

# FEDERAL REGISTER

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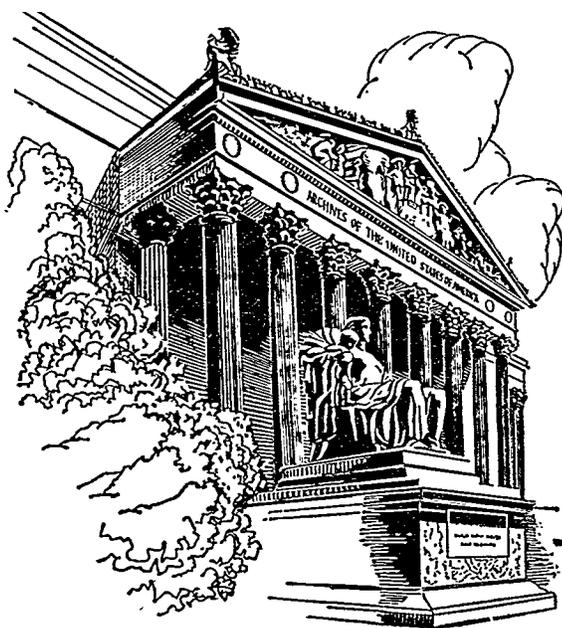
Tuesday, January 14, 1969 • Washington, D.C.

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Agriculture Department  
Atomic Energy Commission  
Civil Aeronautics Board  
Commodity Credit Corporation  
Consumer and Marketing Service  
Federal Communications Commission  
Federal Maritime Commission  
Federal Power Commission  
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Land Management Bureau  
Mint Bureau  
Narcotics and Dangerous Drugs  
Bureau  
National Park Service  
Patent Office  
Securities and Exchange Commission  
Treasury Department

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[Revised as of January 1, 1968]

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# Rules and Regulations

## Title 7—AGRICULTURE

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

[Lemon Reg. 355, Amdt. 1]

#### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

##### Limitation of Handling

*Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

*Order, as amended.* The provisions in paragraph (b) (1) (i), (ii), and (iii) of § 910.655 (Lemon Reg. 355, 34 F.R. 127) are hereby amended to read as follows:

§ 910.655 Lemon Regulation 355.

- (b) *Order.* (1) \* \* \* \* \*
- (i) District 1: 18,600 cartons;
  - (ii) District 2: 79,050 cartons;
  - (iii) District 3: 111,600 cartons.
- \* \* \* \* \*

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

Dated: January 9, 1969.

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

[F.R. Doc. 69-445; Filed, Jan. 13, 1969; 8:48 a.m.]

[Avocado Reg. 10, Amdt. 5]

#### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

##### Limitation of Shipments

*Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South 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 recommendation of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of avocados grown in South Florida.

*Order.* The provisions of § 915.310 (Avocado Reg. 10; 33 F.R. 8500, 8801, 10501, 14116, 18581) are amended as follows:

1. The provisions of paragraph (a) (1) are amended to read as follows:

(a) *Order.* (1) During the period January 13, 1969, through April 30, 1969, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade;

2. The provisions of paragraph (b) are amended by substituting "and the term U.S. No. 3." for "and the term U.S. No. 2".

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

Dated, January 9, 1969, to become effective January 13, 1969.

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

[F.R. Doc. 69-444; Filed, Jan. 13, 1969; 8:48 a.m.]

[945.327, Amdt. 1]

#### PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

##### Limitation of Shipments

Notice of rule making with respect to a proposed amendment to the limitation of shipments regulation, to be made effective under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR Part 945) regulating the handling of Irish potatoes grown in designated counties in Idaho and Malheur County, Oreg., was published in the FEDERAL REGISTER January 4, 1969 (34 F.R. 152). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than 5 days after publication. Within the period specified, written comment was filed by the Idaho-Eastern Oregon Potato Committee to correct an error in certain minimum sizes by lowering it 1 ounce each in the 50-90 count designations.

After consideration of all relevant matters presented, including the written comment filed, the proposals set forth in the aforesaid notice which were recommended by the Idaho-Eastern Oregon Potato Committee, established pursuant to said amended marketing agreement and order, it is hereby found and determined that this amendment will tend to effectuate the declared policy of the act.

It is hereby found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that shipments of potatoes grown in the production area are currently being marketed and the amendment should become effective at the time herein provided to maximize the benefits to producers; to delay this amendment beyond the effective time would tend to increase shipments of size "B" potatoes prior to the effective time; and good cause exists for making the provisions hereof effective not later than January 14, 1969. Idaho-Eastern Oregon Potato Committee held an open meeting December 20, 1968, to consider recommendations for an amendment to the limitation of shipments regulations, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the recommendation by the committee has been disseminated among the growers and handlers of potatoes in the production area; compliance with

this section will not require any special preparation of potato sorting and packing equipment on the part of handlers subject thereto which cannot be completed on or before the effective time hereof.

Effective January 14, 1969, paragraphs (a), (b) (1), (c), the introductory text of (d), and (f) of § 945.327 (33 F.R. 9531) are amended as follows:

§ 945.327 Limitation of shipments.

(a) *Minimum quality requirements*—(1) *Grade*. All varieties: U.S. No. 2, or better grade.

(2) *Size*. (i) Round red varieties: 1 7/8 inches minimum diameter.

(ii) All other varieties: 2 inches minimum diameter, or 4 ounces minimum weight.

(iii) When containers of long varieties of potatoes are marked with a count or similar designation they must meet the weight range for the count designation listed below:

Count designation	Weight range
Larger than 50 count.	15 ounces or larger.
50 count.....	12-19 ounces.
60 count.....	10-16 ounces.
70 count.....	9-15 ounces.
80 count.....	8-13 ounces.
90 count.....	7-12 ounces.
100 count.....	6-10 ounces.
110 count.....	5-9 ounces.
120 count.....	4-8 ounces.
130 count.....	4-8 ounces.
140 count.....	4-8 ounces.
Smaller than 140 count.	4-8 ounces.

The following tolerances, by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

- (a) 5 percent for undersize; and,  
 (b) 10 percent for oversize.  
 (3) *Cleanliness*—(i) *Kennebec variety*. Not more than "slightly dirty."  
 (ii) *All other varieties*. "Generally fairly clean."  
 (b) *Minimum maturity requirements*—(1) *White Rose variety*. No maturity requirements.

(c) *Special purpose shipments*. (1) The minimum grade, size, cleanliness, and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

- (i) Certified seed;  
 (ii) Charity;  
 (iii) Starch;  
 (iv) Canning or freezing;  
 (v) Experimentation;  
 (vi) Seed pieces cut from stock eligible for certification as certified seed.  
 (2) The minimum grade, size, cleanliness, and maturity requirements set forth in paragraphs (a) and (b) of this section shall be applicable to shipments of potatoes for each of the following purposes:  
 (i) Export: *Provided*, That potatoes of a size not smaller than 1 1/2 inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and  
 (ii) Potato chipping: *Provided*, That potatoes of a size not smaller than 1 1/2

inches in diameter may be shipped if the potatoes grade not less than Idaho Utility, or Oregon Utility grade.

(d) *Safeguards*. Each handler making shipments of potatoes for starch, canning or freezing, experimentation, seed pieces cut from stock eligible for certification, export or for potato chipping pursuant to paragraph (c) of this section shall:

(f) *Definitions*. The terms "U.S. No. 1," "U.S. No. 2," "Fairly clean," and "slightly dirty" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540-51.1556 of this title), including the tolerances set forth therein. The term "generally fairly clean" means that at least 90 percent of the potatoes in a given lot are "fairly clean." The terms "Idaho Utility grade" and "Oregon Utility grade" shall have the same meanings as when used in the respective standards for potatoes for the respective States. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

Dated January 10, 1969, to become effective January 14, 1969.

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

[F.R. Doc. 69-523; Filed, Jan. 13, 1969; 8:49 a.m.]

## Title 21—FOOD AND DRUGS

### Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

[Directive No. 10]

#### PART 305—OPIATES

##### Bezitramide Classified as an Opiate

Under and by virtue of the authority vested in the Attorney General by sections 509 and 510 of title 28 and section 301 of title 5 of the United States Code, and by the authority delegated to the Attorney General by Reorganization Plan No. 1 of 1968 (33 F.R. 5611), which has been delegated to the Director of the Bureau of Narcotics and Dangerous Drugs (28 CFR 0.200, 33 F.R. 5580); notice is hereby given pursuant to the provisions of section 5(b) of the Narcotics Manufacturing Act of 1960, 74 Stat. 60, 21 U.S.C. 503(b) and 21 CFR 307.61(b) that the United States has received notification under date of November 15, 1968, from the Secretary-General of the United Nations that the World Health Organization has found a certain substance, not heretofore determined to be an opiate, to fall under the regime laid down in the 1931 Convention for the drugs specified in Article I, paragraph 2, Group I of that Convention.

The substance and its salts to which the World Health Organization decision relates and which has been found by that Organization to be capable of producing addiction is: (Bezitramide) 1-(3-cyano-

3, 3-diphenylpropyl) -4-(2-oxo-3-propionyl-1-benzimidazoliny) -piperidine.

Accordingly, § 305.2(b) is amended by adding a new drug to the chronological list of findings as follows:

#### § 305.2 Chronological list of findings.

(b) The following is a chronological list of drugs or other substances found by the World Health Organization as being capable of producing addiction or of conversion into a drug or other substance capable of producing addiction and designated as opiates by the Director of the Bureau of Narcotics and Dangerous Drugs pursuant to the provisions of § 307.61(b) of this chapter. Drugs and other substances listed include any salts thereof.

JANUARY 14, 1969

(Bezitramide) 1-(3-cyano-3,3-diphenylpropyl)-4-(2-oxo-3-propionyl-1-benzimidazoliny)-piperidine.

Because this amendment of § 305.2(b) merely adds to the chronological list of findings a new drug designated by the World Health Organization as being capable of producing addiction and therefore recognized and published as an opiate by the Director of the Bureau of Narcotics and Dangerous Drugs under the provisions of section 5(b) of the Narcotics Manufacturing Act of 1960, 74 Stat. 60, 21 U.S.C. 503(b) and 21 CFR 307.61(b), it is hereby found that it is unnecessary to issue this directive with notice and public procedure thereon under 5 U.S.C. 553 or subject to the effective date limitation of that section.

*Effective date*. This directive shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 5(b) Public Law 86-429 (74 Stat. 60); sec. 17, Public Law 86-429 (74 Stat. 67))

Dated: January 4, 1969.

JOHN E. INGERSOLL,  
 Director, Bureau of  
 Narcotics and Dangerous Drugs.

[F.R. Doc. 69-448; Filed, Jan. 13, 1969; 8:48 a.m.]

## Title 24—HOUSING AND HOUSING CREDIT

### MISCELLANEOUS AMENDMENTS TO TITLE

Title 24 is amended as follows:

#### Subtitle A—Office of the Secretary, Department of Housing and Urban Development

##### PART 5—RENT SUPPLEMENT PAYMENTS

In § 5.15 paragraphs (a) (1), (b) (1) and (2), and (d) are amended to read as follows:

#### § 5.15 Eligible housing owner.

(a) \* \* \*

(1) By a mortgage bearing interest at the market rate prescribed in § 221.518

(a) of this title and insured under section 221(d)(3) of the National Housing Act (or insured under section 233 of such Act pursuant to section 221(d)(3)). Such mortgage shall be insured pursuant to an insurance commitment issued after August 10, 1965.

(b) \* \* \*

(1) A nonprofit, limited distribution, or cooperative mortgagor under a mortgage bearing interest at the below market rate prescribed in § 221.518(b) of this title. Such project must be insured pursuant to a commitment issued after August 10, 1965 for the insurance of a mortgage under section 221(d)(3) of the National Housing Act (or insured under section 233 of such Act pursuant to section 221(d)(3)).

(2) A private nonprofit mortgagor under a mortgage insured pursuant to section 231(c)(3) of the National Housing Act (or insured under section 233 of such Act pursuant to section 231(c)(3)) which is approved for receiving the benefits provided in this part and finally endorsed for insurance after August 10, 1965.

(d) Where the project is to be insured under section 221(d)(3) of the National Housing Act (or insured under section 233 of such Act pursuant to section 221(d)(3)) and is to be located in a community in which a workable program was required and was in effect at an earlier date (at which time a loan or grant was made under title I of the Housing Act of 1949 or under the United States Housing Act of 1937), the workable program requirement of paragraph (c)(1) of this section must be met and the requirements of paragraph (c)(2) of this section shall not be applicable. (Sec. 101(g), 79 Stat. 453; 12 U.S.C. 1701s).

**Chapter II—Federal Housing Administration, Department of Housing and Urban Development**

**SUBCHAPTER B—PROPERTY IMPROVEMENT LOANS**

**PART 201—CLASS 1 AND CLASS 2 PROPERTY IMPROVEMENT LOANS**

In § 201.6 paragraph (c) (1) is amended to read as follows:

**§ 201.6 Eligible loans.**

(c) *Use of proceeds—technical services and direct costs.* \* \* \*

(1) The costs of credit investigation, not to exceed \$5.

(Sec. 2, 48 Stat. 1246, as amended; 12 U.S.C. 1703)

**SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS**

**PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS**

**Subpart A—Eligibility Requirements**

In § 203.19 paragraph (b) is amended to read as follows:

**§ 203.19 Mortgagor's minimum investment.**

(b) A mortgagor who is 60 years of age or older, as of the date the mortgage is accepted for insurance, or whose mortgage meets the requirements of and is to be insured pursuant to § 203.18(d), or who is purchasing a single-family home under a low income housing demonstration project which is being assisted by the Secretary of Housing and Urban Development pursuant to section 207 of the Housing Act of 1961, may obtain a loan to meet the payment required by paragraph (a) of this section and to pay settlement costs. Such loan shall be from a corporation or person satisfactory to the Commissioner. The settlement costs paid with the loan may include initial payments for taxes, hazard insurance premium, mortgage insurance premium, and other prepaid expenses, as determined by the Commissioner. As security for the loan, the mortgagor may give a note or other evidence of indebtedness bearing interest at a rate not in excess of that permitted in the insured mortgage. The aggregate amount of the insured mortgage and the loan referred to in this section shall not exceed an amount equal to the Commissioner's estimate of the appraised value of the property, plus an amount equal to the initial payments for taxes, hazard insurance premium, mortgage insurance premium, and other prepaid expenses, as determined by the Commissioner.

Section 203.71 is amended to read as follows:

**§ 203.71 Loan amortization period.**

The loan shall have an amortization of either 5, 7, 10, 12, 15, 17, or 20 years by providing for either 60, 84, 120, 144, 180, 204, or 240 monthly amortization payments.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709).

**SUBCHAPTER D—RENTAL HOUSING INSURANCE**

**PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE**

**Subpart B—Contract Rights and Obligations**

Section 207.260 is amended to read as follows:

**§ 207.260 Protection of mortgage security.**

(a) *Annual inspection of property by mortgagee.* As long as the mortgage is insured by the Commissioner, the mortgagee shall ascertain the general physical condition of the mortgaged property in each calendar year commencing with the calendar year following completion of the project. The mortgagee shall furnish the Commissioner and the mortgagor with a copy of its inspection report, which shall contain the mortgagee's recommendations for any necessary action.

(b) *Damage to property by unreasonable use, abuse, or neglect.* If a claim for

mortgage insurance benefits is filed, the Commissioner will accept an assignment of the mortgage or conveyance of the property even though the buildings or improvements thereon have been subjected to permanent or substantial damage through unreasonable use, abuse or neglect. The mortgagee shall not be held responsible for such damage and deductions therefor will not be made from mortgage insurance benefits.

(c) *Insurance of property against fire and other hazards.* The mortgaged property shall be insured against fire and other hazards as provided in the mortgage. The mortgagee shall obtain such coverage in the event the mortgagor fails to do so. If the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured, the contract of mortgage insurance may be terminated at the election of the Commissioner.

(d) *Effect of failure to provide insurance; cancellation of insurance.* If the mortgage is assigned to the Commissioner or the property is conveyed to the Commissioner and at the time of such assignment or conveyance the property has been damaged by fire or other hazards and loss has been sustained because of failure to keep the property insured as provided in the mortgage, the amount of such loss may be deducted from the insurance benefits paid by the Commissioner, unless the following conditions are met:

(1) The property shall have been covered by insurance against fire and other hazards at the time the mortgage was insured.

(2) Such insurance shall have been later canceled or renewal shall have been refused by the insuring company.

(3) The mortgagee shall have notified the Commissioner within 30 days (or within such further time as the Commissioner may approve) of the cancellation of the insurance or of the refusal of the insuring company to renew the insurance. Such notification shall have been accompanied by a certification that the mortgagee's diligent efforts to obtain insurance coverage against fire and other hazards at reasonably competitive rates were unsuccessful and that it would continue its efforts to obtain adequate insurance coverage at competitive rates.

(e) *Application of insurance proceeds.* (1) In the event a loss has occurred to the mortgaged property under any policy of fire or other hazard insurance and the mortgagee has received the proceeds therefrom, it shall not exercise its option under the mortgage to use the proceeds of such insurance for the repairing, replacing, or rebuilding of the premises, or apply them to the mortgage indebtedness, or make other disposition of such proceeds, without the prior written approval of the Commissioner.

(2) If the proceeds are applied to the mortgage with such prior written approval and result in the payment in full of the entire mortgage indebtedness, the contract of mortgage insurance made with the Commissioner shall thereupon terminate.

(3) If the Commissioner shall fail to give his approval to the use or application of such funds for either of said purposes within 30 days after written request by the mortgagee, the mortgagee may use or apply such funds for any of the purposes specified in the mortgage without the approval of the Commissioner.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

**SUBCHAPTER F—URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT LOANS**

**PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS**

In Part 220, Subpart C, in the Table of Contents a new § 220.505 is added as follows:

Sec.  
220.50 Eligible mortgagors.

**Subpart C—Eligibility Requirements—Projects**

In § 220.501 paragraph (a) is amended by adding § 207.17 to the listed exceptions as follows:

§ 220.501 Incorporation by reference.

(a) \* \* \*

Sec.  
207.17 Classification.

\* \* \* \* \*

In Part 220, Subpart C, a new § 220.505 is added to read as follows:

§ 220.505 Eligible mortgagors.

In order to be eligible under this subpart, the mortgagor shall be one of the following types:

(a) *Private mortgagors.* Any mortgagor approved by the Commissioner which until the termination of all obligations of the Commissioner under the insurance contract and during such further period of time as the Commissioner shall be the owner, holder, or reinsurer of the mortgage, is regulated or restricted by the Commissioner as to rents or sales, charges, capital structure, rate of return, and methods of operation.

(b) *Public mortgagors.* A Federal or State instrumentality, a municipal corporate instrumentality of one or more States, or a limited dividend or redevelopment or housing corporation or other legal entity restricted by or under Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation.

**Subpart D—Contract Rights and Obligations—Projects**

Section 220.753 is amended to read as follows:

§ 220.753 Forbearance relief.

(a) In a case where the mortgage is in default, the mortgagor and the mortgagee may enter into a forbearance agreement for the reduction or suspension of regular mortgage payments for a specified period of time, if the following requirements are met:

(1) The mortgage was endorsed for insurance on or after July 7, 1961.

(2) The Commissioner determines that the default was due to circumstances beyond the mortgagor's control and that the mortgage probably will be restored to good standing within a reasonable period of time and evidences such determination by written approval of the forbearance agreement.

(b) The time specified in § 207.258 (a) of this chapter, within which a mortgagee shall give the Commissioner written notice of its intention to file an insurance claim, shall be suspended for the period of time specified in the forbearance agreement as long as the mortgagor complies with the requirements of such agreement.

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mortgagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its decision to either assign the mortgage to the Commissioner or acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 220.765 shall be applicable.

Section 220.765 is amended to read as follows:

§ 220.765 Special insurance benefits—  
forbearance relief cases.

(a) Upon a failure of the mortgagor to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, the mortgagee shall be entitled to obtain a special insurance payment in cash, in lieu of the insurance benefits otherwise provided under this subpart. To receive the special insurance payment, the mortgagee shall assign the mortgage to the Commissioner in compliance with the requirements of § 207.258 (b) of this chapter.

(b) The special insurance benefits to the mortgagee shall be a cash payment computed in accordance with § 207.259 (b) of this chapter, except that in lieu of the allowance for debenture interest in § 207.259 (b) (1) (iii) of this chapter, the payment shall include the amount of the unpaid accrued mortgage interest computed to the date the assignment of the mortgage to the Commissioner is filed for record. In addition, there shall be included in the cash payment an amount equivalent to the debenture interest which would have been earned from the date the mortgage assignment was filed for record to the date the payment is made; except that when the mortgagee fails to meet any of the applicable requirements of § 207.258 (b) of this chapter and § 220.753 (c) within the specified times and in a manner satisfactory to the Commissioner (or within

such further time as the Commissioner may approve in writing), such debenture interest allowance shall be computed only to the date on which the particular required action should have been taken.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

**SUBCHAPTER G—HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES**

**PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE**

**Subpart B—Contract Rights and Obligations—Low Cost Homes**

In § 221.256 paragraphs (a) (1) and (2) are amended to read as follows:

§ 221.256 Interest rate increase and payment of mortgage insurance premiums on mortgages under §§ 221.60 and 221.65.

(a) \* \* \*

(1) The mortgagee shall determine, at least biennially, whether the mortgagor has continued to occupy the property securing the mortgage. If the mortgagee determines that the mortgagor is not occupying the property or that the mortgagor has sold the property subject to the mortgage to a purchaser not qualifying under the provisions of § 221.60 (h) or § 221.65 (d) (4) (as appropriate) for the continuation of a below market interest rate, interest on such mortgage shall be computed by the mortgagee at the highest rate permissible under the mortgage. The computation at the higher rate shall be effective from the first day of the month following the month in which the right to collect interest at the increased rate first accrued, as determined by the mortgagee.

(2) The mortgagee shall determine the mortgagor's family income, at least biennially, and shall increase the mortgage interest pursuant to the requirements of §§ 221.60 (g) and 221.65 (d) (5), as appropriate, to comply with the requirements of such sections. The computation at the higher rate shall be effective from the first day of the month following the month in which the mortgagee determines that the mortgagor's family income was increased.

\* \* \* \* \*

**Subpart C—Eligibility Requirements—Moderate Income Projects**

In § 221.510 paragraph (c) is amended to read as follows:

§ 221.510 Eligible mortgagors.

\* \* \* \* \*

(c) *Limited distribution mortgagor.* The limited distribution mortgagor shall be a corporation, trust, partnership, association, or other entity formed exclusively for the purpose of providing housing, or the mortgagor shall be an individual. Such mortgagor shall be restricted by law (or by the Commissioner) as to distribution of income and shall be regulated as to rents, charges, rate of return, and methods of operation in

such form and manner as is satisfactory to the Commissioner to effectuate the purposes of this subpart.

In Part 221, Subpart D, in the Table of Contents the heading of § 221.760 is amended and new §§ 221.761 and 221.763 are added as follows:

- Sec.  
221.760 Adjusted premium and termination charges.  
221.761 Forebearance relief.  
221.763 Special insurance benefits—forebearance relief cases.

**Subpart D—Contract Rights and Obligations—Moderate Income Projects**

In § 221.751(a), the reference to § 207.253 in the listed exceptions is amended to read as follows:

**§ 221.751 Incorporation by reference.**  
(a) \* \* \*

- Sec.  
207.253 Adjusted premium and termination charges.

Section 221.755 is amended to read as follows:

**§ 221.755 First, second, and third premium.**

All of the provisions of § 207.252 of this chapter, relating to mortgage insurance premiums, apply to mortgages insured under this subpart that provide for interest at the market rate prescribed in § 221.518(a), but such provisions shall not apply to mortgages that provide for interest during the construction period at the market rate and for interest subsequent to final insurance endorsement at the below market rate prescribed in § 221.518(b).

Section 221.760 is amended to read as follows:

**§ 221.760 Adjusted premium and termination charges.**

All of the provisions of § 207.253 of this chapter, relating to adjusted premium and termination charges, apply to mortgages insured under this subpart that provide for interest at the market rate prescribed in § 221.518(a), but such provisions shall not apply to mortgages that provide for interest during the construction period at the market rate and for interest subsequent to final endorsement at the below market rate prescribed in § 221.518(b).

In Part 221, Subpart D, a new § 221.761 is added to read as follows:

**§ 221.761 Forebearance relief.**

(a) In a case where the mortgage is in default, the mortgagor and the mortgagee may enter into a forbearance agreement for the reduction or suspension of regular mortgage payments for a specified period of time, if the following requirements are met:

(1) The mortgage was endorsed for insurance on or after July 7, 1961.

(2) The Commissioner determines that the default was due to circumstances beyond the mortgagor's control and that the mortgage probably will be restored to good standing within a reasonable period of time and evidences

such determination by written approval of the forbearance agreement.

(b) The time specified in § 207.258(a) of this chapter, within which a mortgagee shall give the Commissioner written notice of its intention to file an insurance claim, shall be suspended for the period of time specified in the forbearance agreement as long as the mortgagor complies with the requirements of such agreement.

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mortgagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its decision to either assign the mortgage to the Commissioner or acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 221.763 shall be applicable.

In Part 221, Subpart D, a new § 221.763 is added to read as follows:

**§ 221.763 Special insurance benefits—forebearance relief cases.**

(a) In the case of a mortgage that provides for payment of interest at the market rate prescribed in § 221.518(a), if the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance agreement, the mortgagee shall be entitled to obtain a special insurance payment in cash, in lieu of the insurance benefits otherwise provided under this subpart. To receive the special insurance payment, the mortgagee shall assign the mortgage to the Commissioner in compliance with the requirements of § 207.258(b) of this chapter.

