificate No. MC 668531 issued August 24, 1959, to Gennaro Gargiulo and Angelina Gargiulo, a partnership, doing business as New York-Newark Express, New York, N.Y., authorizing the transportation of general commodities, excluding household goods, commodities in bulk, and various specified commodities, over irregular routes, between points in the New York, N.Y., Commercial Zone, as defined by the Commission on the one hand, and, on the other, Newark, N.J.; and groceries, from New York, N.Y., to points in Bergen, Monmouth, Passaic, Essex, Hudson, Union, Middlesex, and Morris Counties, N.J. William D. Traub, 10 East 40th St., New York 16, N.Y., for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-11927; Filed, Dec. 23, 1960;
8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2830]

COLUMBIA TITLE INSURANCE CO.

Notice of Application To Strike From Listing and Registration and of Opportunity for Hearing

DECEMBER 20, 1960.

In the matter of The Columbia Title Insurance Company, Capital Stock; File No. 1-2830.

Philadelphia-Baltimore Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following: Over 90 percent of the stock has been acquired by the American Title Insurance Company. The issuer concurs in the application.

Upon receipt of a request, on or before January 6, 1961, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person

requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official files of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 60-11922; Filed, Dec. 23, 1960;
8:46 a.m.]

[File No. 812-1348]

FIDELITY FUND, INC.

Notice of Filing of Application

DECEMBER 16, 1960.

Notice is hereby given that Fidelity Fund, Inc. ("Fidelity"), a registered open-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for 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 The Wescon Company ("Wescon") on the basis set forth below.

Shares of Fidelity, a Massachusetts corporation, are offered to the public on a continuous basis at net asset value plus varying sales charges dependent on the amount purchased. As of September 14, 1960, the net assets of Fidelity amounted to \$375,800,051.

Wescon, a New Jersey corporation, is a personal holding company which engages in the business of investing and reinvesting its funds. Wescon is excepted from the definition of investment company under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between Fidelity and Wescon, substantially all of the cash and securities of Wescon, with a total value of \$2,121,923 as of September 14, 1960, will be transferred to Fidelity in exchange for shares of stock of Fidelity. The shares acquired by Wescon are to be distributed immediately to its shareholders, who intend to take such shares for investment with no present intention of distribution or redemption. The number of shares of Fidelity to be delivered to Wescon will be determined by dividing the net asset value per share of Fidelity in effect at the closing time into the value of the Wescon assets to be exchanged (with certain adjustments as set forth below).

Since the exchange will be tax free for Wescon and its shareholders, Fidelity's cost basis for tax purposes on the assets acquired from Wescon will be the same as for Wescon, rather than the price actually paid by Fidelity for the assets. Fidelity intends to retain for in-

vestment the securities acquired from Wescon on which there was an unrealized gain of \$608,310 as of September 14, 1960, or 28.6 percent of the total assets acquired from Wescon. As of the same date, Fidelity's unrealized appreciation was \$83,639,643, or 22.3 percent of its total net assets, and Fidelity also had undistributed net realized gains of \$14,369,310.

In order to compensate the present shareholders of Fidelity for possible adverse tax consequences in the event of future sale of the assets acquired from Wescon, it has been agreed that the value of Wescon's assets will be reduced by 12½ percent of the amount by which the unrealized appreciation on the assets acquired from Wescon is greater proportionately than the unrealized appreciation on Fidelity's assets. This excess appreciation is to be computed as of the closing time by applying the percentage of unrealized appreciation on Fidelity's assets to the value of the assets acquired from Wescon and subtracting the resulting amount from the unrealized appreciation on Wescon's assets. If such calculation had been made as of September 14, 1960, the excess appreciation would have amounted to \$135,121, and the 12½ percent adjustment thereon to \$16,890. Provision is also made for an offset to this adjustment if the Wescon shareholders assume any undistributed realized capital gains of Fidelity, and to this extent relieve present shareholders of Fidelity of an immediate tax burden. Such offset would be computed by applying 17½ percent to the undistributed realized capital gains of Fidelity allocable to the shares to be issued to Wescon, the rate of 17½ percent having been selected on the assumption that the average effective capital gains tax rate of Fidelity's shareholders is midway between the minimum effective rate of 10 percent and the maximum effective rate of 25 percent. It is unlikely, however, that this offset will be material, since it is presently intended that the transaction will be effective immediately after the year-end distribution of capital gains by Fidelity.