(b) The special insurance benefit to the mortgagee shall be a cash payment computed in accordance with § 207.259 (b) of this chapter, except that in lieu of the allowance for debenture interest in § 207.259(b) (1) (iii) of this chapter, the payment shall include the amount of the unpaid accrued mortgage interest computed to the date the assignment of the mortgage to the Commissioner is filed for record. In addition, there shall be included in the cash payment an amount equivalent to the debenture interest which would have been earned from the date the mortgage assignment was filed for record to the date the payment is made; except that when the mortgagee fails to meet any of the applicable requirements of § 207.258(b) of this chapter and § 221.761(c) within the specified times and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), such debenture interest allowance shall be computed only to the date on which the particular required action should have been taken.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 1715f)

**SUBCHAPTER J—MORTGAGE INSURANCE FOR NURSING HOMES**

**PART 232—NURSING HOMES MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements**

Section 232.81 is amended by adding a new paragraph (d) to read as follows:

**§ 232.81 Form of contract.**

(d) *Hill-Burton projects.* Where the mortgagor is to receive a Hill-Burton grant in connection with the development of the project, a lump sum contract may be used regardless of whether a cost plus form of contract would otherwise be required by the provisions of paragraph (c) of this section.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 232, 73 Stat. 663; 12 U.S.C. 1715w)

**SUBCHAPTER L—CONDOMINIUM HOUSING INSURANCE**

**PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE**

**Subpart A—Eligibility Requirements—Individually Owned Units**

In § 234.28 paragraph (b) is amended to read as follows:

**§ 234.28 Mortgagor's minimum investment.**

(b) A mortgagor who is 60 years of age or older as of the date the mortgage is accepted for insurance may borrow from a corporation or person satisfactory to the Commissioner, the payment required by this section, plus settlement costs which may include initial payments for taxes, hazard insurance, mortgage insurance premium and other prepaid expenses, as determined by the Commissioner. As security for the loan, the mortgagor may give a note or other evidence of indebtedness bearing interest at a rate not in excess of that permitted in the insured mortgage. The aggregate amount of the insured mortgage and the loan referred to in this section shall not exceed an amount equal to the Commissioner's estimate of the appraised value of the property, plus an amount equal to the initial payments for taxes, hazard insurance, mortgage insurance premium, and other prepaid expenses, as determined by the Commissioner.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 234, 75 Stat. 160; 12 U.S.C. 1715y)

**SUBCHAPTER M—HOMES FOR LOWER INCOME FAMILIES**

**PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION**

In Part 235, Subpart A, in the Table of Contents a new § 235.22 is added as follows:

Sec.  
235.22 Mortgage provisions.

**Subpart A—Eligibility Requirements—Homes for Lower Income Families**

In § 235.1 paragraph (a) is amended by adding § 203.17 to the listed exceptions as follows:

§ 235.1 Incorporation by reference.

(a) \* \* \*

Sec.  
203.17 Mortgage provisions.

In Part 235, Subpart A, a new § 235.22 is added to read as follows:

§ 235.22 Mortgage provisions.

(a) *Mortgage form.* The mortgage shall be executed upon a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated and shall be a first lien upon property that conforms with property standards prescribed by the Commissioner. The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his creditors for his account and with his consent.

(b) *Mortgage multiples.* The mortgage shall involve a principal obligation in an amount of \$100 or multiples thereof.

(c) *Payments.* The mortgage shall:

(1) Come due on the first of the month.

(2) Have an amortization period of either 10, 15, 20, 25, 30, 35, or 40 years by providing for either 120, 180, 240, 300, 360, 420, or 480 monthly amortization payments.

(d) *Maturity.* (1) The mortgage shall provide for complete amortization not to exceed 30 years from the date of the beginning of amortization of the mortgage, except that such maturity may be 35 or 40 years in the case of any mortgagor, if it is determined by the Commissioner that the mortgagor is not able to make the required payments under a mortgage having a shorter amortization period and if each of the following requirements is met:

(i) The dwelling was approved for mortgage insurance by the Commissioner or by the Farmers Home Administration prior to the beginning of construction or approved for guaranty, insurance, or direct loan by the Administrator of Veterans' Affairs prior to such construction.

(ii) The dwelling was inspected by the Commissioner or by the Farmers Home Administration and found to have been completed in compliance with the terms of the FHA commitment, or inspected by the VA and found to have been completed in compliance with the terms of the VA Certificate of Reasonable Value.

(2) No mortgage shall have a maturity exceeding three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements. If this limitation results in a term of less than 15, 20, 25, 30, 35, or 40 years; the term shall be adjusted to the next lower 5-year period.

**Subpart C—Assistance Payments—Homes for Lower Income Families**

Section 235.340 is amended to read as follows:

§ 235.340 Time of payment.

The assistance payment shall be due on the first day of each month and shall be paid upon the receipt of a billing, on a form prescribed by the Commissioner, from the mortgagee or its authorized agent.

**Subpart E—Contract Rights and Obligations—Rehabilitation Sales Projects**

Section 235.705 is amended to read as follows:

§ 235.705 Forbearance relief.

(a) In a case where the mortgage is in default, the mortgagor and the mortgagee may enter into a forbearance agreement for the reduction or suspension of the mortgagor's regular mortgage payments for a specified period of time, if the Commissioner determines that the default was due to circumstances beyond the mortgagor's control and that the mortgage probably will be restored to good standing within a reasonable period of time. Such determination shall be evidenced by the Commissioner's written approval of the forbearance agreement.

(b) The time specified in § 207.258(a) of this chapter, within which a mortgagee shall give the Commissioner written notice of its intention to file an insurance claim, shall be suspended for the period of time specified in the forbearance agreement as long as the mortgagor complies with the requirements of such agreement.

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mortgagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its election to either assign the mortgage to the Commissioner or acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 235.715(b) shall be applicable.

In § 235.715 paragraph (b) is amended to read as follows:

§ 235.715 Payment of insurance benefits.

(b) When the mortgage is assigned to the Commissioner pursuant to § 235.710 or is assigned in a case where the mortgagor fails to comply with the requirements of a forbearance agreement approved by the Commissioner in accordance with the requirements of § 235.705 or is assigned in a case where the mortgagor fails to

cure the default at the expiration of the forbearance period, the insurance benefits shall be paid in cash and shall be computed in accordance with § 207.259 (b) of this chapter, except that in lieu of the allowance for debenture interest in § 207.259(b)(1)(iii) of this chapter, the cash payment shall include the amount of the unpaid accrued mortgage interest computed to the date the assignment of the mortgage to the Commissioner is filed for record. In addition, an amount shall be included equivalent to the debenture interest which would have been earned from the date the mortgage assignment was filed for record to the date the cash payment is made, except that when the mortgagee fails to meet any one of the applicable requirements of §§ 207.256, 207.258(b), and 235.705(c) of this chapter within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), such amount shall be computed only to the date on which the particular action should have been taken or to which it was extended.

(Sec. 211, 52 Stat. 23, as amended, sec. 235, 82 Stat. 477, as amended; 12 U.S.C. 1715b, 1715z)

**SUBCHAPTER N—PROJECTS FOR LOWER INCOME FAMILIES**

**PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS**

**Subpart A—Eligibility Requirements for Mortgage Insurance**

In § 236.10 paragraph (c) is amended to read as follows:

§ 236.10 Eligible mortgagors.

(c) *Limited distribution mortgagor.* The limited distribution mortgagor shall be a corporation, trust, partnership, association, or other entity formed exclusively for the purpose of providing housing, or the mortgagor shall be an individual. Such mortgagor shall be restricted by law (or by the Commissioner) as to distribution of income and shall be regulated as to rents, charges, rate of return, and methods of operation in such form and manner as is satisfactory to the Commissioner to effectuate the purposes of this subpart.

In § 236.30 paragraph (a)(1) is amended to read as follows:

§ 236.30 Prepayment privileges.

(a) *Prepayment in full—(1) Without prior Commissioner approval.* A mortgage indebtedness may be prepaid in full and the Commissioner's controls terminated without the prior consent of the Commissioner where the mortgagor is a limited distribution type, which is not receiving payments from the Commissioner under a rent supplement contract executed pursuant to the provisions of § 5.1 et seq. of this title; and where the

prepayment occurs under either of the following conditions:

(i) The prepayment occurs after the expiration of 20 years from the date of final endorsement.

(ii) The prepayment occurs as a result of a sale of the project to a cooperative or a nonprofit corporation or association where the purchase is financed with a mortgage insured pursuant to § 236.40(c).

**Subpart B—Contract Rights and Obligations**

Section 236.255 is amended to read as follows:

**§ 236.255 Forbearance relief.**

(a) In a case where the mortgage is in default, the mortgagor and the mortgagee may enter into a forbearance agreement for the reduction or suspension of the mortgagor's regular mortgage payments for a specified period of time, if the Commissioner determines that the default was due to circumstances beyond the mortgagor's control and that the mortgage probably will be restored to good standing within a reasonable period of time. Such determination shall be evidenced by the Commissioner's written approval of the forbearance agreement.

(b) The time specified in § 207.258(a) of this chapter, within which a mortgagee shall give the Commissioner written notice of its intention to file an insurance claim, shall be suspended for the period of time specified in the forbearance agreement as long as the mortgagor complies with the requirements of such agreement.

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mortgagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its election to either assign the mortgage to the Commissioner or acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 236.265(b) shall be applicable.

In § 236.265 paragraph (b) is amended to read as follows:

**§ 236.265 Payment of insurance benefits.**

(b) When the mortgage is assigned to the Commissioner pursuant to § 236.260 or is assigned in a case where the mortgagor fails to comply with the requirements of a forbearance agreement approved by the Commissioner in accordance with the requirements of § 236.255

or is assigned in a case where the mortgagor fails to cure the default at the expiration of the forbearance period, the insurance benefits shall be paid in cash and shall be computed in accordance with § 207.259(b) of this chapter, except that in lieu of the allowance for debenture interest in § 207.259(b) (1) (iii) of this chapter, the payment shall include the amount of the unpaid accrued mortgage interest computed to the date the assignment of the mortgage to the Commissioner is filed for record. In addition, an amount shall be included equivalent to the debenture interest which would have been earned from the date the mortgage assignment was filed for record to the date the cash payment is made, except that when the mortgagee fails to meet any one of the applicable requirements of §§ 207.256, 207.258(b), and 236.255(c) of this chapter within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), such amount shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

**Subpart C—Interest Reduction Payments**

In § 236.520 paragraph (b) is redesignated as paragraph (c) and a new paragraph (b) is added to read as follows:

**§ 236.520 Amount of payments.**

(b) Where individual family units in the project are sold, subject to a plan approved by the Commissioner, and as the principal amount of the mortgage is reduced by payment of the portion of the mortgage attributable to the sold units and as the amount of the mortgage payments which the mortgagor is obligated to pay is reduced, proportionate reductions will be made in the interest reduction payments.

(Sec. 211, 52 Stat. 23, as amended, sec. 236, 82 Stat. 498, as amended; 12 U.S.C. 1715b, 1715z-1)

**SUBCHAPTER Q—SUPPLEMENTAL PROJECT LOAN INSURANCE**

**PART 241—SUPPLEMENTARY FINANCING FOR FHA PROJECT MORTGAGES**

**Subpart A—Eligibility Requirements**

In § 241.110 a new paragraph (b) (3) is added to read as follows:

**§ 241.110 Certificate of use for transient or hotel purposes.**

(b) \* \* \*

(3) In connection with a group practice facility covered by a mortgage insured under the provisions of § 1100.1 et seq. of this chapter.

Section 241.145 is amended to read as follows:

**§ 241.145 Labor requirements.**

All of the labor standards and prevailing wage requirements which were applicable to the insurance of the existing project mortgage shall also be complied with in connection with the loan insured under this section.

In Part 241, Subpart B, in the Table of Contents, a new § 241.275 is added as follows:

Sec. 241.275 No vested right in fund.

**Subpart B—Contract Rights and Obligations**

In § 241.251 paragraph (a) is amended by adding § 207.262 to the listed exceptions as follows:

**§ 241.251 Incorporation by reference.**

(a) \* \* \*

Sec. 207.262 No vested right in fund.

In Part 241, Subpart B, a new § 241.275 is added to read as follows:

**§ 241.275 No vested right in fund.**

Neither the lender nor the borrower shall have any vested or other right in the insurance fund under which the loan is insured.

(Sec. 211, 52 Stat. 23, as amended, sec. 241, 82 Stat. 476, as amended; 12 U.S.C. 1715b, 1715z-6)

**SUBCHAPTER T—MILITARY AND ARMED SERVICES HOUSING MORTGAGE INSURANCE**

**PART 810—ARMED SERVICES HOUSING—IMPACTED AREAS**

**Subpart A—Eligibility Requirements—Projects**

In § 810.5 paragraph (f) is amended to read as follows:

**§ 810.5 Definitions of terms as used in this subpart.**

(f) "Mortgagor" means any individual or private entity approved by the Commissioner, which until the termination of all obligations of the Commissioner under the insurance contract and during such further period of time as the Commissioner shall be the owner, holder, or reinsurer of the mortgage, is regulated or restricted by the Commissioner as to rents or sales, charges, capital structure, rate of return, and methods of operation.

(Sec. 807, 69 Stat. 651; 12 U.S.C. 1748f. Interprets or applies sec. 810, 73 Stat. 683; 12 U.S.C. 1748h-2)

Issued at Washington, D.C., January 8, 1969.

PHILIP N. BROWNSTEIN,  
Federal Housing Commissioner.

[F.R. Doc. 69-404; Filed, Jan. 13, 1969; 8:45 a.m.]

## Title 26—INTERNAL REVENUE

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

#### SUBCHAPTER A—INCOME TAX

[T.D. 6990]

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

#### Distributions in Lieu of Money

On September 7, 1968, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 305(b) of the Internal Revenue Code of 1954, was published in the FEDERAL REGISTER (33 F.R. 12744). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted, subject to the following changes:

PARAGRAPH 1. Section 1.305-2 is changed by revising paragraph (a) (1) and examples (3) and (4) of paragraph (b) (2), and by adding a new paragraph (b) (3).

PAR. 2. Section 1.305-3 is changed by revising paragraph (b).

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

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

Approved: January 10, 1969.

STANLEY S. SURREY,  
Assistant Secretary  
of the Treasury.

In order to clarify the Income Tax Regulations (26 CFR Part 1) under section 305(b) of the Internal Revenue Code of 1954, such regulations are amended as follows:

PARAGRAPH 1. Section 1.305-2 is amended by revising paragraph (a) and by inserting a new paragraph (b), to read as follows:

#### § 1.305-2 Election of shareholders as to medium of payment.

(a) *General.* (1) Section 305(b) (2) describes certain distributions by a corporation to its shareholders of its stock or rights to acquire its stock which are not within the terms of section 305(a). The distributions described in section 305(b) (2) are distributions with respect to which there is or has been an election as to the medium of payment by any shareholder before or after the declaration date. Where such an election exists, the distribution of the corporation's stock or rights to acquire its stock is not a distribution under section 305(a).

(2) A distribution by a corporation to its shareholders of its stock or rights to acquire its stock is not under section 305(a) if any shareholder may exercise or has exercised an election or option with respect to whether a distribution shall be made either in money or any other property, or in stock or rights to acquire the stock of the corporation, regardless of—

(i) Whether the distribution is actually made in whole or in part in stock or in stock rights;

(ii) Whether the election or option governing the nature of the distribution is exercised or exercisable before or after the declaration of the distribution;

(iii) Whether the declaration of the distribution provides that the distribution will be made in one medium unless the shareholder specifically requests payment in the other;

(iv) Whether the election governing the nature of the distribution is provided in the declaration of the distribution or in the corporate charter or arises from the circumstances of the distribution; or

(v) Whether all or part of the shareholders may exercise or have exercised an election that will determine the nature of the distribution.

(b) *Nature of election.* (1) Section 305(b) (2) refers to every election, whether express or implied, regardless of how or when exercised or exercisable. An election is a choice to receive payment in one medium or another. The point in time at which such choice is made, whether before or after the declaration, is immaterial as long as at some point in time any shareholder, either by action or inaction, has made a choice which permitted the corporation to distribute stock or stock rights with respect to some shares and money or other property with respect to other shares. A choice to receive payment in one medium or another may arise out of the terms of the declaration, the provisions of the corporate charter, the provisions of the stock certificates, or the circumstances of the transaction. A choice may be exercisable directly or indirectly through action by the shareholder or through his failure to act. For example, if some shareholders agree, expressly or impliedly, to accept distributions in stock or stock rights with respect to their common stock notwithstanding the distribution of money or other property with respect to other common stock, any distributions of stock or stock rights with respect to some but not all of the corporation's common stock would be outside the provisions of section 305(a). Similarly, it is immaterial whether the right to demand cash was waived before or after the declaration date, by private agreement, by the terms of the charter, or otherwise. Where a corporation having two types of common stock outstanding, with respect to which dividends may be paid in stock on one type and in money (or other property) on the other type, makes a distribution (or series of related distributions) in money (or other property) as to one type and in stock (or rights to acquire stock) as to the other, the distribution of the stock is not under section 305(a) since, in substance, there is a choice as to the medium of payment of any distribution by virtue of the existence of the two types of common stock, shares of either of which may be exchanged for shares of the other under section 1036 without recognition of gain or loss.

(2) The application of the above rules may be illustrated by the following examples:

*Example (1).* Pursuant to a recapitalization (to which section 368(a) (1) (E) applies) all of the outstanding shares of common stock of corporation X are surrendered in exchange for Type A common stock and Type B common stock. Some shareholders choose to receive only Type A stock, some shareholders choose to receive only Type B stock, and some shareholders choose to receive some of each. Dividends may be paid in stock or in cash on either type of stock without regard to the medium of payment of dividends on the other type. A dividend is declared upon the Type A stock payable in additional shares of Type A stock and a dividend is declared on the Type B stock payable in cash. Section 305(a) does not apply to the stock distributed to the Type A shareholders.

*Example (2).* Pursuant to a recapitalization (to which section 368(a) (1) (E) applies) all of the outstanding shares of common stock of corporation Y are surrendered in exchange for Type A common stock and Type B common stock, every shareholder receiving one share of Type A stock and one share of Type B stock in exchange for each share of the common stock surrendered by him. Dividends may be paid in stock or in cash on either type of stock without regard to the medium of payment of dividends on the other type. After the recapitalization, and before any of the Type A or Type B stock has been transferred, a dividend is declared on the Type A stock payable in additional shares of Type A stock and a dividend is declared on the Type B stock payable in cash. Section 305(a) does not apply to any of the stock distributed to the Type A shareholders. The same result would follow if, before the dividend declaration, some of the Type A or Type B stock had been transferred.

*Example (3).* (1) On January 1, 1969, pursuant to a reorganization to which section 368(a) (1) (B) applies, corporation N, which has only Type A common stock outstanding, acquires all of the outstanding stock of corporation M solely in exchange for its newly issued Type B voting common stock. Each Type B share may be converted, at the option of the holder, into Type A shares. During the first year following the reorganization, the conversion ratio is one share of Type A stock for each share of Type B stock. At the beginning of each subsequent year, the conversion ratio is increased by 0.04 shares of Type A stock for each share of Type B stock. Thus, during the second year the conversion ratio would be 1.04 shares of Type A stock for each share of Type B stock, during the third year the ratio would be 1.08 shares, etc. However, if the cash dividend paid on the Type A stock in any one year is less than \$1 per share, then the increase in the conversion ratio that would otherwise occur at the beginning of the following year will be reduced by an amount which is proportionate to the amount by which such dividend falls short of the \$1 per share.

(2) During 1969, a \$0.50 cash dividend per share is declared and paid on the Type A stock of corporation N. On January 1, 1970, when the conversion ratio is increased to 1.02 shares of Type A stock for each share of Type B stock, a distribution is considered as made with respect to each share of Type B stock of a right to acquire 0.02 share of Type A stock. Section 305(a) does not apply to the distribution of this right.

*Example (4).* (1) On January 1, 1969, pursuant to a reorganization to which section 368(a) (1) (B) applies, corporation P, which has only Type A common stock outstanding, acquires all of the outstanding stock of corporation O solely in exchange for its newly issued Type B voting stock. Each Type B

**Title 31—MONEY AND FINANCE: TREASURY**

**Chapter I—Monetary Offices, Department of the Treasury**

**PART 91—REGULATIONS GOVERNING CONDUCT IN OR ON THE BUREAU OF THE MINT BUILDINGS AND GROUNDS**

The Treasury Department finds that it is necessary to promulgate regulations governing conduct in or on the Bureau of the Mint buildings and grounds at: Denver, Colo.; Fort Knox, Ky.; New York, N.Y.; Philadelphia, Pa.; San Francisco, Calif.; and West Point, N.Y. The Department also finds, in accordance with 5 U.S.C. 553(a), that notice and public procedure thereon are impractical and unnecessary and not required, since the new regulations pertain to the management of public property.

Accordingly, Chapter I—Monetary Offices, Department of the Treasury—of Subtitle B—Regulations Relating to Money and Finance—is amended by adding thereto the following Part 91:

- |       |  |
|-------|--|
| Sec.  |  |
| 91.1  | Authority.   |
| 91.2  | Applicability.   |
| 91.3  | Recording presence.  |
| 91.4  | Preservation of property.  |
| 91.5  | Compliance with signs and directions.                                  |
| 91.6  | Nuisances.   |
| 91.7  | Gambling.  |
| 91.8  | Intoxicating beverages, narcotics, hallucinogenic and dangerous drugs. |
| 91.9  | Soliciting, vending, debt collection, and distribution of handbills.   |
| 91.10 | Photographs.   |
| 91.11 | Dogs and other animals.  |
| 91.12 | Vehicular and pedestrian traffic.                                      |
| 91.13 | Weapons and explosives.  |
| 91.14 | Penalties and other law.   |

**AUTHORITY:** The provisions of this Part 91 issued under 5 U.S.C. 301, and by delegation from the Administrator of General Services, 32 F.R. 11968, and Treasury Department Order No. 177-25, 32 F.R. 17490.

**§ 91.1 Authority.**

The regulations in this part governing conduct in and on the Bureau of the Mint buildings and grounds located in: Denver, Colo., at Colfax and Delaware Streets; Fort Knox, Ky., on the grounds of the U.S. Military reservation; New York, N.Y., at 32 Old Slip; Philadelphia, Pa., at 16th and Spring Garden Streets, and at Independence Mall; San Francisco, Calif., at 155 Hermann Street; and West Point, N.Y., on the grounds of the U.S. Military reservation; are promulgated pursuant to the authority vested in the Secretary of the Treasury, including 5 U.S.C. 301, and that vested in him by delegation from the Administrator of General Services, 32 F.R. 11968 (1967), and in accordance with the authority vested in the Director of the Mint by Treasury Department Order No. 177-25, dated November 28, 1967, 32 F.R. 17490 (1967).

share is convertible, at the option of the holder, into one share of Type A stock. However, in accordance with a specified formula, this ratio is decreased each time a cash dividend is paid on the Type B stock to reflect the amount of the cash dividend. The conversion ratio is also adjusted in the event that cash dividends are paid on the Type A stock.

(ii) On December 31, 1969, a \$1.00 cash dividend per share is declared and paid on the Type B stock of corporation P. On such date, when the conversion ratio is decreased, a distribution of stock is considered as made with respect to each share of Type A stock reflecting each such share's increased equity in P. Section 305(a) does not apply to this distribution.

(3) If any corporation having two or more types of common stock outstanding makes a distribution (or series of related distributions) in money (or other property) as to one type and in stock (or rights to acquire stock) as to the other, the provisions of this section shall not apply to a distribution made on or before—

(i) December 31, 1968, or

(ii) December 31, 1990, if made with respect to stock outstanding on September 7, 1968 (including stock distributed, directly or indirectly, with respect to stock outstanding on September 7, 1968, if this section would have applied to the distribution but for the application of this subdivision).

\* \* \* \* \*

PAR. 2. Section 1.305-3 is revised to read as follows:

**§ 1.305-3 Distributions in discharge of preference dividends.**

(a) A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a distribution of property to which section 301 applies to the extent that the distribution is made in discharge of preference dividends for the taxable year of the corporation in which the distribution is made or for the preceding taxable year.

(b) (1) If, in the case of a corporation having two or more classes of outstanding stock, the terms of one class require, in all events, periodic distributions with respect to it of stock or rights to acquire stock, then the stock of such class is preferred stock. Such a distribution of stock or rights with respect to the preferred stock is a distribution made in discharge of preference dividends.

(2) The principles of subparagraph (1) of this paragraph may be illustrated by the following examples:

*Example (1).* On January 1, 1969, corporation X, a calendar year taxpayer, is organized. On such date, X has outstanding Class A and Class B stock. The terms of the Class B stock require that a distribution of one share of Class A stock be made annually with respect to each 20 shares of Class B stock. The Class A stock is not preferred as to dividends. During 1969, the required dividend in Class A shares is declared and paid on the Class B

stock. The Class B stock is preferred stock, and the distribution of Class A shares is a distribution made in discharge of preference dividends for 1969.

*Example (2).* (i) On January 1, 1969, corporation Y, a calendar year taxpayer, is organized. On such date, Y has outstanding Class A and Class B stock. The Class A stock is not preferred as to dividends. The Class B stock may be converted, at the option of the holder, into Class A stock. During 1969, the conversion ratio is one share of Class A stock for each share of Class B stock. At the beginning of each subsequent year, the conversion ratio is increased by 0.05 shares of Class A stock for each share of Class B stock. Thus, during 1970 the conversion ratio would be 1.05 shares of Class A stock for each share of Class B stock, during 1971 the ratio would be 1.10 shares, etc.

(ii) On January 1, 1970, when the conversion ratio is increased to 1.05 shares of Class A stock for each share of Class B stock, a distribution is considered as made with respect to each share of Class B stock of a right to acquire 0.05 shares of Class A stock. The Class B stock is preferred stock, and the distribution of rights on January 1, 1970, is a distribution made in discharge of preference dividends for 1970.

(3) An increase in the conversion ratio with respect to convertible stock shall not be considered as a distribution for purposes of subparagraph (1) of this paragraph if—

(i) Such increase is made solely to take account of a stock dividend or stock split with respect to the class of stock into which the convertible stock may be converted, or

(ii) (a) The increase occurs within 3 years after the issuance of such convertible stock,

(b) All such increases with respect to such stock must, under the terms of its issuance, occur within 3 years after its issuance, and

(c) Such stock was not acquired, directly or indirectly, in exchange for stock which qualified for the benefits of this subdivision.

(4) Subparagraph (1) of this paragraph shall not apply to a distribution with respect to stock transferred by the distributing corporation in exchange for the assets or stock of another corporation, provided that (i) such distribution represents an adjustment of the consideration transferred in the exchange, and (ii) all distributions reflecting such an adjustment must, under the terms of the exchange, be made within 5 years after the date of such exchange.

(5) Subparagraph (1) of this paragraph shall not apply to a distribution made on or before—

(i) December 31, 1968, or

(ii) December 31, 1990, if made with respect to stock outstanding on September 7, 1968 (including stock distributed, directly or indirectly, with respect to stock outstanding on September 7, 1968, if this section would have applied to the distribution but for the application of this subdivision).

[F.R. Doc. 69-487; Filed, Jan. 10, 1969; 2:49 p.m.]

### § 91.2 Applicability.

The regulations in this part apply to the buildings and grounds of the Bureau of the Mint located in: Denver, Colo., at Colfax and Delaware Streets; Fort Knox, Ky., on the grounds of the U.S. Military reservation; New York, N.Y., at 32 Old Slip; Philadelphia, Pa., at 16th and Spring Garden Streets, and at Independence Mall; San Francisco, Calif., at 155 Hermann Street; and West Point, N.Y., on the grounds of the U.S. Military reservation; and to all persons entering in or on such property. Unless otherwise stated herein, the Bureau of the Mint buildings and grounds shall be referred to in the regulations in this part as the "property".

### § 91.3 Recording presence.

Except as otherwise ordered, the property shall be closed to the public during other than normal working hours. The property shall also be closed to the public when, in the opinion of the senior supervising official of any Bureau of the Mint establishment covered by these regulations, or his delegate, an emergency situation exists, and at such other times as may be necessary for the orderly conduct of the Government's business. Admission to the property during periods when such property is closed to the public will be limited to authorized individuals who will be required to sign the register and/or display identification documents when requested by the guard.

### § 91.4 Preservation of property.

It shall be unlawful for any person without proper authority to wilfully destroy, damage, deface, or remove property or any part thereof or any furnishings therein.

### § 91.5 Compliance with signs and directions.

Persons in and on the property shall comply with the instructions of uniformed Bureau of the Mint guards (U.S. Special Policemen), other authorized officials, and official signs of a prohibitory or directory nature.

### § 91.6 Nuisances.

The use of loud, abusive, or profane language, unwarranted loitering, unauthorized assembly, the creation of any hazard to persons or things, improper disposal of rubbish, spitting, prurient prying, the commission of any obscene or indecent act, or any other disorderly conduct on the property is prohibited. The throwing of any articles of any kind in, upon, or from the property and climbing upon any part thereof, is prohibited. The entry, without specific permission, upon any part of the property to which the public does not customarily have access, is prohibited.

### § 91.7 Gambling.

Participating in games for money or other property, the operation of gambling devices, the conduct of a lottery or pool, the selling or purchasing of numbers tickets, or any other gambling in or on the property, is prohibited.

### § 91.8 Intoxicating beverages, narcotics, hallucinogenic and dangerous drugs.

Entering or being on the property, or operating a motor vehicle thereon, by a person under the influence of intoxicating beverages, narcotics, hallucinogenic or dangerous drugs, or the consumption of such beverages or the use of such drugs in or on the property, is prohibited.

### § 91.9 Soliciting, vending, debt collection, and distribution of handbills.

The unauthorized soliciting of alms and contributions, the commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, or the collecting of private debts, in or on the property, is prohibited. This rule does not apply to Bureau of the Mint concessions or notices posted by authorized employees on the bulletin boards. Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval from the Director of the Mint, or the delegate of the Director.

### § 91.10 Photographs.

The taking of photographs on the property is prohibited, without the written permission of the Director of the Mint.

### § 91.11 Dogs and other animals.

Dogs and other animals, except seeing-eye dogs, shall not be brought upon the property for other than official purposes.

### § 91.12 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles in or on the property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of guards and all posted traffic signs.

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on the property is prohibited.

(c) Parking in or on the property is not allowed without a permit or specific authority. Parking without authority, parking in unauthorized locations or in locations reserved for other persons or continuously in excess of 8 hours without permission, or contrary to the direction of a uniformed Bureau of the Mint guard, or of posted signs, is prohibited.

(d) This paragraph may be supplemented from time to time with the approval of the Director of the Mint, or the delegate of the Director, by the issuance and posting of such specific traffic directives as may be required and when so issued and posted such directives shall have the same force and effect as if made a part hereof.

### § 91.13 Weapons and explosives.

No person while on the property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

### § 91.14 Penalties and other law.

Whoever shall be found guilty of violating any of the regulations in this part while on the property is subject to a fine of not more than \$50, or imprisonment of not more than 30 days, or both (see 40

U.S.C. 318c). Nothing contained in the regulations in this part shall be construed to abrogate any other Federal laws or regulations or those of any State or municipality applicable to the property referred to in § 91.2 and governed by the regulations in this part.

Dated: January 9, 1969.

[SEAL]

EVA ADAMS,  
Director of the Mint.

[F.R. Doc. 69-434; Filed, Jan. 13, 1969; 8:47 a.m.]

## Title 36—PARKS, FORESTS, AND MEMORIALS

### Chapter II—Forest Service, Department of Agriculture

#### PART 231—GRAZING

##### Grazing Fees

Part 231 of Title 36, Code of Federal Regulations, as revised in the FEDERAL REGISTER, volume 33, No. 56, page 4802, dated March 21, 1968, is further revised as follows:

Section 231.5, *Grazing fees*, is revised to read as follows:

#### § 231.5 Fees, payments, and refunds or credits.

(a) *Fees.* (1) Fees will be charged for all livestock grazing upon or crossing National Forest System lands or other lands under Forest Service control except such livestock as may be grazed free of charge under paragraph (b) (6) and (7) of § 231.3. Such fees will be based on general governmental policy as established by Bureau of the Budget Circular A-25 of September 23, 1959, which directs that a fair market value be obtained for all services and resources provided the public through establishment of a system of reasonable fee charges, and that the users be afforded equitable treatment. This policy precludes a monetary consideration in the fee structure for any permit value that may be capitalized into the permit holders' private ranching operations.

(2) Fair market value is defined as the difference between total costs of operating on private leased grazing lands and total nonfee costs of operating on National Forest System lands. These costs include lost animals, veterinary services, moving livestock to and from permitted areas, herding, salt and feeding, travel to and from permitted areas, water, horses, fence and water maintenance, development depreciation, and other miscellaneous costs. In addition the private costs include the private lease rates.

(3) A base fee of \$1.23 per cow month for the National Forests in the six Western Forest Service Regions is derived from the comprehensive survey conducted by the Department of Agriculture's Statistical Reporting Service in 1966. This 1966 base of \$1.23 is a sliding base adjusted annually against an index of private land grazing lease rates as

determined by the Economic Research Service for the year preceding the fee year (Annual Forage Value Index). If significant differences in fair market values are determined to exist for various geographical areas or because of differences in the quality of the range environment, these differences will be incorporated into the basic fee structure for National Forest System lands. Fair market value base rates will be developed through similar studies for other National Forests, the National Grasslands, and Land Utilization Projects. Current base rates and procedures will apply for these lands until new base rates are established.

(4) Conversion to the 1966 base rates for the Western National Forests will be carried out during a 10-year period beginning in 1969. The difference between the fees paid in 1966 and the 1966 base rate of \$1.23 will be made in installments of 10 percent per year for a 10-year period. Increases or decreases in the base rate because of changes in the index of private land grazing leases will be made annually. Changes derived from this index between 1966 and 1968 increase the base by \$0.02 to \$1.25 per cow month in 1969. Fees which have previously been established through appraisals and are currently above the 1966 base rate will be reduced to \$1.25 per cow month in 1969. Fees which have been established by competitive bid will remain unchanged during the period specified in the bid.

(5) The fair market value is based on one (1) animal month of grazing by a mature cow. Five (5) sheep are considered as equivalent to one cow.

(6) No charge will be made for animals under 6 months of age at the time of entering National Forest System lands and other lands under Forest Service control which are the natural increase of the livestock upon which fees are paid or for those born during the season for which the permit is allowed: *Provided*, That the full fee may be charged for all weaned calves and colts regardless of age and for such animals as will become 12 months of age during the permitted period of use.

(7) No additional charge will be made for the privilege of lambing upon National Forest System lands or other lands under Forest Service control.

(8) Pack and saddle animals may be charged for at a special rate, and a minimum permit charge established for such use.

(9) The fees for crossing privileges will conform with the rates established for other livestock under paid permit. Where practicable, crossing fees for permitted livestock will be covered in the regular grazing fee and the crossing period covered in the regular grazing period.

(b) *Payments.* (1) Grazing fees are payable in advance of the opening date of the grazing period unless otherwise authorized by the Chief, Forest Service.

(2) Crossing fees are payable in advance of the livestock entering National Forest System lands or other lands under Forest Service control.

(c) *Refunds or credits.* (1) Refunds or credits may be allowed under justifiable conditions and circumstances as the Chief, Forest Service, may specify.

(Sec. 1, 30 Stat. 35, as amended, sec. 1, 33 Stat. 628; 16 U.S.C. 551, 472; sec. 32, 50 Stat. 525, as amended; 7 U.S.C. 1011)

*Effective date.* This revision shall become effective on the date of its publication in the FEDERAL REGISTER.

ORVILLE L. FREEMAN,  
Secretary of Agriculture.

JANUARY 10, 1969.

[F.R. Doc. 69-524; Filed, Jan. 13, 1969; 8:49 a.m.]

## Title 47—TELECOMMUNICATION

### Chapter I—Federal Communications Commission

#### PART 73—RADIO BROADCAST SERVICES

##### Change of Channel Offset, Calumet, Mich.

1. In the assignment of television broadcast channels, a technique called "carrier offset" is used to reduce interference between stations operating on the same channel. In a roughly triangular assignment pattern of three stations located at the apices of the triangle, one station operates on the nominal channel frequency (non-offset), one operates on a frequency displaced 10 kHz above the nominal channel frequency (plus offset) and the third station operates on a frequency displaced 10 kHz below the nominal channel frequency (minus offset). The displacement is slight, amounting to approximately one part in 5 million for Channel 2, one part in 20 million for Channel 13, one part in 50 million for Channel 14 and one part in 90 million for Channel 83.

2. On August 15, 1968, the Canadian Government requested comments on a proposal to make certain changes in TV channel assignments in Canada. Contemplated changes in TV assignments within 250 miles of the U.S.A.-Canadian border are subject to coordination pursuant to the United States-Canadian Television Agreement (TIAS-2594). One of the proposed changes would have assigned Channel 5 to Sault Ste. Marie, Ontario, with a minus offset. The Commission advised the Canadian Government that the minus offset would not be acceptable because of potential interference to WNEM-TV, Channel 5, Bay City, Mich., since Channel 5 at Bay City is offset minus. A non-offset assignment of Channel 5 at Sault Ste. Marie would be acceptable. However, this requires a change of Channel 5 at Calumet, Mich., from non-offset to minus offset in order to maintain the proper triangular pattern. By letter of October 27, 1968, the Canadian Government agreed to the change in offset at Calumet, Mich., and Tables A and B of the United States/Canada Television Agreement were ap-

propriately amended. Channel 5 at Calumet is not assigned to any TV station.

3. Changing the offset of Channel 5 at Calumet constitutes neither a channel change nor a substantive change of the frequency designated for Channel 5.<sup>1</sup> The very slight order of differences among plus, zero, and minus offsets for a given channel is de minimis, and a change of offset designated in the Table of Television Assignments does not, therefore, require prior notice and opportunity for interested persons to comment for which 5 U.S.C. 553 (formerly, the Administrative Procedure Act) makes provision in the case of substantive rule changes.

4. Authority for the action taken herein is contained in section 5(d) of the Communications Act of 1934, as amended, and § 0.261(a) of the Commission's rules and regulations.

5. *Accordingly, it is ordered*, That, effective January 15, 1969, the Table of Assignments in § 73.606(b) of the Commission's rules is amended, insofar as Calumet, Mich., is concerned, to read as follows:

City	Channel No.
Calumet, Mich.....	5-, *22

Adopted: January 8, 1969.

Released: January 9, 1969.

(Sec. 5, 48 Stat. as amended, 1068; 47 U.S.C. 155)

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

[F.R. Doc. 69-436; Filed, Jan. 13, 1969; 8:47 a.m.]

## Title 50—WILDLIFE AND FISHERIES

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

#### PART 33—SPORT FISHING

##### Certain National Wildlife Refuges in Oregon, California, and Washington

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

*General conditions.* Fishing shall be in accordance with applicable State regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps available at the respective refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

<sup>1</sup> Channel 5 at Calumet is not assigned to a TV station and there are no pending applications therefor.

## OREGON

Ankeny National Wildlife Refuge (Headquarters: William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oreg. 97330).

*Special conditions.* (1) The use of boats is not permitted.

(2) During the open season, fishing shall be permitted each day from 1 hour before sunrise to 1 hour after sunset. Use of artificial lights will not be permitted.

Hart Mountain National Antelope Refuge (Headquarters: Sheldon-Hart Mountain National Antelope Refuges, U.S. Post Office Building, Post Office Box 111, Lakeview, Oreg. 97630).

Klamath Forest National Wildlife Refuge (Headquarters: Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, Calif. 96134).

*Special condition.* Use of boats is not permitted.

Malheur National Wildlife Refuge, Post Office Box 113, Burns, Oreg. 97720.

*Special condition.* Refuge waters with the exception of Krumbo Reservoir are closed to the use of boats for fishing purposes. The use of motors on boats is not permitted.

Upper Klamath National Wildlife Refuge (Headquarters: Tule Lake Refuge, Route 1, Box 74, Tulelake, Calif. 96134).

*Special condition.* Speed boats shall not exceed 10 miles per hour in any stream, creek, or canal, and that portion of Pelican Bay west of a line beginning at a point on the north shore of Pelican Bay one-fourth mile east of Crystal Creek and extending due south to opposite shore of the lake.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oreg. 97330.

*Special conditions.* (1) Use of boats is not permitted.

(2) During the open season, fishing shall be permitted each day from 1 hour before sunrise to 1 hour after sunset. Use of artificial lights will not be permitted.

Cold Springs National Wildlife Refuge (Headquarters: McNary National Wildlife Refuge, Post Office Box 19, Burbank, Wash. 99323).

*Special conditions.* (1) The refuge is closed to sport fishing during the migratory waterfowl hunting season.

(2) Boats without motors may be used for purpose of fishing.

McKay Creek National Wildlife Refuge (Headquarters: McNary National Wildlife Refuge, Post Office Box 19, Burbank, Wash. 99323).

*Special conditions.* The refuge is closed to sport fishing during the migratory waterfowl hunting season.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective to January 1, 1970.

TRAVIS S. ROBERTS,  
Acting Regional Director, Bureau of Sport Fisheries and Wildlife, Portland, Oreg.

DECEMBER 24, 1968.

[F.R. Doc. 69-443; Filed, Jan. 13, 1969; 8:48 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

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

#### SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular 2255]

#### PART 4110—GRAZING ADMINISTRATION (INSIDE GRAZING DISTRICTS) (THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS)

##### Grazing Regulations for Public Lands

On November 16, 1968, there was published in the FEDERAL REGISTER, as proposed rule making, the text of amendments and revisions to the regulations governing grazing on public lands within officially designated grazing districts. The notice provided opportunity for public comment until December 31, 1968.

The comments received were numerous and varied. After extensive consideration, which included public meetings and review by the various advisory boards, the regulations, modified as set forth below, are hereby adopted to become effective upon publication of this notice in the FEDERAL REGISTER.

One of the purposes of this change is to authorize the determination of grazing fees which reflect fair market value as a range forage pricing objective based upon an appraisal of operating costs which considers comparability between Federal and private grazing lands. Such an appraisal has been accomplished in the form of the Western Livestock Grazing Survey of 1966. In order to minimize the impact on the livestock industry, a primary schedule is established to reach fair market value in 10 annual incremental steps at \$0.09 per AUM per year. Federal receipts from grazing will be less than fair market value during this period.

The change provides that the Secretary may adjust the fees annually in order to maintain the comparability between public and private lease rates through the annual application of a forage value index which establishes the rate of increase or decrease occurring in private lease rates for similar type range lands.

The resulting fee formula charges the public land users only for the value of the public forage grazed.

The change additionally provides that the base fee may be studied periodically to determine if adjustments should be made. Reviews will be undertaken concurrently of the impact of these changes on livestock industry stability, loaning arrangements, collateral values and the private forage market.

The Department is mindful of the Public Land Law Review Commission's efforts and looks forward to its recommendations. Grazing fees may be fixed from time to time. At the appropriate time, after assessment of the aforementioned reviews and the Public Land Law Review Commission's reports, further consideration will be given to the graz-

ing fee structure to assure its reasonableness.

This change also provides for the simplification of administrative procedures to allow flexibility in livestock operations when operating under an approved allotment management plan. Flexibility is necessary where intensive management is being practiced to allow livestock operators to adjust to changing climatic and forage conditions. Grazing fees based on the actual forage consumed will reflect a more equitable payment.

1. New paragraphs (s) and (t) are added to § 4110.0-5 as follows:

##### § 4110.0-5 Definitions.

(s) "Allotment management plan" means a program of action designed to reach specific management goals.

(t) "Grazing system" means a specific sequence of livestock grazing by designated area to accomplish management objectives.

2. In § 4115.2-1, the introductory portion of paragraph (g) and the entire paragraph (k) are amended to read as follows:

##### § 4115.2-1 License and permit procedures; requirements and conditions.

(g) *Change in grazing season.* Any licensee or permittee who desires to use the Federal range for a period or periods other than as authorized by his license, permit, or approved allotment management plan, may, upon a written approval of the District Manager, be allowed to use the amount of his authorized grazing privileges during any period of time for which the Federal range is classified as proper for use, provided:

(k) *Fees, payments and refunds—*(1) *Fees.* (i) Fees will be charged for the grazing of all livestock on public lands at a rate per animal unit month, except that no fee will be charged for a free-use license. Fees for any fee year, consisting of a grazing fee for use of the range and a range improvement fee, will be published as a notice in the FEDERAL REGISTER.

(ii) Fees will be established by the Secretary in 10 equal annual increments to attain the fair market value of range forage at the 1978 fee year. Fair market value is that value established by the Western Livestock Grazing Survey of 1966 or as determined by a similar study which may be conducted periodically to update the fee base, if deemed necessary. In addition, annual adjustments may be made for any of the 1969-78 fee years, and thereafter, to reflect current market values.

(iii) A minimum annual charge of \$10 will be made on all regular licenses, permits, nonrenewable licenses, and crossing permits, except as specified in subdivision (vi) of this subparagraph.

(iv) Range improvement fees may vary in accordance with the character or requirements of the various districts or portions thereof. Grazing fees may differ in any district or unit thereof in which the grazing capacity of the Federal range is increased by reason of the addition of

land not owned by the United States, or by reason of a cooperative agreement or memorandum of understanding between the Bureau of Land Management and any State or Federal agency, or any person, association, corporation, or otherwise.

(v) All livestock 6 months of age or over allowed on the Federal range will be considered at any point of time during the grazing period as a part of the total number for which a license or permit has been issued, or for which an allotment management plan has been approved. No fees will be charged for livestock under 6 months of age.

(vi) Upon application filed with the District Manager, by any person showing the necessity for crossing the Federal range with livestock for proper and lawful purposes, a crossing permit may be issued. Charges are payable in advance at the same rate charged for regular grazing use, except that no fee will be charged where the trail to be used is so limited and defined that no substantial amount of forage will be consumed in transit.

(2) *Payment of fees.* (i) No regular license or permit shall be issued or renewed until payment of all fees due the United States under these regulations

have been made. Grazing privileges may be canceled or reduced, in accordance with paragraph (d) of this section, for failure to pay the required fees. Fees for regular licenses and permits are due the United States upon issuance of a fee notice and are payable in full in advance before grazing use is authorized; except that where grazing is authorized on the basis of an approved allotment management plan, which includes grazing system requirements necessary to assure proper management of the public land and its resources, the District Manager may either:

(a) Issue a fee notice upon termination of the grazing period authorized. The fee notice will reflect the actual grazing use made and will be payable within 30 days of the date of issuance, or

(b) Issue a fee notice on the basis of the normal operation detailed in the allotment management plan. Such fees are due the United States upon issuance and are payable in full in advance before grazing use is authorized. At the conclusion of the authorized grazing period the actual grazing use will be determined. A supplemental billing reflecting additional use must be paid within 30 days of issuance. A refund or credit may be made toward the following year's fees

for use less than the normal operation. Ordinarily, no adjustment will be made when the amount is under \$5.

(ii) Any licensee or permittee who desires a change in grazing use authorized pursuant to any of the provisions of this section must file, in advance, a written request for such change, except when in conformance with an approved allotment management plan. Upon approval of change, an adjusted billing notice will be issued.

(3) *Refunds.* No refund will be made for failure to use all grazing privileges represented by a license or permit, except that:

(i) During periods of range depletion due to severe drought or other natural causes, or in case of a general epidemic of disease during the life of a regular license or permit, fees due may be reduced in whole or in part, credited or refunded; or fee payment may be postponed for such periods so long as the emergency exists.

DAVID S. BLACK,

*Under Secretary of the Interior.*

JANUARY 10, 1969.

[F.R. Doc. 69-526; Filed, Jan. 13, 1969; 9:10 a.m.]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[ 26 CFR Part 1 ]

### INCOME TAX

#### Industrial Development Bonds; Notice of Hearing on Proposed Regulations

The proposed amendment to the regulations under section 103(c) of the Internal Revenue Code relating to interest on industrial development bonds appears in this issue of the FEDERAL REGISTER (January 14, 1969).

A public hearing on the provisions of this proposed amendment to the regulations will be held on Tuesday, February 18, 1969, at 10 a.m., e.s.t., in Room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C.

Persons who plan to attend the hearing are requested to notify the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by February 13, 1969. Notification of intention to attend or comment at the hearing may be given by telephone, 202-964-3935.

Lester R. Uretz,  
Chief Counsel.

[SEAL] By: JAMES F. DRING,  
Director, Legislation and  
Regulations Division.

[F.R. Doc. 69-549; Filed, Jan. 13, 1969;  
10:19 a.m.]

[ 26 CFR Part 1 ]

### INCOME TAX

#### Industrial Development Bonds

Notice is hereby given that the regulations proposed to be prescribed under section 103 of the Internal Revenue Code of 1954 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER for March 23, 1968 (33 F.R. 4950) are withdrawn.

Further, notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR

601.601(b) may be inspected by any person upon request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at the public hearing which will be held on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. Notice of the time, place, and date of the public hearing is published simultaneously herewith. The proposed regulations are to be issued under the authority contained in sections 103(c) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 82 Stat. 1349; 26 U.S.C. 103, 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954 to the provisions of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364, 82 Stat. 251) and section 401 of the Renegotiation Amendments Act of 1968 (Public Law 90-634, 82 Stat. 1349), relating to industrial development bonds, such regulations are amended to read as follows:

PARAGRAPH 1. Section 1.103 is amended by redesignating section 103(c) as section 103(d), by inserting after section 103(b) a new section 103(c), and by adding a historical note. These amended and added provisions read as follows:

§ 1.103 Statutory provisions; interest on certain governmental obligations.

Sec. 103. Interest on certain governmental obligations—(a) General rule. \* \* \*

(c) Industrial development bonds—(1) Subsection (a) (1) not to apply. Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a) (1).

(2) Industrial development bond. For purposes of this subsection, the term "industrial development bond" means any obligation—

(A) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (within the meaning of paragraph (3)), and

(B) The payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part—

(i) Secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or

(ii) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

(3) Exempt person. For purposes of paragraph (2) (A), the term "exempt person" means—

(A) A governmental unit, or

(B) An organization described in section 501(c) (3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business,

determined by applying section 513(a) to such organization).

(4) Certain exempt activities. Paragraph (1) shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide—

(A) Residential real property for family units,

(B) Sports facilities,

(C) Convention or trade show facilities,

(D) Airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related to any of the foregoing,

(E) Sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy, gas, or water, or

(F) Air or water pollution control facilities.

(5) Industrial parks. Paragraph (1) shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used for the acquisition or development of land as the site for an industrial park. For purposes of the preceding sentence, the term "development of land" includes the provision of water, sewage, drainage, or similar facilities, or of transportation, power, or communication facilities, which are incidental to use of the site as an industrial park, but, except with respect to such facilities, does not include the provision of structures or buildings.

(6) Exemption for certain small issues—

(A) In general. Paragraph (1) shall not apply to any obligation issued as part of an issue the aggregate authorized face amount of which is \$1,000,000 or less and substantially all of the proceeds of which are to be used (i) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or (ii) to redeem part or all of a prior issue which was issued for purposes described in clause (i) or this clause.

(B) Certain prior issues taken into account. If—

(i) The proceeds of two or more issues of obligations (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality),

(ii) The principal user of such facilities is or will be the same person or two or more related persons, and

(iii) But for this subparagraph, subparagraph (A) would apply to each such issue,

then, for purposes of subparagraph (A), in determining the aggregate face amount of any later issue there shall be taken into account the face amount of obligations issued under all prior such issues and outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

(C) Related persons. For purposes of this paragraph and paragraph (7), a person is a related person to another person if—

(i) The relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

(ii) Such persons are members of the same controlled group of corporations (as defined in section 1563(a)), except that "more than

50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

(D) *\$5,000,000 limit in certain cases.* At the election of the issuer, made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe, with respect to any issue this paragraph shall be applied—

(i) By substituting "\$5,000,000" for "\$1,000,000" in subparagraph (A), and

(ii) In determining the aggregate face amount of such issue, by taking into account not only the amount described in subparagraph (B), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (E) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding issues to which subparagraph (A) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in subparagraph (B).

(E) *Facilities taken into account.* For purposes of subparagraph (D) (ii), the facilities described in this subparagraph are facilities—

(i) Located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

(ii) The principal user of which is or will be the same person or two or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

(F) *Certain capital expenditures not taken into account.* For purposes of subparagraph (D) (ii), any capital expenditure—

(i) To replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

(ii) Required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance, or

(iii) Required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed \$250,000),

shall not be taken into account.

(G) *Limitation on loss of tax exemption.* In applying subparagraph (D) (ii) with respect to capital expenditures made after the date of any issue, no obligation issued as a part of such issue shall be treated as an obligation not described in subsection (a) (1) by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

(H) *Certain refinancing issues.* In the case of any issue described in subparagraph (A) (ii), an election may be made under subparagraph (D) only if all of the prior issues being redeemed are issues to which subparagraph (A) applies. In applying subparagraph (D) (ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under subparagraph (A).

(7) *Exception.* Paragraphs (4), (5), and (6) shall not apply with respect to any obligation for any period during which it is held by a person who is a substantial user of the facilities or a related person.

(d) *Cross references.* \* \* \*  
[Sec. 103 as amended by sec. 107, Rev. and

Expenditure Control Act 1968 (82 Stat. 266), sec. 401, Renegotiation Amendments Act 1968 (82 Stat. 1349)]

PAR. 2. Section 1.103-1 is amended to read as follows:

**§ 1.103-1 Interest upon obligations of a State, Territory, etc.**

Interest upon obligations of a State, Territory, a possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually referred to as "governmental unit"), is not includible in gross income. Obligations issued by or on behalf of any governmental unit by constituted authorities empowered to issue such obligations, are the obligations of a governmental unit. However, section 103(a) (1) and this section do not apply to industrial development bonds except as otherwise provided in section 103(c). See section 103(c) and §§ 1.103-7 through 1.103-11 for the rules concerning interest paid on industrial development bonds. Certificates issued by a political subdivision for public improvements (such as sewers, sidewalks, streets, etc.) which are evidence of special assessments against specific property, which assessments become a lien against such property and which the political subdivision is required to enforce, are, for purposes of this section, obligations of the political subdivision even though the obligations are to be satisfied out of special funds and not out of general funds or taxes. The term "political subdivision" for purposes of this section and § 1.103-7, denotes any division of any governmental unit which has been delegated the right to exercise part of the sovereign power of the governmental unit. As thus defined, a political subdivision of any governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of any governmental unit.