The application recites that the terms of the entire transaction were arrived at through arm's-length bargaining between Fidelity and Wescon.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus, with certain exceptions not applicable here. Under the terms of the Agreement, however, the shares of Fidelity are to be issued to Wescon at a price other than the public offering price stated in the prospectus.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes

fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 29, 1960, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by the 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 should order a hearing thereon.

Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. 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 showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 60-11923; Filed, Dec. 23, 1960;
8:46 a.m.]

[File No. 1-2831]

REAL ESTATE TITLE INSURANCE CO.

Notice of Application To Strike From Listing and Registration and of Opportunity for Hearing

DECEMBER 20, 1960.

In the matter of the Real Estate Title Insurance Company, Capital Stock; File No. 1-2831.

Philadelphia-Baltimore Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following: Over 94 percent of the stock has been acquired by the American Title Insurance Company. The issuer concurs in the application.

Upon receipt of a request, on or before January 6, 1961, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be deter-

mined by order of the Commission on the basis of the facts stated in the application and other information contained in the official files of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 60-11925; Filed, Dec. 23, 1960;
8:46 a.m.]

[File No. 24C-2294]

NATIONAL SECURITY LIFE INSURANCE CO.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

DECEMBER 20, 1960.

I. National Security Life Insurance Company (issuer) a corporation incorporated under the laws of the State of Indiana on June 7, 1955, with officers at 1060 Broad Ripple Avenue, Indianapolis, Indiana, filed with the Commission on November 14, 1960, a notification on Form 1-A and an offering circular and other material pertaining to a proposed offering by the issuer of 73,300 shares of its common stock, \$1 par value, at \$2 per share for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that the exemption provided by Regulation A is not available for the securities proposed to be offered, in that:

A. The terms and conditions of Regulation A have not been compiled with in that:

1. The offering under the above numbered notification commenced prior to the expiration of ten business days after the filing of the notification;
2. The aggregate offering price of the securities which have been and are to be offering exceed the \$300,000 limitation imposed by Rule 254 and Rule 253(c);
3. The notification fails to disclose the complete residence addresses of certain officers of the issuer, as required by Item 3 thereof;
4. The notification fails to disclose the jurisdictions in which the offering is to be made, as required by Item 8 thereof;
5. The notification fails to disclose that the Illinois Security Life Insurance Company is a predecessor of the issuer, as required by Item 2 thereof;
6. The notification fails to disclose the issuance and sale of unregistered securities of the issuer, as required by Item 9 thereof;
7. No escrow or similar arrangement meeting the requirements of Rule 253(c) was filed in accordance with Item 11;
8. The consent of Haight, Davis and Haight, actuarial firm passing upon the insurance policies of the issuer, was not filed as an exhibit to the notification;

9. The offering circular does not contain the complete statement required by Item 1 of Schedule I;

10. The offering circular does not describe the method by which the securities are proposed to be offered, as required by Item 5 of Schedule I;

11. The offering circular does not adequately or accurately describe the physical properties held or to be held by the issuer, as required by Item 8C(b) of Schedule I;

12. The offering circular does not contain the financial statements required by Item 11 of Schedule I;

13. The offering circular fails to describe material transactions between the officers and directors and the issuer, as required by Item 9(c) of Schedule I;

14. The offering circular does not adequately or accurately describe the purposes for which the net cash proceeds to the issuer are to be used and the amount to be used for each such purpose as required by Item 6(a) of Schedule I.

B. The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary in order to make the statement made, in the light of the cir-

cumstances under which they were made, not misleading, in the following respects:

1. Item 9 of the notification falsely states that no unregistered securities of the issuer were issued within one year preceding the filing of the notification;

2. The offering circular fails to disclose the issuer's contingent liability arising out of the sale of unregistered securities;

3. The offering circular fails to adequately or accurately describe the nature and extent of the issuer's business and more specifically, fails to clearly disclose the adverse operating results of said business;

4. The offering circular fails to disclose payments made, directly and indirectly, by the issuer to its officers and directors;

5. The failure to include adequate and accurate financial statements, prepared in accordance with generally accepted accounting principles.

C. The offering would be and is being made in violation of section 17 of the Securities Act of 1933, as amended.

III. It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under

Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F.R. Doc. 60-11924; Filed, Dec. 23, 1960; 8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—DECEMBER

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