PAR. 3. The following new sections are added after § 1.103-6:

**§ 1.103-7 Industrial development bonds.**

(a) *In general.* Under section 103(c) (1) and this section, an industrial development bond issued after April 30, 1968, shall be treated as an obligation which is not an obligation described in section 103(a) (1) and § 1.103-1. Accordingly, interest paid on such a bond is includible in gross income. However, interest paid on such a bond is not ordinarily includible in gross income if it was issued by a governmental unit either in connection with certain exempt activities (see section 103(c) (4) and § 1.103-8), to finance an industrial park (see section 103(c) (5) and § 1.103-9), or as a part of an exempt small issue (see section 103(c) (6) and § 1.103-10). See also § 1.103-11 for the rules concerning the interest paid on certain industrial development bonds issued before January 1, 1969.

(b) *Industrial development bonds—*  
(1) *Definition.* For purposes of this section the term industrial development bond means any obligation—

(i) Which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (as defined in subparagraph (2) of this paragraph), and

(ii) The payment of the principal or interest on which, under the terms of such obligation or any underlying arrangement, is, in whole or in major part—

(a) Secured by any interest in property used or to be used in a trade or business,

(b) Secured by any interest in payments in respect of property used or to be used in a trade or business, or

(c) To be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

See subparagraphs (3) and (4) of this paragraph for the trade or business test and the security interest test respectively. For purposes of this section, the term "issue" includes a single note issued in connection with a bank loan.

(2) *Exempt person.* The term "exempt person" means a governmental unit (as defined in § 1.103-1), or an organization which is described in section 501(c) (3) and which is exempt from taxation under section 501(a). Such a tax-exempt organization is, however, an exempt person only with respect to a trade or business it carries on which is not an unrelated trade or business. Whether a particular trade or business carried on by a tax-exempt organization is an unrelated trade or business is determined by applying the rules of section 513(a) (relating to general rule for unrelated trade or business) and the regulations thereunder to the tax-exempt organization without regard to whether the organization is an organization subject to the tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

(3) *Trade or business test.* The trade or business test is related to the use of the proceeds of a bond issue. In determining whether a debt obligation meets the trade or business test, the indirect, as well as the direct, use of the proceeds is to be taken into account. For example, if all or a major portion of the proceeds of a bond issue are to be loaned by a governmental unit to one or more private business users for use in trades or businesses carried on by them, such proceeds are to be used in a trade or business carried on by a person who is not an exempt person and the debt obligations comprising the bond issue satisfy the trade or business test. The debt obligations comprising a bond issue do not fail to satisfy the trade or business test merely because the governmental unit uses the proceeds to engage in a series of financing transactions for property used by private business users in trades or businesses carried on by them. Similarly,

if such proceeds are to be used to construct facilities to be leased to any non-exempt person for use in a trade or business it carries on, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. By the same token, if such proceeds are to be used to construct facilities to be leased to any person who will, in turn, lease the facilities to a nonexempt person for use in a trade or business it carries on, such proceeds are to be used in a trade or business carried on by a nonexempt person and the debt obligations comprising such issue satisfy the trade or business test. Similar rules are applicable to situations involving the sale of property or other arrangements, whether in a single transaction or in a series of transactions, whereby a nonexempt person uses property acquired with the proceeds of a bond issue in its trade or business.

(4) *Security interest test.* The security interest test is related to the nature of the security for the payment of the principal or interest on a bond issue. The nature of the security may be determined from the terms of the bond indenture or any underlying arrangement. An underlying arrangement to provide security for the payment of the principal or interest of the obligation may result from separate agreements between the parties or may be determined on the basis of all the facts and circumstances surrounding the issuance of the bonds. The property which is the security for the payment of the principal or interest on a debt obligation need not be property acquired through the use of the bond proceeds. The security interest test is satisfied if a debt obligation is, for example, secured by unimproved land or investment securities if the proceeds of the obligation are to be used, directly or indirectly, in any trade or business carried on by any private business user. A pledge of the full faith and credit of a governmental unit will not affect the status of a debt obligation which otherwise satisfies the security interest test. For example, if the payment of the principal or interest on a bond issue is secured by both a pledge of the full faith and credit of a governmental unit and any interest in property used or to be used in a trade or business, the bond issue satisfies the security interest test.

(c) *Examples.* The application of the rules contained in section 103 (c) (2) and (c) (3) and paragraphs (b) and (c) of this section are illustrated by the following examples:

*Example (1).* Governmental unit A and corporation X enter into an arrangement under which A is to provide a factory which X will lease for 20 years. The arrangement provides (1) that A will issue \$10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and to construct and equip a factory in accordance with X's specifications, (3) that X will rent the facility for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself will be the security for the bonds. The bonds are

industrial development bonds since they are part of an issue of obligations (1) all of the proceeds of which are to be used (by purchasing land and constructing and equipping the factory) in a trade or business by a non-exempt person, and (2) the payment of the principal and interest on which is secured by a security interest in, and is to be derived from payments to be made in respect of, property to be used in a trade or business.

*Example (2).* The facts are the same as in example (1) except that, instead of providing that X will lease the facility for 20 years, the arrangement provides that (1) X will purchase the facility, and (2) annual payments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds will be made by X. The bonds are industrial development bonds for the reasons set forth in example (1).

*Example (3).* Governmental unit B and corporation X enter into an arrangement under which B is to lend \$10 million to X. The arrangement provides (1) that B will issue \$10 million of bonds, (2) that the proceeds of the bond issue will be lent to X to provide additional working capital and to finance the acquisition of certain new machinery, (3) that X will repay the loan in annual installments equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that the payments on the loan and the machinery are the security for the bonds. The bonds are industrial development bonds since they are debt obligations part of an issue (1) all of the proceeds of which are to be used in a trade or business by a non-exempt person, and (2) the payment of the principal and interest on which is secured by payments to be made in respect of property to be used in a trade or business.

*Example (4).* The facts are the same as in example (1), (2), or (3) except that the annual payments required to be made by corporation X exceed the amount necessary to amortize the principal and pay the interest on the outstanding bonds. The bonds are industrial development bonds for the reasons set forth in such examples. The fact that corporation X is required to pay an amount in excess of the amount necessary to pay the principal and interest on the bonds does not affect their status as industrial development bonds.

*Example (5).* The facts are the same as in example (1), (2), (3), or (4) except that the bonds are denominated "general obligation bonds" but the governmental unit is only required to pay principal and interest out of general revenues in the event of a default by corporation X. Governmental unit A's arrangement to pay the principal and interest on the bonds out of its general revenues in the event of default is a guaranty of corporation X's primary obligation to make the necessary payments. The governmental unit's guaranty does not affect the status of the bonds as industrial development bonds.

*Example (6).* Governmental unit C issues its general obligation bonds to purchase land and construct a hotel near a convention center. The bond indenture provides (1) that C is to own and operate the project for the period required to redeem the bonds, and (2) that the project itself and the revenues derived therefrom are the security for the bonds. The bonds are not industrial development bonds since (1) the proceeds are to be used by an exempt person in a trade or business carried on by such person and (2) a major portion of such proceeds are not to be used, directly or indirectly, in a trade or business by a nonexempt person.

*Example (7).* Governmental unit D and corporation Y enter into an agreement under which Y will lease for 20 years the first three floors of a 12-story office building to be con-

structed by D. D will occupy the remaining nine floors of the building. The rental value of all floor space in the building is the same. The agreement provides (1) that D will issue \$10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and construct an office building, (3) that Y will lease three floors for 20 years at an annual rental of \$200,000, and (4) that such rental payments and the building itself shall be security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds are not to be used, directly or indirectly, in a trade or business by a nonexempt person.

*Example (8).* The facts are the same as in example (7) except that Y will lease five floors instead of three and that, while D will have physical possession of only seven floors, these seven floors represent 75 percent of the rental value of the entire building. The bonds are not industrial development bonds for the same reasons as in example (7).

*Example (9).* Governmental unit E issues its obligations to finance the construction of dormitories for educational institution Z which is an organization described in section 501(c) (3) and exempt from tax under section 501(a). The dormitories are to be owned and operated by Z and their operation does not constitute an unrelated trade or business. The bonds are not industrial development bonds since the proceeds are to be used by an exempt person in a trade or business carried on by such person which is not an unrelated trade or business, as determined by applying section 513(a) to Z.

*Example (10).* Governmental unit F issues its obligations to finance the construction of a toll road and the cost of erecting related facilities, such as gasoline service stations and restaurants, which are to be leased or sold to private business users. The toll road is to be owned and operated by F. The revenues from the toll road and from the rental of incidental facilities are the security for the bonds. The bonds are not industrial development bonds since a major portion of the proceeds are not to be used, directly or indirectly, in any trade or business carried on by a nonexempt person.

*Example (11).* Governmental unit G issues its obligations to finance the construction of a facility which is to be leased or sold to numerous unrelated private business users to be used in their trades or businesses. The principal and interest of the obligations will be paid, in whole or major part, from the revenues that G will derive from such leases or sales. The bonds are industrial development bonds, notwithstanding the fact that the activities of G, an exempt person, may amount to a trade or business of leasing or selling property, since the property involved is to be used by each of the private business users in their respective trades or businesses.

#### § 1.103-8 Interest on bonds to finance certain exempt activities.

(a) *In general.* Under section 103(c) (4), interest paid on debt obligations issued as part of an issue by a governmental unit substantially all of the proceeds of which are to be used to provide facilities listed in subparagraphs (A) through (F) of section 103(c) (4) and this section is not includible in gross income. If the proceeds of a bond issue are to be used for such purposes, the debt obligations are treated as obligations which are State or local obligations described in section 103(a) (1) and § 1.103-1 even though such obligations may be industrial development bonds as defined in section 103(c) (2) and § 1.103-7. See paragraph (h) of this section for the treatment of interest paid

on an obligation described in this section held by a substantial user of the financed facilities or related persons. For purposes of section 103(c)(4) and this section financed facilities include any land, building or other structure, or personal property functionally related and subordinate to such facility. The principles of this paragraph may be illustrated by the following example:

*Example.* Governmental unit A issues its bonds to purchase land and build a facility principally for one of the purposes described in section 103(c)(4) and this section. The bond indenture provides that a corporation X will lease the facility for 20 years. The arrangement provides (1) that A will issue \$10 million of bonds, (2) that the proceeds of the bond issue will be used to purchase land and to construct such facility, (3) that \$500,000 of the proceeds will be used for an appurtenant but unrelated facility which will be used by X in a separate trade or business, (4) that X will rent the facilities for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (5) that such payments by X and the facilities will be the security for the bonds. The bonds are not industrial development bonds since substantially all of the proceeds of the issue will be used in connection with an exempt activity described in section 103(c)(4) and this section.

(b) *Residential real property*—(1) *General rule.* Section 103(c)(4)(A) provides that any debt obligation issued by a governmental unit which is part of an issue substantially all of the proceeds of which are to be used to provide residential real property for family units shall not be treated as an industrial development bond.

(2) *Family units.* (i) For purposes of section 103(c)(4)(A) and this paragraph, the term "family unit" means a building or portion thereof which contains complete living facilities which are to be used on other than a transient basis by only one family consisting of one or more persons. Thus, an apartment which is to be used on other than a transient basis by one family, which contains complete facilities for living, sleeping, eating, cooking, and sanitation, constitutes a family unit. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and parks and courts for mobile homes do not constitute residential real property for family units.

(ii) Land and facilities which are functionally related and subordinate to the real property actually used for family units are within the meaning of the term "residential real property for family units." For example, a minor portion of a residential facility used for nonfamily unit purposes, such as a swimming pool, or retail establishment, would be considered to be functionally related and subordinate to the area actually used for family units.

(c) *Sports facility defined.* For purposes of section 103(c)(4)(B) and this paragraph, the term "sports facility" includes both an outdoor or an indoor facility. The facility may be designed either as a spectator facility or as a participation facility. For example, the term includes outdoor stadiums for watching

baseball, football, or other sports events and indoor ice hockey arenas, as well as facilities for the participation of the general public in sports activities, such as golf courses, ski slopes, swimming pools, tennis courts, and gymnasiums. Any property which is functionally related and subordinate to a sports facility, such as a parking lot, club house, ski slope warming house, bath house, or ski tow, is considered to be part of a sports facility. Facilities constructed in connection with, but not functionally related and subordinate to, a sports facility, such as a ski lodge built in connection with the development of a ski slope, are not considered to be sports facilities. Since substantially all of the proceeds of a bond issue must be used in connection with the provision of a sports facility, only a minor portion of such proceeds may be used for those parts of the project which are not functionally related and subordinate to the sports facility. For example, a facility which is primarily a hotel or motel which includes facilities for sports, such as a golf course, swimming pool, or tennis courts, is not a sports facility.

(d) *Convention or trade show facilities*—(1) *General rule.* Section 103(c)(4)(C) provides that any debt obligation issued by a governmental unit which is a part of an issue substantially all of the proceeds of which are to be used to provide convention or trade show facilities shall not be treated as an industrial development bond.

(2) *Convention or trade show facilities defined.* For purposes of section 103(c)(4)(C) and this paragraph, the term "convention or trade show facilities" means special-purpose buildings or structures such as meeting halls and display areas which are used to house a convention or trade show. Facilities functionally related and subordinate to such facilities such as parking lots or railroad sidings are within the meaning of the term. A hotel or motel which is available to the general public, whether or not it is intended primarily to house persons attending or participating in a convention or trade show, is not a convention or trade show facility.

(e) *Certain transportation facilities*—(1) *General rule.* Section 103(c)(4)(D) provides that any debt obligation issued by a governmental unit which is part of an issue substantially all of the proceeds of which are to be used to provide (i) airports, docks, wharves, mass commuting facilities, and public parking facilities (hereinafter referred to as a "transportation facility"), or (ii) storage or training facilities directly related to any such transportation facility shall not be treated as an industrial development bond.

(2) *Transportation facility defined.* For purposes of section 103(c)(4)(D) and this paragraph, the term "transportation facility" includes only an airport, a dock, a wharf, a mass commuting facility serving a metropolitan area, or a public parking facility. The term includes any property which is functionally related and subordinate to a transportation facility. An airport, for example, would

include the service accommodations for the public, such as terminals, restaurants, accommodations for temporary use by passengers, terminal retail stores and concessions, parking areas, and kitchens for the preparation of in-flight meals, as well as the runways, hangars, and shops for the use of private airlines and individuals. A dock or wharf includes, for example, the structure alongside which a vessel lies as well as the equipment needed to receive and to discharge cargo from the vessel, such as cranes and conveyors. A mass commuting facility includes property functionally related and subordinate to mass commuting by bus, subway, or rail or other conveyance which serves the general public in a metropolitan area and moves over prescribed routes.

(3) *Related storage or training facility.* Section 103(c)(4)(D) includes only those storage or training facilities which are both directly related to a transportation facility and physically located on or immediately adjoining such a facility. For example, a storage facility would include a grain elevator, silo, warehouse, or oil and gas storage tank used in connection with a dock or wharf and located on or immediately adjoining such dock or wharf. Similarly, a training facility would include a building located at an airport for the training of flight personnel or a paved area immediately adjoining a bus garage used to train bus drivers.

(f) *Certain public utility facilities*—(1) *General rule.* Section 103(c)(4)(E) provides that any debt obligation issued by a governmental unit which is part of an issue substantially all of the proceeds of which are to be used to provide sewage disposal facilities, solid waste disposal facilities, or facilities for the local furnishing of electric energy, gas, or water shall not be treated as an industrial development bond.

(2) *Definitions.* For purposes of section 103(c)(4)(E) and this paragraph—

(i) The term "sewage disposal facilities" means any property used for the collection, storage, treatment, utilization, processing, or final disposal of sewage.

(ii) The term "solid waste disposal facilities" means any property used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste. For the definition of "solid waste" as used in this paragraph, see section 203(4) of the Solid Waste Disposal Act (42 U.S.C. section 3252(4)).

(iii) The term "facilities for the local furnishing of electric energy, gas, or water" means any property used in the trade or business of the furnishing or sale of electric energy, gas, or water, as

(a) The electric energy, gas, or water is required by the needs of one or more communities, counties, or metropolitan areas and the use of the general populace therein, and

(b) The rates for the furnishing or sale of electric energy, gas, or water, as the case may be, have been established or approved by a State (including the District of Columbia) or a political subdivision thereof, by an agency or instrumentality of the United States, or by a

public service or public utility commission or similar body of any State or political subdivision thereof. The term "established or approved" includes the filing of a schedule of rates with any body named in the preceding sentence which has the power to approve such rates, even though such body has taken no action on the filed schedule.

For example, an electric energy generating plant and the related transmission and distribution lines furnishing electric energy to the general populace in a metropolitan area at rates regulated in the manner described in this subdivision is a facility for the local furnishing of electric energy. In addition, a facility which reprocesses nuclear fuel that has been used and is to be reused in an electric generating plant furnishing electric energy in accordance with (a) and (b) of this subdivision is a facility for the local furnishing of electric energy. Similarly, artesian wells, a reservoir, and the related pumping equipment and pipelines, furnishing water to the general populace in a county or group of counties at rates regulated in the manner described in this subdivision is a facility for the local furnishing of water. However, a plant which would furnish electrical power or a pipeline which would furnish gas or water solely to a nonexempt person or persons in a trade or business other than the business of furnishing electric energy, gas, or water would not be local within the meaning of section 103(c) (4) (E).

(g) *Air or water pollution control facilities*—(1) *General rule.* Section 103(c) (4) (F) provides that any debt obligation issued by a governmental unit which is part of an issue substantially all of the proceeds of which are to be used to provide air or water pollution control facilities shall not be treated as an industrial development bond.

(2) *Air pollution control facilities.* For purposes of section 103(c) (4) (E) and this paragraph, the term "air pollution control facility" means any property used primarily to control atmospheric pollution or contamination by removing, containing, altering, or disposing of atmospheric pollutants or contaminants if such facility is in furtherance of Federal, State, or local standards for the control of atmospheric pollution or contaminants.

(3) *Water pollution control facilities.* For purposes of section 103(c) (4) (E) and this paragraph, the term "water pollution control facility" means any property used primarily to control water pollution by removing, storing, altering, or disposing of wastes (including excess heat), including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances if such facility is in furtherance of Federal, State, or local standards for the control of water pollution.

(4) *Primary use and purpose of facility.* Determinations concerning whether a facility is used primarily to control atmospheric pollution or contaminants or water pollution and whether such facility is in furtherance of Federal, State,

or local pollution control standards shall be made on the basis of all the facts and circumstances concerning the financed facility.

(h) *Bonds held by substantial users or related persons.* Section 103(c) (7) provides that section 103(c) (4) shall not apply with respect to any debt obligation issued to finance the facilities described in subparagraphs (A) through (F) of section 103(c) (4) and this section for any period during which such obligation is held either by a person who is a substantial user of the facilities with respect to which such obligation was issued or by a related person (as defined in section 103(c) (6) (C) and § 1.103-10 (d)). Therefore, interest paid on an obligation issued to finance any such facility is includible in the gross income of a substantial user or a person related to such substantial user for any such period. For example, if a baseball or football club holds bonds issued to finance a stadium in which the club plays its home games for the season, the bond interest would be includible in the club's gross income. Similarly, such interest would be includible in the gross income of an airline company which is a substantial user of an airport financed by bonds held by the company, or an industrial or steamship company which is a substantial user of a wharf financed by bonds held by such company.

§ 1.103-9 Interest on bonds to finance industrial parks.

(a) *General rule.* Under section 103(c) (5) interest paid on debt obligations issued by a governmental unit to finance industrial parks (hereinafter referred to as "industrial park bonds") is not includible in gross income. Section 103(c) (5) provides that section 103(c) (1) and § 1.103-7 shall not apply to any debt obligation issued by a governmental unit as part of an issue substantially all of the proceeds of which are to be used for the acquisition or development of land as the site for an industrial park. Thus, an industrial park bond is treated as an obligation which is a State or local obligation described in section 103(a) (1) and § 1.103-1. See paragraph (d) of this section for the treatment of interest paid on industrial park bonds held by substantial users of the industrial park or related persons.

(b) *Definition of an industrial park.* For purposes of section 103(c) (5) and this section, the term "industrial park" means a tract of land suitable for use as building sites by a group of enterprises engaged in industrial, distribution, or wholesale businesses. The term does not include a tract of land used for a single enterprise. In order to qualify as an industrial development park:

(1) The uses of the tract must normally be regulated by protective minimum restrictions, ordinarily including the size of individual sites, parking and loading regulations, and building setback lines; and

(2) The uses must ordinarily be designed to be compatible, under a comprehensive plan, with the community in

which the industrial park is located and the uses of the surrounding land.

(c) *Development of land.* For purposes of section 103(c) (5) and this section, the term "development of land" includes the provision of certain improvements to an industrial park site if (and only if) such improvements are incidental to the use of the land as an industrial park. For example, the term includes the building or installation of incidental water, sewer, drainage, or similar facilities (whether surface, subsurface, or both). The term also includes the provision of incidental transportation facilities, such as hard-surface roads (including curbs and gutters) and railroad sidings; power facilities, such as gas and electric lines; and communication facilities. The provision of structures or buildings of any kind is not included within the meaning of the term "development of land," except for those structures or buildings which are necessary in connection with the incidental improvements encompassed by the term. An example of this limited exception is a water pumphouse needed in connection with the incidental provision of water facilities in an industrial park.

(d) *Bonds held by substantial users or related persons.* Section 103(c) (7) provides that section 103(c) (5) shall not apply with respect to any industrial park bond for any period during which such bond is held either by a person who is a substantial user of the industrial park with respect to which such bond was issued or by a related person (as defined in section 103(c) (6) (C) and § 1.103-10 (d)). Therefore, interest paid on any obligation issued to finance an industrial park is includible in the gross income of a substantial user of such park or a person related to such substantial user for any such period. For purposes of this paragraph, any person who is the owner or the lessor of a sizeable site in an industrial park will be considered to be a substantial user of such park.

(e) *Examples.* The application of the rules contained in section 103(c) (5) and this section are illustrated by the following examples:

*Example (1).* Governmental unit A and corporations X, Y, and Z enter into an arrangement under which A is to acquire a tract of land suitable for use as an industrial park. The arrangement provides (1) that A will issue \$5 million of bonds to be used for the acquisition and development of a suitable tract of land, (2) that the tract will be zoned, pursuant to a comprehensive plan, for the use of a group of enterprises, (3) that A will install necessary water, sewer, and drainage facilities on the tract, (4) that A will sell substantial portions of the developed tract to X for use as a factory site and to Y for use as a warehouse site, (5) that A will lease a sizeable portion of the tract to Z for 20 years as a distribution center site, and (6) that the developed tract and the proceeds from the sale or lease of parts of the tract will be the security for the bonds. The bonds are not industrial development bonds since the proceeds of the issue are to be used for the acquisition and development of a tract of land as the site for an industrial park.

*Example (2).* The facts are the same as in example (1) except that, upon issuance of the bonds, X acquires \$50,000 of the issue. The

bonds acquired by X are industrial development bonds during the period they are held by X since X is a substantial user of the industrial park.

*Example (3).* The facts are the same as in example (1) except that \$250,000 of the proceeds of the \$5 million issue are to be used for the construction of a restaurant by corporation W. While the restaurant will be used primarily by those working in the park, the agreement provides that it will also be open to the general public. The bonds are not industrial development bonds since substantially all of the proceeds are used or to be used for the acquisition and development of a tract of land as the site for an industrial park.

**§ 1.103-10 Exemption for certain small issues of industrial development bonds.**

(a) *In general.* Section 103(c)(6) provides exemptions from the general rule used to determine the tax treatment of interest paid on certain industrial development bond issues (hereinafter referred to as "exempt small issues") and bonds issued to refund such issues (hereinafter referred to as "refunding issues"). If an exempt small issue or a refunding issue satisfies the requirements of section 103(c)(6) and this section, the interest paid on the debt obligations is not includible in gross income, and the obligations are treated as obligations which are State and local obligations described in section 103(a)(1) and § 1.103-1 even though such obligations are industrial development bonds as defined in section 103(c)(2) and § 1.103-7. See paragraph (f) of this section for the treatment of interest paid on any obligations described in this section held by a substantial user of the financed facilities or related persons.

(b) *Small issue exemption.*—(1) *\$1 million or less.* Section 103(c)(6)(A) provides that section 103(c)(1) and § 1.103-7, respectively, shall not apply to any debt obligation issued by a governmental unit as part of an issue the aggregate authorized face amount of which is \$1 million or less, if substantially all of the proceeds of such issue are to be used for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation under section 167 (relating to depreciation). The exemption requirements are not satisfied if the proceeds of such issue are loaned to a borrower for use as working capital or to finance inventory. Any debt obligation (other than an obligation to which the transitional provisions of example (11) in § 1.103-7(c) apply) which satisfies the exemption requirements and which was issued after April 30, 1968, is an exempt small issue.

(2) *\$5 million or less.* (i) Section 103(c)(6)(D) provides that after October 24, 1968, the governmental unit which is the issuer of an exempt small issue may elect to have an aggregate authorized face amount of \$5 million or less in lieu of the \$1 million exemption in section 103(c)(6)(A). However, the bonds will not be treated as obligations of a governmental unit within section 103(a)(1) and § 1.103-1 if the sum of—

(a) The prior outstanding issues under section 103(c)(6)(B) and paragraph (d) of this section, and

(b) The capital expenditures described in subdivision (ii) of this subparagraph which are made during the 6-year period which begins 3 years before the date of issue in question and ends 3 years after such date

exceeds \$5 million. See subdivision (iv) of this subparagraph for the time, place, and manner by which the issuer may elect the \$5 million exemption.

(ii) In determining the aggregate face amount of a \$5 million issue, unless otherwise provided in subdivision (iii) of this subparagraph, capital expenditures are to be taken into account, if—

(a) They are made with respect to facilities the principal user of which is or will be the same person or related persons, but only if such expenditures are made with respect to facilities which (on the date of issue) are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county),

(b) They are not financed out of the proceeds of issues which (at the time the \$5 million limit is being tested) are outstanding and to which section 103(c)(6)(A) and this paragraph applied, and

(c) They are properly chargeable to capital account (determined, for this purpose, without regard to any rule of the 1954 Code which permits expenditures properly chargeable to capital account to be treated as current expenses).

(iii) Notwithstanding the provisions of subdivision (ii) of this subparagraph, certain capital expenditures are not to be taken into account in determining the \$5 million limit, if they are—

(a) Capital expenditures to replace property damaged or destroyed by fire, storm, or other casualty, to the extent that these expenditures do not exceed in dollar amount the fair market value (determined immediately before the casualty) of the property so damaged or destroyed.

(b) A capital expenditure required by a change made after the date of issue in a Federal or State law, or a local ordinance which applies generally, or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance.

(c) Capital expenditures required by or arising out of circumstances which could not reasonably be foreseen on the date of issue or which arise out of a mistake of law or fact. However, this subdivision is inapplicable if such capital expenditure exceeds \$250,000.

(iv) (a) The issuer may make the election (assuming that the bonds otherwise qualify under section 103(c)(6)) by means of a statement signed by a duly authorized official that the governmental unit elects to have the provisions of section 103(c)(6)(D) apply to an issue of industrial development bonds the aggregate authorized face amount of which is \$5 million or less. The statement shall be filed prior to the issuance of such

industrial development bonds at the place where the principal user of the proceeds of such issue, or facilities acquired, constructed, reconstructed, or improved with the proceeds of such issue, will file its income tax return (as provided in section 6091) for the taxable year during which the election is made.

(b) The statement shall contain the following information:

(1) The name and address of the governmental unit;

(2) The name, address, and employer identification number of the principal user or users of such proceeds or facilities;

(3) The date and face amount of the issue;

(4) The date and amount of any outstanding issues the proceeds of which are or will be used primarily with respect to facilities (i) the principal user or users of which are or will be the same or related persons as those listed in (2) of this subdivision (iv)(b), and (ii) which are located in the same incorporated municipality or in the same county (outside of the incorporated municipalities in such county);

(5) The date and amount of any capital expenditures paid or incurred within the 3 years preceding the date of the issue for which the election is made with respect to facilities described in (4) of this subdivision (iv)(b).

(c) In order for the industrial development bonds to continue to qualify as an exempt small issue under this subparagraph, any principal user must file a supplemental statement which lists by date and amount any subsequent capital expenditures by such user within the meaning of section 103(c)(6)(D) and (E) and subdivisions (i) and (ii) of this subparagraph. Such supplemental statement must be filed at the place for filing the return (as prescribed in section 6091) of such user on the due date prescribed for filing such return (without regard to any extensions of time).

(c) *Refunding issue exemption.*—(1) *\$1 million or less.* Section 103(c)(6)(A) also provides that section 103(c)(1) and § 1.103-7 shall not apply to any debt obligation issued by a governmental unit as part of an issue the aggregate authorized face amount of which is \$1 million or less, if substantially all of the proceeds of such issue are to be used—

(i) To redeem part or all of a prior exempt small issue, or

(ii) To redeem part or all of a prior refunding issue.

(2) *\$5 million or less.* Section 103(c)(6)(E) also provides that section 103(c)(1) and § 1.103-7 shall not apply to any debt obligation issued by a governmental unit as part of an issue which is \$5 million or less if substantially all of the proceeds are to be used—

(i) To redeem part or all of a prior exempt small issue, or

(ii) To redeem part or all of a prior refunding issue.

However, the election of \$5 million in lieu of the \$1 million limit by the issuer

under section 103(c)(6)(D) and this section may be made only if all of the prior issues being redeemed are issues which qualified for the \$1 million exception under section 103(c)(6)(A) or for the \$5 million exception under 103(c)(6)(A) by reason of an election under section 103(c)(6)(D). In addition, in applying the capital expenditures test under section 103(c)(6)(D)(ii) to refinancing issues, capital expenditures are taken into account only for purposes of determining whether those prior issues which were made under the section 103(c)(6)(D) election qualified under section 103(c)(6)(A) and would have continued to qualify under that section but for the redemption.

(d) *Subsequent small issues of \$1 million or less.* (1) Under the rules of section 103(c)(6)(A) and this section, if the aggregate authorized face amount of an exempt small issue of industrial development bonds is \$1 million or less, the interest paid on such bonds is not includible in gross income. If the proceeds of a subsequent issue of industrial development bonds are or will be used to finance certain new or additional facilities for a principal user (or related persons) of the facilities financed by a prior bond issue, the tax treatment of the interest paid on such subsequent issue is determined by applying the rules contained in section 103(c)(6)(B) and this paragraph. Section 103(c)(6)(B) provides, in effect, that the interest paid on such subsequent issue is not includible in gross income if—

(i) But for the rules of section 103(c)(6)(B) and this paragraph, such subsequent issue would be an exempt small issue under section 103(c)(6)(A) and this section, and

(ii) The aggregate authorized face amount of such subsequent issue is \$1 million less the aggregate face amount (if any) of all prior issues (described in section 103(c)(6)(B) and subparagraph (2) of this paragraph) which are outstanding on the issue date of such subsequent issue (not including the face amount of any obligation which is to be redeemed from the proceeds of such subsequent issue).

(2) The face amount of an outstanding exempt small issue is taken into account in determining the permissible aggregate authorized face amount of a subsequent issue only if—

(i) The proceeds of both the prior and the subsequent issues (whether or not the governmental unit issuing such obligations is the same unit for each such issue) which satisfy the requirements of section 103(c)(6)(A) and this section and which are issued after April 30, 1968, are or will be used primarily with respect to facilities located or to be located in the same incorporated municipality or located or to be located in the same county in an unincorporated area in such county,

(ii) The principal user of the financed facilities is or will be the same person or two or more related persons (as defined in section 103(c)(6)(C) and this paragraph (d), and

(iii) But for section 103(c)(6)(B) and this paragraph, such subsequent issue would be an exempt small issue under section 103(c)(6)(A) and this section.

(e) *Subsequent small issues of \$5 million or less.* (1) Under the rules of section 103(c)(6)(A) and this section, if the issuer makes a valid election under section 103(c)(6)(D) and the aggregate authorized face amount of an exempt small issue of industrial development bonds is \$5 million or less, the interest paid on such bonds is not includible in gross income. If the proceeds of a subsequent issue of industrial development bonds are or will be used to finance certain new or additional facilities for a principal user (or related persons) of the facilities financed by a prior bond issue, the tax treatment of the interest paid on such subsequent issue is determined by applying the rules contained in section 103(c)(6)(B), (D), and (E), paragraph (d) of this section, and this paragraph.

(2) If capital expenditures are or will be used to finance certain new or additional facilities for the principal user (or related persons) of the facilities financed by a prior bond issue, the tax treatment of the interest paid on such subsequent issue is determined by applying the rules contained in section 103(c)(6)(D)(ii) and this section. Thus, subsequent expenditures may have the effect of making taxable the interest on an issue which at the time of issue qualified for exemption. However, section 103(c)(6)(G) and this section provides that in such a case, the loss of tax exemption for the interest will begin only with the date on which the expenditure which caused the issue to cease to qualify under the \$5 million limit was paid or incurred.

(f) *Related persons.* For purposes of section 103(c)(6) and (c)(7) and § 1.103-8, § 1.103-9, and this section, the term "related person" means a person who is related to another person if—

(1) The relationship between such persons would result in a disallowance of losses under section 267 (relating to disallowance of losses, etc., between related taxpayers) and section 707(b) (relating to losses disallowed, etc., between partners and controlled partnerships) and the regulations thereunder, or

(2) Such persons are members of the same controlled group of corporations, as defined in section 1563(a), relating to definition of controlled group of corporations (except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)) and the regulations thereunder.

(g) *Bonds held by substantial users or related persons.* Section 103(c)(7) provides that section 103(c)(6) shall not apply with respect to any debt obligation which is issued as a part of an exempt small issue or a refunding issue for any period during which such obligation is held either by a person who is a substantial user of the facilities with respect to which such obligation was issued or by a related person (as defined in section 103(c)(6)(C) and paragraph (f) of this

section). Therefore, interest paid on an obligation issued to finance any such facility is includible in the gross income of a substantial user or a person related to such substantial user for any such period. For example, if an industrial company holds bonds issued to finance a manufacturing or distributing facility which the company leases, the bond interest would be includible in the company's gross income.

(h) *Examples.* The application of the rules contained in section 103(c)(6) and this section are illustrated by the following examples:

*Example (1).* County A and corporation X enter into an arrangement under which the county will provide a factory which X will lease for 25 years. The arrangement provides (1) that A will issue \$1 million of bonds on March 1, 1969, (2) that the proceeds of the bond issue will be used to acquire land in Town M and to construct and equip a factory on such land in accordance with X's specifications, (3) that X will rent the facility for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, and (4) that such payments by X and the facility itself shall be the security for the bonds. Although the bonds issued are industrial development bonds within the meaning of section 103(c)(2) and § 1.103-7, the bonds are an exempt small issue under section 103(c)(6) and this section since (1) the aggregate authorized face amount of the bond issue is \$1 million or less and (2) all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property.

*Example (2).* The facts are the same as in example (1) except that, instead of acquiring land and constructing a new factory, the arrangement provides that X will acquire a vacant existing factory building and rebuild and equip the building in accordance with X's specifications. The bonds are an exempt small issue for the same reasons as in example (1).

*Example (3).* The facts are the same as in example (1) or (2) except that the financed facilities are additions to facilities which were financed by an issue of industrial development bonds (1) issued before May 1, 1968, or (2) issued after April 30, 1968, and before January 1, 1969, to which the transitional provisions of § 1.103-11 apply, or (3) by issues of both types. The bonds are an exempt small issue since neither of the prior bond issues are taken into account under section 103(c)(6)(B) and this section in determining the stature of industrial development bonds which are issued after April 30, 1968, and to which the transitional provisions do not apply.

*Example (4).* The facts are the same as in example (1), (2), or (3) except that, subsequently, corporation X proposes to Town M that M build a \$400,000 warehouse located in Town M for the use of X under terms similar to the factory arrangement. On the proposed issue date of the subsequent bond issue, \$600,000 of the first exempt small issue will be outstanding. If M issues \$400,000 for bonds for such purposes, the bonds will be an exempt small issue under section 103(c)(6) and this section since the aggregate authorized face amount of the two issues is \$1 million or less, even though (1) the facilities financed by both issues are to be located in Town M, (2) the same taxpayer will be the principal user of the new warehouse, and (3) but for the rules of section 103(c)(6)(B) and paragraph (c) of this section, the issue would be an exempt small issue.

*Example (5).* The facts are the same as in example (4) except that, instead of the proposal being made to Town M with respect to a warehouse to be located in Town M, corporation X makes the same proposal (1) to Town N located in County A or (2) to County A, with respect to a warehouse to be located in Town N, or (3) to County A with respect to a warehouse to be located in an unincorporated area in such county. The bonds will be an exempt small issue since the prior exempt small issue was not used primarily with respect to facilities located in Town N or in an unincorporated area of County A.

*Example (6).* The facts are the same as in example (1) except that \$45,000 of the \$1 million will be used by the corporation as working capital. The bonds are an exempt small issue for the same reason as in example (1) since substantially all of the proceeds will be used for the acquisition of land and the construction of depreciable property.

*Example (7).* County B enters in three separate arrangements with three unrelated corporations whereby the county will provide separate storage facilities for each corporation. The arrangement provides (1) that the county will provide each corporation with \$250,000 by issuing bonds, the proceeds of which will be used to acquire land in the county and to construct the facilities, (2) that the rental payments by the corporations will be equal to the amount necessary to amortize the principal and pay the interest on any outstanding bonds issued by the county, and (3) that the payments by the corporations and the facilities themselves shall be the security for the industrial development bonds. For convenience, the county issues one series of bonds in the face amount of \$750,000 rather than three separate series of bonds of \$250,000 each. The issue is an exempt small issue under section 103(c)(6) and this section, since (1) the aggregate authorized face amount of the bond issue is \$1 million or less, and (2) all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property.

*Example (8).* County B and corporation Y enter into an arrangement under which the county will provide a factory which Y will lease for 25 years. The arrangement provides (1) that B will issue \$4 million of bonds on March 1, 1969, after making the election under section 103(c)(6)(D) and this section, (2) that the proceeds of the bond issue will be used to acquire land in the county and to construct and equip a factory on such land in accordance with Y's specifications, (3) that Y will rent the facilities for 25 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest on the outstanding bonds, (4) that such payments by Y and the facility itself shall be the security for the bonds, and (5) that if corporation Y pays or incurs capital expenditures in excess of \$1 million within 3 years from the date of issue, it will either redeem such bonds at par or at a premium, or increase the rental payments in an amount sufficient to pay a premium interest rate. Although the bonds issued are industrial development bonds within the meaning of section 103(c)(2) and § 1.103-7, the bonds are an exempt small issue under section 103(c)(6) and this section, since (1) the aggregate authorized face amount of the bond issue is \$5 million or less and (2) all of the proceeds of the bond issue are to be used to acquire and improve land and acquire and construct depreciable property.

*Example (9).* The facts are the same as in example (8) except that the proceeds will be used to build additional facilities to a factory which was built in 1967 by corporation

Y at a cost of \$2 million. The bonds are not an exempt small issue since the sum of the \$4 million issue and the \$2 million (aggregate amount of capital expenditures incurred within 3 years before March 1, 1969, with respect to the facilities located in the same county and for the same principal user) exceeds \$5 million.

*Example (10).* The facts are the same as in example (8) except that, corporation Y subsequently proposes to the county that it build a \$1 million warehouse next to the plant for the use of Y under terms similar to the factory arrangement. On the proposed issue date of the subsequent bond issue, \$2 million of the first exempt small issue will be outstanding. If the county issues \$3 million of bonds to redeem the remaining \$2 million of bonds and to construct the warehouse, the bonds will be an exempt small issue under section 103(c)(6) and this section, since the aggregate authorized face amount of the two issues is \$5 million or less even though the prior issue is taken into account under the rules of section 103(c)(6)(E) and paragraph (c) of this section.

*Example (11).* The facts are the same as in example (8), except that in 1975 Y Corporation builds a warehouse adjacent to the facilities at a cost of \$3 million. In 1975, there is outstanding \$3 million of the exempt small issue bonds. The capital expenditure by Y does not affect the exempt small status of the bonds.

*Example (12).* The facts are the same as in example (8), except that Y builds a \$3 million warehouse adjacent to the factory in 1971. This subsequent expenditure by Y has the effect of making the interest on county B bonds includible in the gross income of the holders of such bonds as of the date on which Y incurred the capital expenditure since the sum of \$4 million (aggregate face amount of the 1969 issue still outstanding) plus \$3 million (the aggregate amount of capital expenditures incurred within 3 years after Mar. 1, 1969, with respect to facilities located in the same county and for the same principal user) exceeds the \$5 million exempt small issue.

*Example (13).* On June 1, 1970, corporation Z simultaneously enters into separate arrangements with city C and city D under which each city will issue a \$5 million exempt small issue of bonds for Z. By June 1, 1971, the unrelated facilities have been completed in the respective city territories. On January 1, 1972, cities C and D, through a valid legal proceeding, merge into a new city CD. Since the determination of whether or not facilities are located in the same governmental unit is made on June 1, 1970 (the date of the bond issues), the factories are not considered to be located in the same incorporated municipality on January 1, 1972, for purposes of section 103(c)(6)(D) and (E) and § 1.103-10(b)(2)(ii). Accordingly, each \$5 million issue by cities C and D will continue to qualify as an exempt small issue.

*Example (14).* On June 1, 1970, city E issues two separate exempt small issues of \$5 million each for corporations S and T, both of which are not related in any capacity. In October of 1971 S and T undergo a statutory merger. Since the facilities in city E are now used by the same person or two or more related persons, the interest on the previously tax-exempt bonds must be included in the gross income of the bond holders from October 1971.

*Example (15).* In 1965 city F issues \$10 million of industrial development bonds for corporation T to construct and equip a factory. In 1975 the principal of the bonds is \$5 million. If the city issues a \$5 million bond to redeem the balance of the prior issue, such issue will not qualify under section 103(c)(6)(D) even though at the time of issue the interest in such bonds was tax-exempt since

the prior issue must be one which qualified under section 103(c)(6)(A).

*Example (16).* In 1968 city G makes a valid election under section 103(c)(6)(D) and issues \$4 million of industrial development bonds which qualifies as an exempt small issue. In 1970, by reason of a \$2 million addition to the factory built with the proceeds of the \$4 million bond issue, the exempt small issue loses its tax-exempt status. In 1971, the city issues a \$5 million bond to redeem the prior 1968 issue. The redemption issue will not qualify as an exempt small issue since the prior 1968 issue did not continue to qualify under section 103(c)(6)(A).

*Example (17).* On June 1, 1970, city H issues \$5 million of industrial development bonds which qualify as an exempt small issue under section 103(c)(6). The proceeds of the exempt small issue are to be used to build an office building for corporation U. On June 2, 1973, corporation U begins to enlarge the building at a cost of \$2 million. The tax-exempt status of the exempt small issue is not affected by the capital expenditure since it was made more than 3 years after the date of issue (June 1, 1970).

*Example (18).* The facts are the same as in example (17) except that (1) the city is not required to build the facilities immediately, (2) on June 1, 1970, the proceeds are retained by the city, and (3) the city does not enter into a contract to build the facilities until January 15, 1973, under the terms of which the proceeds of the June 1, 1970, exempt small issue are pledged to pay for the construction. The bonds issued in 1970 lose their exempt small status on June 1, 1973, since the sum of the proceeds of the exempt small issue (\$5 million) and the capital expenditures made within 3 years from the date (June 2, 1973) the proceeds of such issue were actually used, exceed \$5 million.

#### § 1.103-11 Transitional provisions.

(a) *In general.* Section 103(c) and §§ 1.103-7 to 1.103-10 do not apply with respect to any obligation issued by a governmental unit before January 1, 1969, if before May 1, 1968, any one of the conditions contained in paragraphs (b) through (e) of this section is satisfied. For purposes of this section, obligations are considered to be issued on the date on which there is a physical delivery of the evidences of indebtedness in exchange for the amount of the issue price. For example, a bond issue is "issued" when the issuer physically exchanges the bonds for the underwriter's (or other purchaser's) check. Obligations which are taken down after December 31, 1968, by purchasers pursuant to a delayed delivery agreement with the issuer are, therefore, subject to the rules contained in section 103(c) and §§ 1.103-7 to 1.103-10.

(b) *Authorized or approved by governmental unit.* The interest paid on any such industrial development bond is not includable in gross income if, before May 1, 1968, the issuance of the obligation (or the project in connection with which the proceeds of the bond issue are to be used) was authorized or approved by the governing body of the governmental unit issuing the obligation or by the voters of such governmental unit. Therefore, if the governing body of the governmental unit issuing industrial development bonds has, prior to May 1, 1968, adopted a resolution or an ordinance which authorized or approved either (1) the project being financed or

(2) the bond issue, then the rules of section 103(c) and § 1.103-7 do not apply to the bond issue. A resolution or an ordinance may have, for example, approved a designated project and authorized the later issuance of one or more series of bonds to finance the project. It may have approved the submission of a particular bond issue to the voters for their authorization. Similarly, if prior to May 1, 1968, the voters of a governmental unit have approved the issuance of such bonds for a designated project, section 103(c) and paragraphs (a) through (d) of this section are not applicable to the bond issue.

(c) *Significant financial commitment by governmental unit.* The interest paid on any such industrial development bond is not includible in gross income if, before May 1, 1968, a governmental unit made a significant financial commitment in connection with the issuance of such obligation, with the use of the proceeds to be derived from the sale of such obligation, or with the property to be acquired or improved with such proceeds. The governmental unit making the significant financial commitment with respect to a project financed by the proceeds of an industrial development bond issue need not be the same governmental unit issuing the bonds. For example, a significant financial commitment may be made if a State builds access roads to a project in one of its counties which will issue the bonds. Similarly, if a city or county makes a significant financial commitment to build roads, power lines, or sewer lines to a project within its jurisdiction which is being financed by a separate governmental unit, such as an industrial development board, the condition of this subparagraph is satisfied. For purposes of this subparagraph, the term "significant financial commitment" means the expenditure of (or a commitment to expend) a sizable amount of money. The amount involved need not be compared to the size of the financed project. For example, a commitment to expend \$250,000 in connection with a \$10 million project would be considered significant.

(d) *Expenditures equal to 20 percent of bond proceeds.* The interest paid on any such industrial development bond is not includible in gross income if, before May 1, 1968, any person other than a governmental unit who will use the proceeds to be derived from the sale of such obligation, or who will use the property to be acquired or improved with such proceeds, has expended (or has entered into a binding contract to expend), for purposes which are related to the use of such proceeds or property, an amount equal to or in excess of 20 percent of such proceeds. A prospective user of the proceeds of an industrial development bond issue, or property to be acquired with such proceeds, will be considered to have entered into a binding contract to expend money for purposes related to the project if (1) such person has entered into a contract for fuel, power, water, or raw materials and (2) any conditions to

parties to such contract are subject are beyond the control of such parties. For example, a binding contract for alumina entered into in connection with the financing of an aluminum reduction mill or such a contract to purchase timber land in connection with a paper mill are contracts related to the use of the financed facility. For purposes of determining whether the expenditures of the prospective user are equal to or in excess of 20 percent of the bond proceeds, binding contracts will be taken into account on the basis of the amounts to be expended over the term of the contract.

(e) *Approval by economic development agency.* The interest paid on any such industrial development bond is not includible in gross income if, before May 1, 1968, in the case of an obligation issued in conjunction with a project where financial assistance will be provided by a governmental agency concerned with economic development, such agency has approved the project or an application for financial assistance is pending. For purposes of this subparagraph, the term "financial assistance" includes a guaranty by the agency of the payment of the principal and interest on an obligation by a governmental unit as well as direct financial aid such as a loan or grant-in-aid made by the governmental unit. For example, section 103(c) and § 1.103-7 do not apply if the Federal Economic Development Administration has approved a grant in connection with a project to be financed by industrial development bonds. Similarly, where a State agency has approved a project and the agency has guaranteed the payment of the principal and interest on the bonds, those

rules do not apply. The governmental unit concerned with economic development may be a Federal, State, or local agency. The financial assistance extended need not be directly either to the governmental unit issuing the industrial development bonds or to the person who will use the property acquired or constructed with the bond proceeds. It is sufficient that the assistance extended be in conjunction with a project which includes the property in respect of which the bonds are issued.

[F.R. Doc. 69-433; Filed, Jan. 13, 1969; 8:47 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

#### [ 21 CFR Part 138 I

#### DRUGS

#### Proposed Additional Official Names

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 508, 76 Stat. 1789; 21 U.S.C. 358) and the administrative procedure provisions of 5 U.S.C. 552 (80 Stat. 383, as amended 81 Stat. 54) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes that § 138.2 be amended by alphabetically inserting the following items as official names for drugs:

#### § 138.2 Drugs; official names.

Official name	Chemical name or description	Molecular formula
Alexidine.....	1,1'-Hexamethylenbis[5-(2-ethylhexyl)biguanide].....	C <sub>22</sub> H <sub>35</sub> N <sub>10</sub>
Algestone.....	16α,17-Dihydroxypregna-4-ene-3,20-dione.....	C <sub>21</sub> H <sub>30</sub> O <sub>4</sub>
Aranotin.....	5,5a,13,13a-Tetrahydro-5,13-dihydroxy-8H,16H-7a,15a-epidithio-7H,15H-bisoxepino[3',4':4,5]pyrrolo[1,2-c:1',2'-d]pyrazine-7,15-dione-5-acetate.....	C <sub>20</sub> H <sub>18</sub> N <sub>2</sub> O <sub>7</sub> S <sub>2</sub>
Bendazac.....	[(1-Benzyl-1H-indazol-3-yl)oxy]acetic acid.....	C <sub>16</sub> H <sub>14</sub> N <sub>2</sub> O <sub>3</sub>
Benzetimide.....	2-(1-Benzyl-4-piperidyl)-2-phenylglutarimide.....	C <sub>28</sub> H <sub>32</sub> N <sub>2</sub> O <sub>2</sub>
Bisobrin.....	1,1'-Tetramethylenbis[1,2,3,4-tetrahydro-6,7-dimethoxyisoquinoline].....	C <sub>22</sub> H <sub>34</sub> N <sub>2</sub> O <sub>4</sub>
Bromhexine.....	3,5-Dibromo-Nα-cyclohexyl-Nα-methyltoluene-α,2-diamine.....	C <sub>14</sub> H <sub>22</sub> Br <sub>2</sub> N <sub>2</sub>
Carbamazepine.....	5H-Dibenz[ <i>b,f</i> ]azepine-5-carboxamide.....	C <sub>15</sub> H <sub>12</sub> N <sub>2</sub> O
Clonidine.....	2-(2,6-Dichloroanilino)-2-imidazoline.....	C <sub>9</sub> H <sub>7</sub> Cl <sub>2</sub> N <sub>3</sub>
Clorazepic acid.....	7-Chloro-2,3-dihydro-2,2-dihydroxy-5-phenyl-1H-1,4-benzodiazepine-3-carboxylic acid.....	C <sub>16</sub> H <sub>13</sub> ClN <sub>2</sub> O <sub>4</sub>
Cloxacillin.....	6-[3-( <i>o</i> -Chlorophenyl)-5-methyl-4-isoxazolecarboxamidol]-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo[3.2.0]heptane-2-carboxylic acid.....	C <sub>19</sub> H <sub>18</sub> ClN <sub>2</sub> O <sub>5</sub> S
Cycloguanil.....	4,6-Diamino-1-( <i>p</i> -chlorophenyl)-1,2-dihydro-2,2-dimethyl-s-triazine.....	C <sub>11</sub> H <sub>14</sub> ClN <sub>5</sub>
Cyproquinat.....	Ethyl 6,7-bis(cyclopropylmethoxy)-4-hydroxy-3-quinoline-carboxylate.....	C <sub>20</sub> H <sub>28</sub> NO <sub>5</sub>
Cytarabine.....	1-Arabinofuranosylecytosine.....	C <sub>9</sub> H <sub>13</sub> N <sub>3</sub> O <sub>5</sub>
Dicloxacillin.....	6-[3-(2,6-Dichlorophenyl)-5-methyl-4-isoxazolecarboxamidol]-3,3-dimethyl-7-oxo-4-thia-1-azabicyclo[3.2.0]heptane-2-carboxylic acid.....	C <sub>19</sub> H <sub>17</sub> Cl <sub>2</sub> N <sub>2</sub> O <sub>5</sub> S
Diffumidone.....	3'-Benzoyl-1,1-difluoromethanesulfonamide.....	C <sub>11</sub> H <sub>11</sub> F <sub>2</sub> NO <sub>3</sub> S
Difluprednate.....	6α,9-Difluoro-11β,17,21-trihydroxypregna-1,4-diene-3,20-dione 21-acetate 17-butyrate.....	C <sub>27</sub> H <sub>34</sub> F <sub>2</sub> O <sub>7</sub>
Doxepin.....	<i>N,N</i> -dimethyl[ <i>o</i> -(benz[ <i>e</i> ]loxepin-11(6H), <i>γ</i> -propylamine.....	C <sub>17</sub> H <sub>21</sub> NO
Droperidol.....	1-[1-(3-( <i>p</i> -Fluorobenzoyl)propyl)-1,2,3,6-tetrahydro-4-pyridyl]-2-benzimidazolinone.....	C <sub>22</sub> H <sub>27</sub> FNO <sub>2</sub>
Dydrogesterone.....	9β,10α-Pregna-4,6-diene-3,20-dione.....	C <sub>21</sub> H <sub>32</sub> O <sub>2</sub>
Fantridone.....	5-[3-(Dimethylamino)propyl]-6-(5H)-phenanthridone.....	C <sub>21</sub> H <sub>26</sub> N <sub>2</sub> O
Flumidazole.....	2-( <i>p</i> -Fluorophenyl)-5-nitroimidazole-1-ethanol.....	C <sub>11</sub> H <sub>10</sub> FNO <sub>3</sub>
Fosphate.....	Dimethyl 3,5,6-trichloro-2-pyridyl phosphate.....	C <sub>7</sub> H <sub>7</sub> Cl <sub>3</sub> N <sub>2</sub> O <sub>4</sub> P
Hoquizil.....	2-Hydroxy-2-methylpropyl-4-(6,7-dimethoxy-4-quinazolinyl)-1-piperazinecarboxylate.....	C <sub>19</sub> H <sub>28</sub> N <sub>4</sub> O <sub>5</sub>
Ipromidazole.....	2-Isopropyl-1-methyl-5-nitroimidazole.....	C <sub>11</sub> H <sub>13</sub> N <sub>2</sub> O <sub>2</sub>
Lavodopa.....	(-)-3-(3,4-Dihydroxyphenyl)-L-alanine.....	C <sub>9</sub> H <sub>11</sub> NO <sub>4</sub>
Mestranol.....	3-Methoxy-19-nor-17α-pregna-1,3,5(10)-trien-20-yn-17-ol.....	C <sub>21</sub> H <sub>28</sub> O <sub>2</sub>
Mesuprine.....	2'-Hydroxy-5'-[1-hydroxy-2-( <i>p</i> -methoxyphenethyl)amino] propylmethanesulfonamide.....	C <sub>19</sub> H <sub>25</sub> N <sub>2</sub> O <sub>3</sub> S
Metformin.....	1,1-Dimethylbiguanide.....	C <sub>4</sub> H <sub>11</sub> N <sub>5</sub>
Methylidopa.....	(-)-3-(3,4-Dihydroxyphenyl)-2-methylalanine.....	C <sub>10</sub> H <sub>13</sub> NO <sub>4</sub>
Metolazone.....	7-Chloro-1,2,3,4-tetrahydro-2-methyl-4-oxo-3- <i>o</i> -tolyl-6-quinazolin-sulfonamide.....	C <sub>18</sub> H <sub>16</sub> ClN <sub>2</sub> O <sub>3</sub> S

Official name	Chemical name or description	Molecular formula
Nalbuphine	17-(Cyclobutylmethyl)-4,5α-epoxymorphinan-3,6α,14-triol	C <sub>21</sub> H <sub>27</sub> NO <sub>4</sub>
Naranol	8,9,10,11,11a,12-Hexahydro-8,10-dimethyl-7aH-naphtho[1',2':5,6]pyrano[3,2-c]pyridin-7a-ol	C <sub>18</sub> H <sub>24</sub> NO <sub>2</sub>
Nisobamate	Isopropylacarbamic acid ester with 2-(hydroxymethyl)-2,3-dimethylpentyl carbamate	C <sub>13</sub> H <sub>22</sub> N <sub>2</sub> O <sub>4</sub>
Norethindrone	17-Hydroxy-19-nor-17α-pregn-4-en-20-yn-3-one	C <sub>20</sub> H <sub>28</sub> O <sub>2</sub>
Piquizil	Isobutyl 4-(3,7-dimethoxy-4-quinazolinyl)-1-piperazinecarboxylate	C <sub>19</sub> H <sub>28</sub> N <sub>4</sub> O <sub>4</sub>
Polacrilin potassium	The potassium salt of a synthetic ion-exchange resin derived through the copolymerization of methacrylic acid and divinylbenzene	
Sulfamer	N-(5-Methoxy-2-pyrimidinyl)sulfanilamide	C <sub>11</sub> H <sub>12</sub> N <sub>2</sub> O <sub>2</sub> S
Sulfamoxole	N-(4,5-Dimethyl-2-oxazolyl)sulfanilamide	C <sub>11</sub> H <sub>14</sub> N <sub>2</sub> O <sub>2</sub> S
Sulfazamet	N-(3-Methyl-1-phenylpyrazol-5-yl)sulfanilamide	C <sub>16</sub> H <sub>16</sub> N <sub>2</sub> O <sub>2</sub> S
Tinidazole	1-[2-(Ethylsulfonyl)ethyl]-2-methyl-5-nitroimidazole	C <sub>8</sub> H <sub>12</sub> N <sub>2</sub> O <sub>2</sub> S
Triflumidate	Ethyl m-benzoyl-N-(trifluoromethyl)sulfonyl carbanilate	C <sub>17</sub> H <sub>14</sub> F <sub>3</sub> NO <sub>3</sub> S

[47 CFR Parts 81, 83 ]

[Docket No. 18415; FCC 69-8]

MARITIME MOBILE SERVICE

Use of ITU Manual

In the matter of amendment of Parts 81 and 83 to include provision for the ITU Manual for use by the Maritime Mobile Service in the list of service documents which shall be provided at specified categories of coast and ship stations.

1. The World Administrative Radio Conference on marine matters (WARC), Geneva, 1967, made major revisions to the International Radio Regulations, Geneva, 1959, as they relate to use of radio by the Maritime Mobile Service. The International Radio Regulations, as revised Geneva, 1967 (IRR), requires among other things that beginning April 1, 1969, a new manual entitled "Manual for Use by the Maritime Mobile Service" be carried by all compulsorily or voluntarily fitted radiotelegraph ship stations. In the case of compulsorily fitted radiotelephone ship stations the IRR provides an option so that after April 1, 1969, either the IRR (plus Additional Radio Regulations), or the Manual must be carried.

2. The Manual for Use by the Maritime Mobile Service combines under one cover those provisions of the Radio Regulations (including appendices thereto) and the Additional Radio Regulations, as revised by the World Administrative Radio Conference, Geneva, 1967; the Telegraph Regulations and the Telephone Regulations; and the International Telecommunication Convention, which are applicable or useful to stations in the Maritime Mobile Service.

3. In this notice the Commission is proposing amendment of its rules to bring them in to accord with the WARC revisions of the IRR; however, it is proposed that the compulsorily equipped radiotelephone ship stations, as well as the radiotelegraph ship stations, be required to carry the "Manual" after April 1, 1969. In addition, the Commission's rules now require that coast stations shall be provided with various types of station documents. The amendments proposed herein would substitute the Manual for the presently required IRR. The categories of coast stations and ship stations affected by the proposed revision, together with the applicable rule section are as follows:

Part 81. Section 81.313(a) (7): Class I public coast stations, and Class II public coast stations that provide communication with ocean going vessels;

Section 81.213(a) (6): All public coast stations using telegraphy;

Section 81.213(b): All limited coast stations using telegraphy;

Part 83. Section 83.329(a) (8): Compulsorily fitted radio telegraph ship stations:

Section 83.329(b): All radiotelegraph ship stations not compulsorily fitted with a radiotelegraph installation; and

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: January 3, 1969.

WINTON B. RANKIN,  
Deputy Commissioner of  
Food and Drugs.

[F.R. Doc. 68-389; Filed, Jan. 13, 1969; 8:45 a.m.]

FEDERAL COMMUNICATIONS  
COMMISSION

[ 47 CFR Part 74 ]

[Docket No. 18397; FCC 69-4]

COMMUNITY ANTENNA TELEVISION  
SYSTEMS

Order Regarding Development of  
Communications Technology and  
Services

In the matter of amendment of Part 74, Subpart K, of the Commission's rules and regulations relative to community antenna television systems; and inquiry into the development of communications technology and services to formulate regulatory policy and rule making and/or legislative proposals, Docket No. 18397.

1. The Commission's notice of proposed rule making and notice of inquiry herein, released on December 13, 1968 (FCC 68-1176, 33 F.R. 19028), provided in paragraph 65 that interested persons would be accorded an opportunity to make oral presentations during the latter part of January, 1969 on the matters at issue in Parts III and IV and on the interim processing procedures. The Commission contemplated that oral presentations might be made by interested persons (or their attorneys), such as those from CATV, broadcasting, common carriers, film producers, copyright owners, city and State franchising and regulatory entities, and the public, with whose interest we are basically concerned. Since the number and identity of such persons are not presently known, the Commission will adopt the following procedure.

2. We are proposing to hear oral presentations for 2 days on February 3 and 4, 1969, and to allocate blocks of time equitably to major interested groups.<sup>1</sup> Persons desiring to make oral presentations will be required to file, within 5 days after the release date of this order, a written notice of intention to appear and participate, which shall also give sufficient indication of the nature of the interest to permit appropriate grouping. The Commission will by further order designate the persons included in each group and the amount of time allocated to the group. Within each designated group, the parties may specify the time allotted each for oral presentation. If agreement as to the allocation of time within each group is reached, the Commission shall be advised of the provisions thereof at least 5 calendar days prior to the date of oral presentation. If agreement as to the allocation of time within any group cannot be reached, the Commission shall be notified at least 5 calendar days prior to the date of oral argument; the Commission will itself allot a period of time to each of the parties within such group. We urge the interested persons, however, to make every effort to reach an understanding as to allocation of time. We have adopted the early February dates (rather than the latter part of January) and the above procedures, to commence from the release date of this order, because of the possible complexities of working out the time arrangements.

3. Accordingly, it is ordered. That oral argument is scheduled before the Commission, en banc, beginning February 3, 1969, at 9 a.m. Persons desiring to make oral presentations shall file, within 5 days after the release date of this order, a written notice of intention to appear and participate, which shall also give sufficient indication of the nature of the interest to permit the Commission to divide the participating parties into groups.

Adopted: January 8, 1969.

Released: January 9, 1969.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 69-437; Filed, Jan. 13, 1969; 8:47 a.m.]

<sup>1</sup> There may, of course, be a "miscellaneous" group to accommodate those who do not appear to belong to any particular group.

Section 83.367(a) (5): Ship radiotelephone stations subject to the radio provisions of the Safety Convention.

4. As an ancillary matter in regard to paragraph (a) (9) and (10) of § 83.329, it is proposed to delete subparagraph (9) and renumber (10) as (9). The deletion of paragraph (a) (9), which requires the keeping of telegraph tariffs, is deemed appropriate, since the List of Coast Stations, a required document under (a) (5) of this section, includes telegraph tariffs to be assessed by the respective coast stations.

5. The WARC further amended Appendix 11 to the IRR, as it applies to compulsorily fitted ship stations, to make optional the carriage of the supplement(s) to the (ITU) List of Ship Stations. It would appear that the availability of the supplement(s) to the List of Ship Stations to radio operating personnel aboard this category of vessel would provide useful information and, thereby, would facilitate their capability to do a better job. Accordingly, it is proposed to continue this requirement.

6. In regard to the effective date of the amendments set forth below, the Final Acts of the WARC provide that the revisions to the Radio Regulations adopted by the WARC, which includes Appendix 11, shall come into force on April 1, 1969. Thus use of the Manual for Use by the Maritime Mobile Service, as part of Appendix 11, would come into force on April 1, 1969. Therefore, the Commission is proposing that the amendments set forth below become effective on April 1, 1969.

7. The "Manual for Use by the Maritime Mobile Service" may be obtained from the General Secretariat, International Telecommunication Union, Geneva, Switzerland. The price of the Manual is 11.—Swiss francs (approximately \$2.75).

8. The proposed amendments to the rules are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before February 14, 1969, and reply comments on or before February 24, 1969. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: January 8, 1969.

Released: January 10, 1969.

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

A. Part 81, Stations on Land in the Maritime Services, is amended as follows;

1. In § 81.213, subparagraph (6) of paragraph (a) is amended to read as follows:

§ 81.213 Station documents.

(a) \* \* \*

(6) The Manual for Use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva.

\* \* \* \* \*

2. In § 81.313, subparagraph (7) of paragraph (a) is amended to read as follows:

§ 81.313 Station documents.

(a) \* \* \*

(7) The Manual for Use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva.

\* \* \* \* \*

B. Part 83, Stations on Shipboard in the Maritime Services, is amended to read as follows:

1. In § 83.329, subparagraph (8) of paragraph (a) is amended; subparagraph (9) of paragraph (a) is deleted; and subparagraph (10) of paragraph (a) is renumbered (9), and paragraph (b) is amended to read as follows:

§ 83.329 Station documents.

(a) \* \* \*

(8) The Manual for use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva;

(9) Part 83 of this chapter.

(b) All ship stations on board ships not compulsorily fitted with a radiotelegraph installation, but using telegraphy, shall be provided with the documents prescribed by subparagraphs (1), (2), (3), (4), (5), (6), (8) and (9) of paragraph (a) of this section.

\* \* \* \* \*

2. In § 83.367, subparagraph (5) of paragraph (a) is amended to read as follows:

§ 83.367 Station documents.

(a) \* \* \*

(5) The Manual for Use by the Maritime Mobile Service, published by the International Telecommunication Union, Geneva.

[F.R. Doc. 69-438; Filed, Jan. 13, 1969;  
8:47 a.m.]

# Notices

## DEPARTMENT OF STATE

### Agency for International Development

#### ASSOCIATE ASSISTANT ADMINISTRATOR, OFFICE OF PRIVATE RESOURCES, ET AL.

#### Redelegation of Authority Regarding Investment Surveys, Investment Guaranties and Loans

(1) Pursuant to the authority delegated to me, I hereby redelegate to William G. Carter, Associate Assistant Administrator, Office of Private Resources, to the extent consistent with law, all the authorities now or hereafter delegated to or conferred upon me, including without limitation those authorities conferred by Delegations of Authority Nos 33 and 39 and by other A.I.D. delegations of authorities, regulations, manual orders, notices, or other documents, by law or by any competent authority.

(2) Pursuant to the authority delegated to me by Delegation of Authority No. 33, as amended, from the Administrator of A.I.D., dated February 3, 1964 (29 F.R. 2430), and Delegation of Authority No. 39, as amended, from the Administrator of A.I.D., dated April 3, 1964 (29 F.R. 5355), I hereby redelegate authority as follows:

(a) To the Managing Director, Private Investment Center,

(i) To authorize and issue investment guaranties under section 221(b)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2181(b)(1); covering investments (1) which take the form of royalties or (2) which, as described in the Special Terms and Conditions of such guaranty contracts, do not exceed \$10,000,000 for each such investment, and in connection therewith to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable provided in sections 221(a), 221(b), 221(c), and 222(g) of the said Act, 22 U.S.C. sections 2181(a), 2181(b), 2181(c), and 2182(g), and

(ii) To amend and consent to the assignment of any investment guaranty issued under section 221(b)(1) of the Foreign Assistance Act of 1961, 22 U.S.C. section 2181(b)(1), section 413(b)(4) of the Mutual Security Act of 1954, or section 111(b)(3) of the Economic Cooperation Act of 1948, all as originally enacted and as amended, provided that such amendment does not increase the amount of investment covered by such guaranty by more than \$10,000,000, and

(iii) To authorize and issue investment guaranties under section 221(b)(2) (B) and (C) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2181(b)(2) (B) and (C), except for countries or areas within the respon-

sibility of the Assistant Administrator for Latin America, covering investments which, as described in such guaranty contracts, do not exceed \$2,500,000, and in connection therewith to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable provided in sections 221(a), 221(b), 221(c), and 222(g) of the said Act, 22 U.S.C. sections 2181(a), 2181(b), 2181(c), and 2182(g), and

(iv) To amend and consent to the assignment of any investment guaranty issued under section 221(b)(2) (B) or (C) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2181(b)(2) (B) or (C) or section 202(b) of the Mutual Security Act of 1954, except for countries or areas within the responsibility of the Assistant Administrator for Latin America, provided such amendment does not increase the amount of investment covered by such guaranty by more than \$2,500,000, and

(v) To authorize, negotiate, execute, amend and implement loan agreements with private borrowers in which there is U.S. private investment under section 201 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2161, except for countries or areas within the responsibility of the Assistant Administrator for Latin America, for loans or increases thereof which, as described in such loan agreement or amendments thereto, do not exceed \$2,500,000 for each such loan or increase, and in connection therewith to authorize, negotiate, execute, amend and implement other related agreements and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable, and

(vi) To authorize, negotiate, execute, amend and implement loan agreements under section 104 (e) and (f) of the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. section 1704 (e) and (f), except for countries or areas within the responsibility of the Assistant Administrator for Latin America, for loans or increases thereof which, as described in such loan agreements or amendments thereto, do not exceed \$2,500,000 for each such loan or increase, and in connection therewith to authorize, negotiate, execute, amend and implement other related agreements, and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable, and

(vii) To participate in financing surveys of investment opportunities under section 231 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2191, and in connection therewith to make the determinations and exercise the functions provided for in said section 231, 22 U.S.C. section 2191;

(b) To the Director, Insurance Division,

(i) To authorize and issue investment guaranties under section 221(b)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2181(b)(1), covering investments (1) which take the form of royalties or (2) which, as described in the Special Terms and Conditions of such guaranty contracts, do not exceed \$10,000,000 for each such investment, and in connection therewith to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable provided in sections 221(a), 221(b), 221(c), and 222(g) of the said Act, 22 U.S.C. sections 2181(a), 2181(b), 2181(c), and 2182(g), and

(ii) To amend and consent to the assignment of any investment guaranty issued under section 221(b)(1) of the Foreign Assistance Act of 1961, 22 U.S.C. section 2181(b)(1), section 413(b)(4) of the Mutual Security Act of 1954, or section 111(b)(3) of the Economic Cooperation Act of 1948, all as originally enacted and as amended, provided that such amendment does not increase the amount of investment covered by such guaranty by more than \$10,000,000, and

(iii) To participate, in an amount not to exceed \$50,000, in financing surveys of investment opportunities under section 231 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2191, and in connection therewith to make the determinations and exercise the functions provided for in said section 231, 22 U.S.C. section 2191; provided that if the function being exercised is one of amending the investment survey terms, such amendment may not increase A.I.D.'s participation above \$50,000;

(c) To the Associate Director, Insurance Division; to consent to assignments of any contract of guaranty issued under section 221(b)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 218(b)(1), under section 413(b)(4) of the Mutual Security Act of 1954 or section 111(b)(3) of the Economic Cooperation Act of 1948, all as originally enacted and as amended, provided such assignments run to entities eligible to be issued investment guaranties under the legislation in force at the time of the assignment;

(d) To the Associate Director, Insurance Division and concurrently to the Chief, International Loan Branch, Accounting Division, to issue written notice of delinquency to any investor who has failed to pay any fee due under any contract of guaranty issued under section 221(b)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2181(b)(1), under section 413(b)(4) of the Mutual Security Act of 1954, or under section 111(b)(3) of the Economic Cooperation Act of 1948, all as originally enacted and as amended;

(e) To the Associate Director, Insurance Division, to cancel any contract of guaranty when the investor covered thereunder has failed to pay the delinquent fee thereon within thirty (30) days following written notice of delinquency;

(f) To the Chief, Administration Branch, Finance Division to amend investment guaranties to modify the reporting requirements thereunder and to determine and certify reimbursement rights of surveyors pursuant to A.I.D. financing of investment opportunities under section 231 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2191;

(g) To the Chief, Latin America—Africa Branch, Insurance Division, and to the Chief, Near East—South Asia—East Asia—Vietnam Branch, Insurance Division, each severally for the countries and areas within the jurisdiction of each of them:

(i) To authorize and issue investment guaranties under section 221(b)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2181(b)(1), covering investments in Latin America, Africa, Near East—South Asia, East Asia, or Vietnam (i) which take the form of royalties or (2) which, as described in the Special Terms and Conditions of such guaranty contracts, do not exceed \$200,000 for each such investment, and in connection therewith to exercise all related functions and to make all related approvals and determinations provided in sections 221(a), 221(b), 221(c), and 222(g) of the said Act, 22 U.S.C. sections 2181(a), 2181(b), 2181(c), and 2182(g), and

(ii) To amend and consent to the assignment of any investment guaranty issued under section 221(b)(1) of the Foreign Assistance Act of 1961, 22 U.S.C. section 2181(b)(1), section 413(b)(4) of the Mutual Security Act of 1954, or section 111(b)(3) of the Economic Cooperation Act of 1948, all as originally enacted and as amended, provided that such amendment does not increase the amount of investment covered by such guaranty by more than \$200,000;

(h) To the Director, Finance Division, (i) To authorize and issue investment guaranties under section 221(b)(2)(B) and (C) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2181(b)(3)(B) and (C), except for countries or areas within the responsibility of the Assistant Administrator for Latin America, covering investments which, as described in such guaranty contracts, do not exceed \$2,500,000, and in connection therewith to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable provided in sections 221(a), 221(b), 221(c), and 222(g) of the said Act, 22 U.S.C. sections 2181(a), 2181(b), 2181(c), and 2182(g), and

(ii) To amend and consent to the assignment of any investment guaranty issued under section 221(b)(2)(B) or (C) of the Foreign Assistance Act of 1961, 22 U.S.C. section 2181(b)(2)(B) or (C) or section 202(b) of the Mutual Security Act of 1954, except for coun-

tries or areas within the responsibility of the Assistant Administrator for Latin America: *Provided*, That such amendment does not increase the amount of investment covered by such guaranty by more than \$2,500,000, and

(iii) To authorize, negotiate, execute, amend, and implement loan agreements with private borrowers in which there is U.S. private investment under section 201 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. section 2161, except for countries or areas within the responsibility of the Assistant Administrator for Latin America, for loans or increases thereof which, as described in such loan agreements or amendments thereto, do not exceed \$2,500,000 for each such loan or increase, and in connection therewith to authorize, negotiate, execute, amend, and implement other related agreements, and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable, and

(iv) To authorize, negotiate, execute, amend, and implement loan agreements under section 104 (e) and (f) of the Agricultural Trade Development and Assistance Act of 1954, as amended, 7 U.S.C. § 1704 (e) and (f), except for countries or areas within the responsibility of the Assistant Administrator for Latin America, for loans or increases thereof which, as described in such loan agreements or amendments thereto, do not exceed \$2,500,000 for each such loan or increase, and in connection therewith to authorize, negotiate, execute, amend, and implement other related agreements, and to exercise all related functions and to make all related approvals and determinations as are deemed necessary or desirable.

This Redlegation of Authority is effective on the date hereof, includes ratification of all actions taken prior hereto which are consistent with this Redlegation of Authority and revokes from that date prior redelegations of my authority.

The authority redelegated herein may not be further redelegated.

Dated: December 20, 1968.

HERBERT SALZMAN,  
Assistant Administrator  
for Private Resources.

[F.R. Doc. 69-408; Filed, Jan. 13, 1969;  
8:45 a.m.]

## DEPARTMENT OF THE TREASURY

Bureau of the Mint

### GUARD FORCE

#### Appointment as Special Policemen

Pursuant to the authority vested in me by Treasury Department Order No. 177-25, 32 F.R. 17490 (1967), all members of the Bureau of the Mint uniformed guard force are hereby appointed as Special Policemen for duty in connection with the policing of the public buildings and other areas under the charge and control of the Director of the Mint. Such

uniformed guards appointed as Special Policemen shall have the same powers as sheriffs and constables upon the premises of the Bureau of the Mint buildings and grounds to enforce the laws enacted to protect persons and property and to prevent breaches of the peace, to suppress affrays, or unlawful assemblies, and to enforce the rules and regulations made and promulgated by the Director of the Mint, relating to conduct on the Bureau of the Mint buildings and grounds.

Dated: January 9, 1968.

[SEAL]

EVA ADAMS,  
Director of the Mint.

[F.R. Doc. 69-435; Filed, Jan. 13, 1969;  
8:47 a.m.]

### Office of the Secretary

[Antidumping—ATS 643.3-L]

## BETA-OXY-NAPHTHOIC ACID FROM JAPAN

### Notice of Tentative Negative Determination

JANUARY 3, 1969.

Information was received on August 21, 1967, that Beta-oxy-naphthoic Acid from Japan, was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of December 12, 1967, on page 17676.

I hereby make a tentative determination that beta-oxy-naphthoic acid from Japan is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

*Statement of reasons on which this tentative determination is based.* Sales to the United States were made to one purchaser. Sufficient quantities of the merchandise were sold in the home market to afford a proper basis for comparison. Purchase price was compared with adjusted home market price for fair value purposes.

Purchase price was calculated by deducting freight from the f.o.b. price for exportation to the United States, as provided for in section 203 of the Antidumping Act, 1921, as amended (19 U.S.C. 162).

Adjusted home market price was calculated by deducting from the gross price to purchasers in Japan an amount for freight, interest charges, and differences in packing.

Comparison of purchase price with adjusted home market price revealed that adjusted home market price was, in all cases, higher than purchase price. Upon being advised of this, both the exporter and manufacturer provided assurances that no future sales to the United States would be made at less than home market price. Importations of this merchandise from Japan ceased in November 1967, shortly before the investigation began.

[Serial No. N-1885]

[Serial No. N-2617]

NEVADA

NEVADA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

Notice of Public Sale

JANUARY 7, 1969.

JANUARY 6, 1969.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing or material sale laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988, 43 U.S.C. 1421-1427), and 43 CFR Subpart 2243, the Bureau of Land Management will offer forty 2.5-acre tracts of land at a sale to be held at 10 a.m., local time, Thursday, February 20, 1969, at its Carson City District Office, 807 North Plaza Street, Carson City, Nev. 89701.

All of the tracts are located in sec. 28, T. 18 N., R. 24 E. (Mount Diablo Meridian, Nevada). The appraised value of each tract is \$250. A 33-foot right-of-way for public utilities and access roads will be reserved along the boundary or boundaries shown in the description of the individual tracts that follow:

Tract No.	Legal description	Boundary of right-of-way reservation
1	Lot 6	North.
2	Lot 7	North.
3	Lot 11	North.
4	Lot 12	North.
5	Lot 13	North.
6	Lot 14	North.
7	Lot 16	North.
8	Lot 18	West and south.
9	Lot 20	South.
10	Lot 24	South.
11	Lot 26	West and south.
12	Lot 29	South.
13	Lot 35	North.
14	Lot 36	North.
15	Lot 38	North.
16	Lot 40	North.
17	Lot 42	North and east.
18	Lot 43	North.
19	Lot 46	North.
20	Lot 49	North and west.
21	Lot 50	West and south.
22	Lot 51	South.
23	Lot 53	South.
24	Lot 60	South.
25	Lot 61	South.
26	Lot 65	North.
27	Lot 66	North and west.
28	Lot 68	North and west.
29	Lot 72	North.
30	Lot 73	North.
31	Lot 74	North.
32	Lot 76	North and west.
33	Lot 81	South.
34	Lot 92	North.
35	Lot 93	North.
36	Lot 96	North.
37	Lot 97	North.
38	Lot 98	North and west.
39	Lot 99	West and south.
40	Lot 100	South.

In addition to the right-of-way reservations shown above, the tracts will be sold subject to all valid existing rights and to a reservation to the United States of rights-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals will be reserved to the United States, and withdrawn from appropriation under the public lands laws, including the general mining laws.

Each tract will be offered to the highest bidder, but no bid will be accepted if it is for less than the appraised value of the tract, shown above. Costs of publication, if any, will be assessed proportionately among the successful bidders.

2. The public lands located within the following described area are shown on map designated N-1885 on file in the Carson City District Office, Bureau of Land Management, Carson City, Nev. 89701, and the Nevada Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, Nev. 89502.

The overall description of the area is as follows:

ORMSBY AND DOUGLAS COUNTIES  
MOUNT DIABLO MERIDIAN, NEVADA

The public lands proposed to be classified are generally located within the eastern one-third of Ormsby County and the eastern one-half of Douglas County.

The area described aggregates approximately 165,360 acres of public land.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Carson City District Manager, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev. 89701.

4. A public hearing on the proposed classification will be held on Wednesday, February 19, 1969, at 7:30 p.m., in the all purpose room at the Ormsby County Courthouse, Carson City, Nev.

For the State Director.

ROLLA E. CHANDLER,  
Manager, Nevada Land Office.

[F.R. Doc. 69-405; Filed, Jan. 13, 1969; 8:45 a.m.]

In accordance with § 53.33(b), Customs Regulations (19 CFR 53.33(b)), interested parties may present written views or arguments, or request in writing, that the Secretary of the Treasury afford an opportunity to present oral views.

Any such written views, arguments, or requests should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20226, in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 53.33 of the Customs Regulations (19 CFR 53.33).

[SEAL] JOSEPH M. BOWMAN,  
Assistant Secretary of the Treasury.  
[F.R. Doc. 69-428; Filed, Jan. 13, 1969; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management  
DISTRICT MANAGERS, MONTANA  
Redelegation of Authority

JANUARY 7, 1969.

1. Pursuant to sections 1.1(a) and 3.9 (o) (3), Bureau Order No. 701 of July 23, 1964, as amended, each Montana District Manager, within his area of jurisdiction in the States of Montana, North Dakota, and South Dakota, may take all action on special land-use permits for lands outside established grazing and forest districts under 43 CFR Subpart 2236.

2. The authority delegated in paragraph 1 may not be redelegated and shall become effective immediately upon publication in the FEDERAL REGISTER.

HAROLD TYSK,  
State Director.

[F.R. Doc. 69-423; Filed, Jan. 13, 1969; 8:46 a.m.]

[Montana 10287 (Minn.)]

MINNESOTA

Notice of Opening of Land Subject to Section 24 of the Federal Power Act; Correction

JANUARY 7, 1969.

In F.R. Doc. 68-15025 appearing on page 18713 of the FEDERAL REGISTER issue of Wednesday, December 18, 1968, the following correction should be made:

Change "the area described contains approximately 8 acres," to read "the area described contains approximately 14 acres, according to the official plat of survey."

EUGENE H. NEWELL,  
Land Office Manager.

[F.R. Doc. 69-424; Filed, Jan. 13, 1969; 8:46 a.m.]

Bids may be made by a principal or his agent, either at the sale, or by mail. An agent must be prepared to establish the eligibility of his principal. Eligible purchasers are: (1) Any individual (other than an employee, or the spouse of an employee, of the Department of the Interior) who is a citizen or otherwise a national of the United States, or who has declared his intention to become a citizen, aged 21 years or more; (2) any partnership or association, each of the members of which is an eligible purchaser, or (3) any corporation organized under the laws of the United States, or of any State thereof, authorized to hold title to real property in Nevada.

Bids sent by mail will be considered only if received at the Bureau of Land Management, Carson City District Office, 807 North Plaza Street, Carson City, Nev. 89701, prior to 4 p.m., Wednesday, February 19, 1969. Bids made prior to the public auction must be in sealed envelopes, and accompanied by certified checks, postal money orders, bank drafts, or cashier's checks, payable to the Bureau of Land Management, for the full amount of the bid, and by a certification of eligibility, defined in the preceding paragraph. The envelopes must be marked in the lower left-hand corner: "Public Sale Bid, February 20, 1969, Tract No. -----".

At the time of the sale, the authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. After oral bids, if any, are received, the authorized officer shall declare the high bid. A successful oral bidder shall be required to pay immediately the amount bid together with any cost of publication. Personal checks will be accepted from successful oral bidders. The right is reserved at any time to determine that the lands should not be sold or that any and all bids should be rejected.

Any adverse claimant to the above described lands should file his claims, or objections, with the undersigned before the time designated for sale.

Tracts remaining unsold after the auction of February 20, 1969, will be reoffered at 9 a.m. on the first Wednesday of the following month, and subsequent months, at the Carson City District Office, 807 North Plaza Street, Carson City, Nev. 89701, until either all tracts are sold or the sale is terminated.

The lands described in this notice are segregated from all forms of appropriation, including locations under the general mining laws, except for sale under this Act. Small Tract Classification No. 141 is hereby revoked for the lands described herein.

Inquiries concerning this sale should be addressed to the Land Office Manager, Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nev. 89502, or to the District Manager, Bureau of Land Management, 807

North Plaza Street, Carson City, Nev. 89701.

ROLLA E. CHANDLER,  
Chief, Division of Lands and  
Minerals, Program Management  
and Land Office.

[F.R. Doc. 69-406; Filed, Jan. 13, 1969;  
8:45 a.m.]

### SCHEDULE OF GRAZING FEES, 1969

Pursuant to the authority vested in the Secretary of the Interior by the Taylor Grazing Act, notice is hereby given of the schedule of grazing fees for the 1969 grazing year beginning March 1, 1969, and ending February 28, 1970, for grazing use of the Federal range.

For the purpose of establishing charges for grazing use, one animal unit month shall be considered equivalent to grazing use by one cow, five sheep, or 0.5 of one horse for 1 month (one horse for 1 month equals two AUM's).

Billings shall be issued in accordance with the rates prescribed in this notice.

#### INSIDE GRAZING DISTRICTS

Pursuant to Departmental regulations (43 CFR 4115.2-1(k)(1)), published this date, fees for use of the Federal range, including LU (Land Utilization) land within grazing districts, except as otherwise herein provided shall be \$0.44 per animal unit month of forage of which \$0.29 is the grazing fee and \$0.15 is the range improvement fee which shall be credited to the range improvement fund.

Exceptions to the above rates are herein provided for certain LU lands in order to continue the basis of fees that have hereto been established under the provisions of the Bankhead-Jones Farm Tenant Act of July 22, 1937. Such exceptions, together with the applicable schedule are as follows:

**Arizona.** For the Cienega Area transferred to the Department of the Interior by E.O. 10322, the fees for use of Federal range for the 1969 grazing year shall be \$1.12 per animal unit month of forage of which \$0.29 is the grazing fee and \$0.83 is the range improvement fee which shall be credited to the range improvement fund.

**Colorado.** For the Great Divide Project transferred to the Department of the Interior by E.O. 10046, the fees for use of Federal range for the 1969 grazing year shall be \$0.63 per animal unit month of forage of which \$0.29 is the grazing fee and \$0.34 is the range improvement fee which shall be credited to the range improvement fund.

**Montana.** For all LU land within the State of Montana transferred to the Department of the Interior by E.O. 10787, the fees for use of Federal range for the 1969 year shall be \$0.65 per animal unit month of forage of which \$0.29 is the grazing fee and \$0.36 is the range improvement fee which shall be credited to the range improvement fund. Twenty-five percent of the grazing fee shall be paid to the counties within which the fee was collected pursuant to the requirements of E.O. 10787.

**New Mexico.** For the Hope Project transferred to the Department of the Interior by E.O. 10787, the fees for use of Federal range for the 1969 grazing year shall be \$0.55 per animal unit month of forage of which \$0.29 is the grazing fee and \$0.26 is the range improvement fee which shall be credited to the range improvement fund. Twenty-five percent of the grazing fee shall be paid to the counties within which the fee was collected pursuant to the requirements of E.O. 10787.

#### OUTSIDE GRAZING DISTRICTS (EXCLUSIVE OF ALASKA)

Lease rates for grazing leases issued under section 15 of the Taylor Grazing Act and section 4 of the O&C Act for the 1969 grazing year are contained herein. Except as detailed below, the rates shall be \$0.44 per animal unit month of forage of which \$0.33 is the grazing fee and \$0.11 is the range improvement fee which shall be credited to the range improvement fund.

**Wyoming.** For the Northeast LU (Land Utilization) Project transferred to the Department of the Interior by E.O. 10046 and amended by E.O. 10175, the fees shall be \$0.63 per animal unit month of forage of which \$0.47 is the grazing fee and \$0.16 is the range improvement fee which shall be credited to the range improvement fund.

**Western Oregon.** For the O&C and intermingled public domain lands located in Western Oregon the fees shall be \$0.71 per animal unit month of forage of which \$0.53 is the grazing fee and \$0.18 is the range improvement fee which shall be credited to the range improvement fund.

DAVID S. BLACK,  
Under Secretary of the Interior.

JANUARY 10, 1969.

[F.R. Doc. 69-527; Filed, Jan. 13, 1969;  
9:10 a.m.]

#### National Park Service

#### CAPE COD NATIONAL SEASHORE, MASS.

#### Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that 30 days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Edward and Anna E. Benz authorizing them to provide concession facilities and services for the public at Nauset Knoll Motor Lodge, Cape Cod National Seashore, Mass., for a period of 5 years from January 1, 1969, through December 31, 1973.

The foregoing concessioners have performed their obligations under the expiring contract to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, are

entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within 30 days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: January 7, 1969.

R. B. MOORE,  
Director, National Park Service.

[F.R. Doc. 69-407; Filed, Jan. 13, 1969; 8:45 a.m.]

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation  
CERTIFICATES OF INTEREST IN  
PRICE-SUPPORT LOANS**

**Notice of Increase in Interest Rate**

In accordance with § 1479.25 of the regulations issued by the Commodity Credit Corporation governing Participation of Financial Institutions in a Pool of Price-Support Loans (7 CFR 1479.20 et seq.), published in 33 F.R. 10184, notice is hereby given that the rate of interest on certificates evidencing participation in financing such price-support loans will be changed, effective January 15, 1969, as follows: Certificates shall earn interest at the rate of 5.875 percent yearly, from the date of investment through and including August 24, 1968, 5.375 percent yearly from August 25, 1968, through and including October 23, 1968, 5.625 percent yearly from October 24, 1968, through and including December 7, 1968, 6 percent yearly from December 8, 1968, through and including January 14, 1969, and 6.625 percent yearly thereafter until changed.

Signed at Washington, D.C., on January 10, 1969.

H. D. GODFREY,  
Executive Vice President,  
Commodity Credit Corporation.

[F.R. Doc. 69-482; Filed, Jan. 13, 1969; 8:49 a.m.]

**Consumer and Marketing Service  
HUMANELY SLAUGHTERED  
LIVESTOCK**

**Identification of Carcasses; Changes  
in Lists of Establishments**

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (33 F.R. 12858, 14655, 15222, 16163, and 18246) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (34 Stat. 1260, as

amended by Public Law 90-201) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as follows:

The reference to swine with respect to Kenton Packing Co., establishment 36, is deleted. The reference to calves with respect to Ralph Packing Co., Inc., establishment 5228, is deleted. The reference

to Edwards Sausage Co., Inc., establishment 6579, and the reference to swine with respect to such establishment are deleted.

The following table lists species at additional establishments and additional species at previously listed establishments that have been reported as being slaughtered and handled humanely.

ESTABLISHMENTS SLAUGHTERING HUMANELY

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Western Provision Co.	811			(*)			
Herman Kemper's Sons, Inc.	839	(*)					
J. F. O'Neill Packing Co.	889	(*)					
United Meat Co., Inc.	2396	(*)					
Weber, Inc.	6041	(*)	(*)				
Kratzig Meat Co.	6110	(*)	(*)	(*)		(*)	
Atwater Meat Co.	6113	(*)	(*)	(*)	(*)	(*)	
Mid-Cave Meat Packing Co.	6114	(*)	(*)			(*)	
Interstate Packing Co.	7056	(*)				(*)	
New establishments reported:							
New York State College of Agriculture	165			(*)			
Shen-Valley Meat Packers, Inc.	511		(*)				
Snider Bros. Inc.	512			(*)			
Kummer Meat Co., Inc.	617				(*)		
Hillcrest Packing Co.	943		(*)				
Yeakum Packing Co., Ltd.	2216						(*)
Valley Packing Co.	2380		(*)				
Amor Packing	2297			(*)			
Manassas Frozen Foods	2621A			(*)	(*)		
Penn Haven Meats	6559		(*)				

Done at Washington, D.C., this 8th day of January 1969.

R. K. SOMERS,  
Deputy Administrator,  
Consumer Protection.

[F.R. Doc. 69-446; Filed, Jan. 13, 1969; 8:48 a.m.]

**Office of the Secretary  
OFFICE OF PLANT AND OPERATIONS  
Official Flag of the Department of  
Agriculture**

Agriculture Property Management Regulations, Subpart 104-19.151—Official flags, is hereby amended to establish an official flag of the Department of Agriculture and to promulgate regulations concerning its display as follows:

104-19.151-2 *Official flag of the Department of Agriculture.* The flag illustrated and described in the attached exhibit is the official flag of the Department of Agriculture.

(a) *Indoor display.* The official flag of the Department of Agriculture may be used at functions attended by the Under Secretary, Assistant Secretaries, or Group Directors, or at other locations with the approval of the Director of the Office of Plant and Operations. The official flag of the Secretary of Agriculture rather than that of the Department shall be displayed when the Secretary presides.

(b) *Outdoor display.* The official flag of the Department of Agriculture shall be displayed at the Department headquarters in Washington, D.C., and at such other locations as may be approved by the Assistant Secretary for Administration.

(c) *Half staffing the flag.* The official flag of the Department of Agriculture shall be half staffed at the same time as the flag of the United States as required by Proclamation 3044 and at such other times as may be designated by the Assistant Secretary for Administration.

Done at Washington, D.C., this 9th day of January 1969.

JOSEPH M. ROBERTSON,  
Assistant Secretary  
for Administration.

[F.R. Doc. 69-447; Filed, Jan. 13, 1969; 8:48 a.m.]

**ADMINISTRATOR, FARMER  
COOPERATIVE SERVICE**

**Delegation of Authority Regarding  
Agricultural Fair Practices Act of  
1967**

The Agricultural Fair Practices Act of 1967 (Public Law 90-288, 82 Stat. 93), establishes standards of fair practices required of handlers in their dealings in agricultural products. Under this Act, the Secretary of Agriculture is authorized, when he has reasonable cause to believe that any handler, or group of handlers, has engaged in any prohibited act or practice, to request the Attorney General to bring a civil action in a district court of the United States for an injunction or other appropriate order.

There is hereby delegated to the Administrator of the Farmer Cooperative Service, U.S. Department of Agriculture, the authority to exercise and perform the duties of the Secretary under the Agricultural Fair Practices Act of 1967, and to issue rules and regulations as are necessary to carry out these responsibilities. All matters relating to this Act, including a claim of violation thereof, shall be referred to the Administrator of the Farmer Cooperative Service, U.S. Department of Agriculture, Washington, D.C.

20250. Any such claim should include a description of the alleged violation, when it occurred, and the name and address of the handler involved, as well as the name and address of affected producers or producer associations.

Done at Washington, D.C., this 8th day of January 1969.

ORVILLE L. FREEMAN,  
Secretary of Agriculture.

[F.R. Doc. 69-426; Filed, Jan. 13, 1969;  
8:46 a.m.]

## DEPARTMENT OF COMMERCE

### Patent Office

### REDUCTION IN PATENT APPLICATION DISCLOSURE

#### Request for Comments

A joint committee comprising representatives of the Patent Office, the American Bar Association and the American Patent Law Association was established in September 1968, for purposes of investigating ways in which patent application disclosures could be improved and in particular ways in which the disclosures could be reduced. In the course of committee deliberations a number of proposals were generated. Those that appeared to be most practical and to hold most promise for early implementation have been compiled in the form of proposed "Guidelines for Preparation of Patent Application Disclosures". The guidelines are set forth below for review and comment. All persons who desire to present their views, objections, recommendations, or suggestions in connection therewith are invited to do so by forwarding the same to the Commissioner of Patents, Washington, D.C. 20231 on or before March 31, 1969. No hearing will be scheduled.

#### GUIDELINES FOR PREPARATION OF PATENT APPLICATION DISCLOSURES

Applications for patents frequently contain descriptive and illustrative material in excess of that required by 35 U.S.C. 112. If such material were to be excluded from the application trifold benefits should accrue:

1. The time and costs involved in the preparation of an application should be reduced.

2. Examination time should be less.

3. There should be a reduction in patent printing costs.

In an effort to reduce such excesses, at least in part, the following guidelines, relating to preparation of patent applications, have been promulgated.

**Drawing.** The illustration on the drawing should be restricted to the invention disclosed in the application. Old and known subject matter should be omitted unless essential for establishment of environment or for a clear understanding of the invention. If disclosure of the latter type is essential it should be presented in skeleton or phantom form if possible. Reference numerals for such material should be held to a minimum.

Conventional subassemblies should be shown in block form with appropriate legends, or by means of standard drawing symbols, in instances where detailed disclosure is not essential for a proper understanding of the invention. If there is doubt

as to whether or not symbolical representation is appropriate, reference should be made in the descriptive material to a patent or publication which will support the position that the item so illustrated is conventional with the understanding that the supporting document or the appropriate portion thereof will be made available upon demand.

Flow diagrams should be treated in a similar manner.

Shading should be provided on the drawing only if essential for illustrating contours or showing specific relationships between structural parts. Test—can the invention be clearly understood in the absence of shading?

**Multiple inventions, species, etc.** Disclosures in divisional and other types of dependent applications carved from basic or parent application as well as those in the parent application should be restricted to the respective claimed inventions, or as an alternative the dependent application may be printed with the customary identifying information, an abstract, and the claims. The alternative printing should include proper reference to the parent document. The abbreviated printing should be used only if the parent precedes the dependent application in issue. (A copy of the parent or basic patent would be supplied along with the abbreviated patent in response to orders for the latter.)

**Cancellation of descriptive material.** Descriptive material deemed superfluous or unessential for a clear understanding of the disclosed invention should be omitted, however, if such material is presented in the application, the Examiner should require cancellation in the first Office action. This will provide applicant with an opportunity to traverse the requirement prior to final rejection. Cancellation may be deferred until the presence of allowable subject matter is indicated by the Examiner.

Laudatory language, exhaustive descriptions of prior art, unessential statements of objects and lengthy statements of environment should be omitted from, or reduced to bare essentials in the application descriptive material. Lengthy descriptions of items that are obvious and well known to those skilled in the art should be avoided. A mere statement that such items are known and conventional should be adequate in most instances, however, if doubt exists reference may be made to disclosures in specific documents for support. Likewise lengthy descriptions regarding use should be avoided. Procedures for testing should not ordinarily be described. Biological studies and case histories should ordinarily not be included in the descriptive material since they can be presented in affidavit form.

**Objects—abstracts—summary.** State the primary object of the invention and if essential a limited number of secondary objects—all should be brief.

The abstract and statement of object(s) appear to satisfy the requirements in Rule 73 (37 CFR 1.73) and Rule 77 (37 CFR 1.77), a separate summary is deemed unnecessary.

The abstract should be limited to the technical disclosure that is new in the art to which the invention pertains.

**Sectionalized disclosure.** Headings should be provided in patent applications to set off different portions, such as Abstract, Discussion of Prior Art, Background of Invention, Technical Disclosure of Invention, Additional Species of Invention, and the like. Cancellation of subject matter not pertinent to the claimed invention will be facilitated if the descriptive material is so organized.

In order to make the most of computer capabilities of the future, specifications should provide "indicators" which can be readily identified by the processing equipment. While this has general application it is illustrated below with regard to chemical disclosures.

#### Context indicators:

Set out in the specification.

Reserved word paragraph.

Headings such as:

Utility.

Starting material.

Process.

Final—Products.

Chemical—Compounds—Names (followed by a tabulated list).

Chemical—Compounds—Structures (followed by a tabulation of structures).

Chemical—Compounds—Notations (the tabulated list could be Wiswesser, UPAC, or Patent Office. Transformation could be made later.)

**Miscellaneous.** Words or phrases of high information content (as distinguished, for example, from the word "means") appearing in claims as well as in invention descriptions, should be given indicator symbols or printed in bold face type, or italicized, so that future manual searching by the Examiner and the public will be made easier. A capability will exist for easier keyboarding for full text analysis for computer based information.

Where an elaborate expression appears in the descriptive material or claims it should be designated, for example, as "Definition 1" and later reference to the definition should be made with the designator.

Applications that include drawings should include a list of elements and the associated reference numerals for the elements comprising the invention.

Dated: January 9, 1969.

EDWARD J. BRENNER,  
Commissioner of Patents.

Approved:

JOHN F. KINCAID,  
Assistant Secretary for  
Science and Technology.

[F.R. Doc. 69-432; Filed, Jan. 13, 1969;  
8:47 a.m.]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-271]

### VERMONT YANKEE NUCLEAR POWER CORP.

#### Order Changing Location of Hearing

In the matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station); Docket No. 50-271.

The Atomic Energy Commission caused to be published in the December 27, 1968, issue of the FEDERAL REGISTER (33 F.R. 19861), a "Notice of Hearing on Financial Qualifications." This notice scheduled a hearing for 10 a.m., local time, on January 28, 1969, at the Atomic Energy Commission auditorium, Germantown, Md.

Upon giving attention at the prehearing conference on January 9, 1969, to certain considerations bearing upon the chosen site for the hearing, the Board announced then that it would relocate the site of the hearing.

Accordingly, it is hereby ordered, That the hearing shall be held at the General Services Administration auditorium, 18th and F Streets NW., Washington, D.C., at 10 a.m. local time, on Tuesday, January 28, 1969.

Issued January 10, 1969, Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,  
VALENTINE B. DEALE,  
*Chairman.*

[F.R. Doc. 69-557; Filed, Jan. 13, 1969; 11:16 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 20563; Order 69-1-21]

ALBANY AIR SERVICE, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, January 7, 1969.

The Postmaster General filed a notice of intent December 16, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 42 cents per great circle aircraft mile for the transportation of mail by aircraft between Waycross, Ga., and Atlanta, Ga., via Macon, Ga.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft Model 18 twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order<sup>1</sup> to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Albany Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 42 cents per great circle aircraft mile between Waycross, Ga., and Atlanta, Ga., via Macon, Ga.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part

<sup>1</sup> As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

302, 14 CFR Part 298, and 14 CFR 385.14(f):

*It is ordered, That:*

1. Albany Air Service, Inc., the Postmaster General, Eastern Air Lines, Inc., Delta Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Albany Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed with 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Albany Air Service, Inc., the Postmaster General, Eastern Air Lines, Inc., and Delta Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 69-441; Filed, Jan. 13, 1969; 8:48 a.m.]

[Docket No. 20584; Order No. 69-1-22]

## CATLIN AVIATION CO.

### Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, January 7, 1969.

The Postmaster General filed a notice of intent December 20, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 40 cents per great circle aircraft mile for the transportation of mail by aircraft between Durant, Okla., and Oklahoma City, Okla., via Ardmore, Okla.

No protest or objection was filed against the proposed services during the time for filing such objections. The Post-

master General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with twin-engine Piper, Aztec PA-23, aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order<sup>1</sup> to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Catlin Aviation Co., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 40 cents per great circle aircraft mile between Durant, Okla., and Oklahoma City, Okla., via Ardmore, Okla.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f):

*It is ordered, That:*

1. Catlin Aviation Co., the Postmaster General, and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Catlin Aviation Co.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the

<sup>1</sup> As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Catlin Aviation Co., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 69-442; Filed, Jan. 13, 1969; 8:48 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Canadian List 249]

### CANADIAN STANDARD BROADCAST STATIONS

#### List of New Stations, Proposed Changes in Existing Stations, Deletions, and Corrections in Assignments

DECEMBER 31, 1968.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kw	Antenna	Schedule	Class
CKTS (now in operation with increased power).	Sherbrooke, Quebec.....	900 kilocycles 10.....	DA-2	U	II
CKNX (now in operation with increased daytime power).	Wingham, Ontario.....	920 kilocycles 10D/1N.....	DA-2	U	III
CKDA (now in operation with increased power).	Victoria, British Columbia.....	1220 kilocycles 25.....	DA-1	U	II
CKJD (now in operation).....	Sarnia, Ontario.....	1250 kilocycles 1.....	DA-2	U	III
CFYK (now in operation at new transmitter site).	Yellowknife, Northwest Territory	1540 kilocycles 1.....	ND	U	IV
CHOO (now in operation).....	Ajax, Ontario.....	1390 kilocycles 10.....	DA-1	U	III
CKEN (correction of class from that shown on list 244).	Kentville, Nova Scotia.....	1490 kilocycles 1D/0.5N.....	DA-1	U	IV

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,  
WALLACE E. JOHNSON,  
Assistant Chief, Broadcast Bureau.

[F.R. Doc. 69-439; Filed, Jan. 13, 1969; 8:48 a.m.]

[Docket No. 18407; FCC 68-1212].

#### ROBERT J. KELLY AND WILLIAM L. GRATOPP

#### Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In re application of Robert J. Kelly (Transferor) and William L. Gratopp (Transferee), Docket No. 18407, File No. BTC-5537; for transfer of control of Valley Broadcasting Co., licensee of Station KRFS, Superior, Nebr.

1. The Commission has before it the above application in which Robert J. Kelly seeks Commission authorization for the transfer of control of Valley Broadcasting Co., licensee of Station KRFS, Superior, Nebr., to William L. Gratopp.

2. Commission records indicate that Mr. Kelly acquired control of KRFS by grant dated July 19, 1967. He had been the manager of the station since March 27, 1967. The subject application was accepted for filing on January 5, 1968. Because Mr. Kelly held control of KRFS for less than 3 years, his application to

transfer control comes within the purview of the Commission's 3-year rule (§ 1.597 of the Commission's rules).

3. That section, promulgated to discourage trafficking in licenses and to encourage a continuity of program service, requires that a hearing be held if it appears that the transferor who is disposing of a controlling interest in a licensee of a station has held such interest for less than 3 successive years. The rule provides certain exceptions which are not relevant to this application. Aside from these exceptions provided for in the rule itself, the Commission has waived the rule when it considered such waiver served the public interest, convenience, and necessity.

4. In the above application Mr. Kelly requested such waiver of the rule for the following reason:

Robert J. Kelly desires waiver of the 3-year rule and an orderly transfer can be made to the applicant. Transferor expected to move wife and six children from Fairbury to Superior, 54 miles apart. As of now, wife of transferor has refused to move to Superior, creating a personal family problem. Applicant has generously offered to purchase the stock of Robert J. Kelly.

5. While advancing this as his reason for the transfer of control of the licensee of KRFS, on January 23, 1968, Mr. Kelly filed an application requesting consent for his acquisition of another station—KASL, Newcastle, Wyo. (BAL-6284), which is about 375 air miles from his home in Fairbury. In a letter to Mr. Kelly dated June 19, 1968, the Commission requested that he resolve any inconsistency between his ability to move 375 miles to Newcastle, Wyo., and his inability to move 54 miles to the area served by the subject station, KRFS.

6. Mr. Kelly's response stated, in pertinent part, as follows:

\*\*\* As for now, my wife will not move to Superior, Nebr., but this should have little bearing on whether she would or would not move—to Newcastle, Wyo. I presume the Commission may need a notarized statement to that effect.

The KASL application (BAL-6284) was dismissed on August 20, 1968.

7. In response to an earlier letter from the Commission's Broadcast Bureau requesting further information relative to the applicability of § 1.597 of the Commission's rules, the transferor stated:

In reference to letter of February 9, 1968, BTC-5537, David L. Tucker is in charge of the radio station. I am not being paid any salary or other remuneration since Mr. Tucker has been placed in charge of the station. I request that the transfer be approved so I can be relieved of my responsibility of the station and so I can get my investment out of the station.

8. The Commission was not persuaded that a waiver of § 1.597 of its rules would serve the public interest, convenience, and necessity in the above instance and on September 5, 1968, it addressed a letter to Mr. Kelly which advised him that pursuant to § 1.597 of the rules, his application for transfer of control of Valley Broadcasting Co., licensee of Station KRFS (BTC-5537) would be set for hearing. He was also requested to notify the Commission " \* \* \* within 20 days from the date of this letter as to whether you desire to prosecute this application through the hearing process."

9. Mr. Kelly's response of September 12, 1968, stated in pertinent part, that he would be unable to attend a hearing due to financial reasons and again requested that § 1.597 of the Commission's rules be waived on the grounds of his inability to move to Superior, Nebr. Since Mr. Kelly indicated that he would not prosecute his application through the hearing process, on September 24, 1968, the application was dismissed without prejudice.

10. Thereafter, on September 25, 1968 (within the 30-day period of the Commission's action of September-5, 1968), the Commission received a telegram from Mr. Kelly expressing an intention to proceed to hearing. We will therefore reinstate the application and being unable to make a finding that a grant of the subject application would serve the public interest, convenience, and necessity and pursuant to request from the transferor, the application will be designated for hearing.

11. Accordingly, it is ordered, That the KRFS transfer application (BTC-5537) is reinstated and is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether the acquisition by Mr. Kelly of control of the licensee of Station KRFS on July 19, 1967, and his application to transfer control of the same licensee on January 5, 1968, constitutes trafficking in licenses.

(2) To determine the disruptive effects on broadcast service, if any, which would result from the proposed change in ownership.

(3) To determine whether the alleged changes in circumstances create hardships necessitating the sale of the license of KRFS, remove any question of trafficking, and justify a transfer despite any disruptive effects which might otherwise result from the short-term change in ownership.

(4) To determine in light of the above issues, whether the public interest, convenience, and necessity would be served by waiver of § 1.597 of the Commission's rules and grant of this application.

It is further ordered, That to avail himself of the opportunity to be heard, Robert J. Kelly, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicants shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: December 18, 1968.

Released: January 8, 1969.

By direction of the Commission.<sup>1</sup>

[SEAL] BEN F. WARLE,  
Secretary.

[F.R. Doc. 69-440; Filed, Jan. 13, 1969;  
8:48 a.m.]

## FEDERAL MARITIME COMMISSION

### CHINESE MARITIME TRUST, LTD.

#### Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Application for Certificate (Casualty)

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Pas-

<sup>1</sup> Commissioner Cox absent.

sengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Chinese Maritime Trust, Ltd. (Orient Overseas Line).

Dated: January 7, 1969.

THOMAS LISI,  
Secretary.

[F.R. Doc. 69-410; Filed, Jan. 13, 1969;  
8:45 a.m.]

### CHINESE MARITIME TRUST, LTD., AND FERRY BOATS DOMINICANOS C. POR A.

#### Indemnification of Passengers for Nonperformance of Transportation; Notice of Application for Certificate (Performance)

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Chinese Maritime Trust, Ltd. (Orient Overseas Line).

Ferry Boats Dominicanos C. por A.

Dated: January 7, 1969.

THOMAS LISI,  
Secretary.

[F.R. Doc. 69-411; Filed, Jan. 13, 1969;  
8:45 a.m.]

[Docket No. 69-3; Agreement DC-28]

### HOUSEHOLD GOODS FORWARDERS ASSOCIATION OF AMERICA, INC.

#### Order of Investigation

The Household Goods Forwarders Association of America, Inc., has filed for approval, pursuant to section 15, Shipping Act, 1916, an agreement between parties, all of whom are freight forwarders of used household goods operating under exemption of section 402(b) (2) of the Interstate Commerce Act and some of whom are common carriers by water subject to the Shipping Act, 1916.

The agreement assigned Agreement No. DC-28, proposes that the parties thereto will collectively establish rates between ports in the continental United States and ports in Alaska, Hawaii, Guam, and Puerto Rico. The Household Goods Forwarders Association of America, Inc. (Association), is designated tariff publishing agent.

The subject Agreement raises questions with respect to (1) the Federal Maritime Commission's (FMC) jurisdiction over the Agreement insofar as it embraces activities of the parties between the contiguous United States and Alaska and Hawaii, and (2) the approvability of the

Agreement under the standards of section 15 of the Shipping Act, 1916.

The Alaska and Hawaii Statehood Acts retain FMC jurisdiction over port-to-port water common carriers operating between the contiguous States of the United States and Alaska and Hawaii. However, the enactment of the Statehood Acts also brought about Interstate Commerce Act regulation over all other aspects of surface interstate commerce including freight forwarding under Part IV of that Act.

The signatory parties are nonvessel operating common carriers by water (NVOCC's) insofar as they hold themselves out to transport by water from port-to-port on the high seas. The functions of many NVOCC's and Interstate Commerce Commission regulated freight forwarders are basically the same, i.e., both use underlying carriers, both are consolidators and both assume responsibility for transportation from origin to destination. The issue, therefore, is raised whether the Federal Maritime Commission has jurisdiction to approve Agreement DC-28 insofar as the agreement embraces activities of such parties operating in the United States/Alaska/Hawaii trades.

Moreover, the agreement, if approved, would permit the parties to collectively establish port-to-port rates in the domestic offshore commerce of the United States. The majority, if not all of the parties, participate in the transportation of used household goods for the U.S. Government, which constitutes over 90 percent of the entire overseas used household goods movements. Each movement is generally awarded through individual competitive tenders submitted to the various Government agencies by the individual carrier. It appears, therefore, that there may be an adverse impact upon the U.S. Government's competitive tender system if such parties are permitted to jointly determine applicable rates on port-to-port movements between them. Furthermore, it is not apparent from the agreement how the competitive relationships between these separate carriers will affect the public interest or the commerce of the United States.

Now, therefore, it is ordered, That pursuant to the provisions of section 15 (46 U.S.C. 814) and section 22 (46 U.S.C. 821) of the Shipping Act, 1916, an investigation and hearing be and is hereby instituted to determine whether (1) the agreement embraces activities of carriers which are not subject to FMC jurisdiction, specifically those activities performed by the signatory parties between the United States contiguous States and Alaska and Hawaii; and (2) collective establishment of rates by the signatory parties should be disapproved as detrimental to the commerce of the United States, contrary to the public interest or otherwise inconsistent with the standards of section 15, Shipping Act, 1916.

It is further ordered, That the Household Goods Forwarders Association of America, Inc., and each of the signatory parties as set forth in Appendix A below

be made respondents in this proceeding;

*It is further ordered,* That this matter be assigned for public hearing and before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a place and at date to be determined and announced by the presiding examiner; and

*It is further ordered,* That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon Alan F. Wohlstetter, Denning & Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006, Counsel for Respondents; and

*It is further ordered,* That any person, other than respondents who desires to become a party to this proceeding and participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before January 20, 1969, with a copy to Mr. Wohlstetter.

*And it is further ordered,* That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL]

THOMAS LISI,  
Secretary.

APPENDIX A

American Ensign Van Service, Inc.  
Asiatic Forwarders, Inc.  
Astron Forwarding Co.  
Bekins Wide World Van Service, Inc.  
Burnham World Forwarders, Inc.  
Columbia Export Packers, Inc.  
CTI-Container Transport International, Inc.  
Continental Forwarders, Inc.  
Convan Corp.  
Davidson Forwarding Co.  
Delcher Intercontinental Moving Service.  
De Witt Freight Forwarding.  
Door to Door International, Inc.  
Express Forwarding & Storage Co., Inc.  
Four Winds Forwarding, Inc.  
Garrett Forwarding Co.  
Getz Bros. & Co.  
HC&D Moving & Storage Co., Inc.  
Higa Fast Pac, Inc.  
Home-Pack Transport, Inc.  
Imperial Household Shipping Co., Inc.  
International Sea Van, Inc.  
Interstate Motor Freight System.  
Jet Forwarding, Inc.  
Karevan, Inc.  
Kingpack, Inc.  
Lyon Van & Storage Co., Household Shipping Division.  
Northwest Consolidators.  
Perfect Pak Co.  
Routed Thru-Pac, Inc.  
Royal Household Goods Shipping Co., Inc.  
RX Consolidators, Inc.  
Smyth Worldwide Movers, Inc.  
Sunpak Movers, Inc.  
Swift Home-Wrap, Inc.  
Trans-American World Transit, Inc.  
Trans Ocean Van Service.  
Vanpac Carriers, Inc.

[F.R. Doc. 69-412; Filed, Jan. 13, 1969; 8:45 a.m.]

## FEDERAL POWER COMMISSION

[Docket No. CP69-181]

### CENTRAL FLORIDA GAS CORP. AND FLORIDA GAS TRANSMISSION CO.

#### Notice of Application

JANUARY 7, 1969.

Take notice that on December 27, 1968, Central Florida Gas Corp. (Applicant), Post Office Box 960, Winter Haven, Fla. 33881, filed in docket No. CP69-181 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Florida Gas Transmission Co. (Respondent) to establish physical connection of its transportation facilities with facilities proposed to be constructed by Applicant and to sell and deliver 300 million B.T.U.'s, of natural gas per day to Applicant for resale to an industrial customer, and in the community of West Lake Wales, Polk County, Fla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has a contract to sell natural gas to St. Joe Paper Co. for use in paper processing at a paper box plant located in West Lake Wales. The location of this plant is several miles from Applicant's distribution system at Lake Wales and service cannot be provided by Applicant from its existing connection with Respondent. However, Respondent has a 6-inch transmission line which passes immediately adjacent to the St. Joe plant and the community of West Lake Wales.

Applicant requests that the Commission order Respondent to deliver gas through facilities to be constructed by Applicant to serve the paper plant and residential, commercial, and other users in West Lake Wales, which does not at the present time have any natural gas service.

The total cost of the facilities proposed for the service to St. Joe Paper Co. is approximately \$250. The facilities to serve the community of West Lake Wales are estimated to cost \$11,650, which cost will be financed from cash on hand. The estimated third year peak day and annual natural gas requirements for the proposed service are 385 and 200,000 therms, respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 5, 1969.

GORDON M. GRANT,  
Secretary.

[F.R. Doc. 69-402; Filed, Jan. 13, 1969; 8:45 a.m.]

[Docket No. CP69-180]

### CITIES SERVICE GAS CO.

#### Notice of Application

JANUARY 6, 1969.

Take notice that on December 26, 1968, Cities Service Gas Co. (Applicant),

Post Office Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP69-180 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale of natural gas for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes the following:

(1) To tap its existing 12-inch Farm-land lateral line in Ford County, Kans., and install and operate measuring, regulating, and appurtenant facilities and to sell and deliver natural gas by means of said facilities to Enterprise Gas Association, Inc., for resale by the latter for irrigation and incidental farm purposes. Applicant and Enterprise have entered into an agreement, dated February 26, 1968, providing for the sale of up to 750 Mcf per day under Applicant's ITG-1 Rate Schedule. The application indicates that the total estimated cost of the proposed facilities is \$7,860, which cost will be financed from treasury cash.

(2) To sell and deliver natural gas by means of an existing delivery point near Warrensburg, Mo., to Missouri Public Service Co. for transportation to and resale and distribution by Public Service in the community of Leeton, Mo. Applicant and Public Service have entered into a contract, dated July 23, 1968, covering the proposed service for Leeton.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before February 3, 1969.

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

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

KENNETH F. PLUMB,  
Acting Secretary.

[F.R. Doc. 69-415; Filed, Jan. 13, 1969; 8:46 a.m.]

[Docket No. RP69-19]

**CONSOLIDATED GAS SUPPLY CORP.****Notice of Proposed Changes in Rates and Charges**

JANUARY 6, 1969.

Take notice that Consolidated Gas Supply Corp. on December 31, 1968, tendered for filing proposed changes in its FPC Gas Tariff, Original Volumes Nos. 1 and 2, to become effective on February 15, 1969. The proposed rate changes would increase charges for jurisdictional services by approximately \$14,860,935 annually based on sales and storage services for the 12-month period ending August 31, 1968, as adjusted. The proposed increase would be applicable to Consolidated's Rate Schedules RQ-1, RQ2-3, SG-2, CQ-3, CQ-4, CQ-5, CR-5, CR-6, ACR-5, GSS, and SSO.

Consolidated states that the principal reasons for the proposed increases are: (1) Increased costs of purchased gas and transportation services; (2) increased cost of capital and revenue requirements to provide for a rate of return of 7.5 percent; (3) increased Federal income taxes, including the tax surcharge, and other increased taxes; and (4) increased costs for labor, supplies, general expenses, and construction.

Copies of the proposed tariff changes were served on all of Consolidated's customers and interested State commissions.

Protests, petitions to intervene, or notices of intervention may be filed with the Federal Power Commission, Washington, D.C. 20426, pursuant to the Commission's rules of practice and procedure on or before January 31, 1969.

KENNETH F. PLUMB,  
Acting Secretary.

[F.R. Doc. 69-416; Filed, Jan. 13, 1969;  
8:46 a.m.]

[Docket No. CI 65-974 etc.]

**GEORGE DESPOT ET AL.****Order Issuing Conditioned Certificate of Public Convenience and Necessity on Settlement, Accepting Related Rate Schedule and Supplement Thereto for Filing, and Severing and Terminating Proceedings**

JANUARY 6, 1969.

W. R. Hughey, Operating Company, Agent (Operator) et al. (Hughey), on October 17, 1968, filed with the Commission a motion for approval of settlement proposal. Hughey is a respondent in the consolidated Despot proceedings and has been engaged in the sale of natural gas to Lone Star Gas Co., in Texas District No. 6. This sale commenced in January 1962, pursuant to contractual provisions as an alleged intrastate sale, even though the gas was commingled with other gas which was sold in interstate commerce. The gas which is here under consideration is produced from the North Henderson Field, Rusk County, Tex., in Railroad District No. 6. The contract, which is dated January 11, 1960, is the

basic contract between Phillips Petroleum Co. and the Lone Star Gas Co., as ratified by Hughey et al. This sale commenced in January 1962 at an initial price of 14.49 cents per Mcf, inclusive of tax reimbursement, and escalated to 16.56 cents on July 1, 1963, pursuant to contractual provisions. The contract between Hughey and Lone Star contained restrictions similar to those before the Commission in Lo-Vaca Gathering Co., 26 FPC 606 (1961), affirmed, 379 U.S. 366 (1955). Because of the restrictions on the use of the gas by Lone Star, Hughey treated its sales as not subject to Commission jurisdiction. On September 14, 1966, the Commission issued an order to show cause as to why Hughey and other respondents should not be required to apply for, and obtain nunc pro tunc certificates of public convenience and necessity authorizing the sales specified in its respective applications, which it had previously made without authorization and whether initial prices for such sales should not be fixed at the appropriate in-line price prevailing at the date deliveries commenced. Subsequent thereto, Hughey filed the instant motion for approval of settlement proposal and for severance of these proceedings. No party to this proceeding objects to the proposed settlement. With exception relating to the method of computing interest on refunds due as specified hereinafter, the Commission conditionally approves Hughey's motion for settlement of the proceedings in Docket No. CI66-1170.

In orders approving settlement proposals of other producers in the consolidated Despot proceeding, the Commission has approved the use of the Mobil refund formula for settling these proceedings (see Humble settlement order issued Nov. 22, 1957, Docket No. CI66-591). The instant motion of Hughey for settlement conforms to the formula requiring refunds of 62½ percent of any charges in excess of the guideline price between October 23, 1961, and January 17, 1965, and 100 percent of all excess charges collected after January 18, 1965. No refunds are required on the volumes sold prior to October 23, 1961. The Mobil formula requires that interest be paid on refunds, less royalties and overriding royalty interest, at 7 percent per year from the date of collection until date of the order approving settlement. As to sums refundable, which are to be retained by respondents pending Commission determination of disposition thereof and which respondents choose to commingle with other corporate funds, the Commission required that interest be paid at the rate of 5½ percent per year from the date of the order issuing certificate to the date of disbursement. Accordingly, Hughey proposes to settle the proceedings as to its sale to Lone Star on the basis of the above Mobil formula. Hughey has agreed to refund amounts due to Lone Star or as the Commission may otherwise order. Hughey requests that a certificate be issued at the applicable initial service guideline rate of 15 cents per Mcf at 14.65 p.s.i.a. (15.08 cents per Mcf at 14.73 p.s.i.a.). Hughey

estimates that the principle refund amount due to September 1, 1968 would be \$10,900. Hughey further estimates that the interest due from the date of collection to September 1, 1968 is \$2,569. At the present time, Lone Star is under no flow-through obligation as to any Despot proceeding refunds which it may receive; therefore Hughey will be required to retain the refunds, inclusive of interest, subject to further Commission order directing final disposition thereof and the Commission will tender to Hughey the option of depositing the retained refunds to a special escrow account or commingling such accounts with its general corporate assets. In the event that it is elected to commingle the retained refunds, interest thereon at the rate of 5½ percent per year will be required.

Issuance of the certificate to Hughey will be conditioned upon the requirement that Hughey pay 7 percent per year interest upon refunds due from the date of collection of the amount subject to refunding to the date of issuance of this order.

**The Commission finds:**

(1) The settlement proposal filed by Hughey on October 17, 1968, as hereinafter conditioned, is in the public interest, and it is appropriate in the administration of the provisions of the Natural Gas Act that it be approved and made effective as hereinafter ordered.

(2) The sales for which Hughey seeks authorization together with the construction and operation of any facilities subject to the jurisdiction of the Commission and necessary therefor, are subject to the requirements of subsection (c) and (e) of section 7 of the Natural Gas Act.

(3) Hughey is able and willing to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales proposed by Hughey together with the construction and the operation of any facilities subject to the jurisdiction of the Commission and necessary therefor, are required by the public convenience and necessity, and as conditioned herein, are in the public interest.

**The Commission orders:**

(A) The settlement of this proceeding on the basis of the settlement proposal filed by W. R. Hughey, Operating Company, Agent (Operator) et al., on October 17, 1968, as herein conditioned, is approved and made subject to the terms and conditions herein.

(B) Hughey shall refund 62½ percent of the excess amounts collected above 15 cents per Mcf (at 14.65 p.s.i.a.) during the period October 24, 1961, to January 18, 1965, and 100 percent of the sums collected in excess of 15 cents per Mcf for the period from January 19, 1965, to the effective date of this order.

(C) Hughey shall compute interest due on the above (paragraph B) refundable amounts which it has collected at the rate of 7 percent per year from the date of collection to the date of issuance

of this order, less royalty and overriding royalty interest.

(D) Hughey shall, over the signature of a responsible officer, file with the Commission, within 30 days of the date of this order, an original and one copy of its acceptance or rejection of this order and shall serve a copy of the same on the parties to Docket No. CI65-974 et al.

(E) Hughey shall file with the Commission, within 60 days after the date of this order, a report setting out the principal amount of refunds, computed in accordance with the terms of this order, together with interest thereon, showing details of computations and shall serve a copy of the report on all parties to the proceedings in Docket No. CI65-974 et al. Hughey's report shall state its election to commingle or escrow retained refunds, pursuant to paragraph (F) and shall contain a statement by the purchaser attesting to the correctness of the refund amounts.

(F) Hughey shall retain the amounts shown in the report required under ordering paragraph (E), related to its sales to Lone Star Gas Co., subject to further orders of the Commission directing the disposition of those amounts. If Hughey elects to commingle these retained refunds, computed pursuant to ordering paragraphs (B) and (C), with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 5½ percent per year on all funds thus available from the date of this order to the date on which they are paid over to the person ultimately determined to be entitled thereto by a final order of the Commission. If respondent elects to deposit the retained refunds in a special escrow account, respondent shall tender for filing on or before the date of the filing of the refund report, an executed escrow agreement, conditioned as set out below accompanied by a certificate showing service of a copy thereof upon the parties to the proceeding in Docket No. CI65-974 et al. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the escrow agreement shall be entered into between respondent and any bank or trust company used as a depositor for funds of the U.S. Government and the agreement shall be conditioned as follows:

(1) Such respondent, the bank or trust company, and the successors and assigns of each shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in a special escrow account, subject to such agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or any agency thereof or in any form of obligation guaranteed by the

United States which is respectively payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out to the escrow account.

(5) Such bank or trust company shall report to the Secretary of this Commission quarterly, certifying the amount deposited in the trust account for the quarterly period.

(G) A permanent certificate of public convenience and necessity is issued to Hughey upon the conditions herein set forth, authorizing the sales and services proposed.

(H) The certificate issued to Hughey by paragraph (G) is conditioned upon Hughey's accepting the certificate issued to it in writing and under oath within 30 days of the issuance of this order:

(I) The certificates issued to Hughey by paragraph (G) are conditioned upon the acceptance by Hughey of the modification of its settlement proposal as provided by the terms of this order.

(J) The certificates issued in paragraph (G) are conditioned so that on and after the date of this order, and until lawfully changed in the manner provided by the Natural Gas Act, the rate charged by Hughey to Lone Star shall not exceed 15 cents per Mcf (at 14.65 p.s.i.a.) (15.08 cents at 14.73 p.s.i.a.). Within 30 days of the date of this order, Hughey shall file a supplement to its rate schedule reflecting the conditioned rate in lieu of the rate currently provided therein, and as to such filing, the requirements of § 154.94(f) of the regulations under the Natural Gas Act are waived and upon compliance, the proposed related rate schedule shall be accepted for filing effective as of the date of this order, provided that this order is without prejudice to any action which the Commission may hereafter take pursuant to the provisions of sections 4 and 5 of the Natural Gas Act.

(K) Upon full compliance by Hughey with this order, the proceedings in Docket No. CI66-1170 shall terminate, and such proceeding upon termination are hereby severed from the consolidated proceedings in Docket No. CI65-974, et al.

By the Commission.

[SEAL] GORDON M. GRANT,  
Secretary.

[F.R. Doc. 69-418; Filed, Jan. 13, 1969; 8:46 a.m.]

[Docket No. G-12221, etc.]

## EL PASO NATURAL GAS CO.

### Notice of Petitions To Amend

JANUARY 6, 1969.

Take notice that on December 27, 1968, El Paso Natural Gas Co. (Petitioner), Post Office Box 1492, El Paso, Tex. 79999, and CP68-350 petitions to amend the orders issuing certificates of public convenience and necessity in said dockets pursuant to section 7(c) of the Natural Gas Act by authorizing the sale and delivery of natural gas to Washington Natural Gas Co. (Washington Natural), an existing resale customer, as successor in interest to Cascade Natural Gas Co. (Cascade), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order of the Commission issued on July 19, 1957, as amended on February 16, 1961, in Docket No. G-12221, El Paso was authorized to construct and operate facilities and to sell and deliver natural gas to Cascade for resale in Grotto, Wash., and environs.

On December 20, 1957, in Docket No. G-13253, El Paso was authorized, by the Commission, to construct and operate facilities and to sell and deliver natural gas to Cascade for resale to Snohomish and Monroe, Wash., and environs. By order issued September 3, 1968, in Docket No. CP68-350, El Paso was authorized to construct and operate facilities and to sell and deliver natural gas to Cascade for resale to Sultan, Startup, Goldbar, and Granite Falls, Wash., and environs.

Petitioner was informed that in accordance with certificates issued by the Washington Utilities and Transportation Commission, Cascade transferred its franchises, properties, and facilities located in and adjacent to the aforementioned communities, to Washington Natural. Washington Natural replaces Cascade as purchaser of natural gas from El Paso which proposes to continue the sale and delivery of natural gas as hereinbefore set forth. No changes will be made in El Paso's existing facilities and the service to Washington Natural will be rendered under rate schedules contained in El Paso's effective FPC Gas Tariff, Original Volume No. 3. Accordingly, Petitioner requests the substitution of Washington Natural for Cascade as recipient of the service authorized in the instant dockets.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 3, 1969.

KENNETH F. PLUMB,  
Acting Secretary.

[F.R. Doc. 69-417; Filed, Jan. 13, 1969; 8:46 a.m.]

[Docket No. RI69-324, etc.]

**PAN AMERICAN PETROLEUM CORP.  
ET AL.****Order Providing for Hearings on and  
Suspension of Proposed Changes in  
Rates; Correction**

JANUARY 6, 1969.

In the order providing for hearings on and suspension of proposed changes in rates, issued December 23, 1968, and published in the FEDERAL REGISTER (Jan. 4, 1969; 34 F.R. 168), insert in paragraph (D) the date of February 17, 1969, for the filing of notices of intervention or petitions to intervene.

KENNETH F. PLUMB,  
*Acting Secretary.*[F.R. Doc. 69-419; Filed, Jan. 13, 1969;  
8:46 a.m.]

[Docket No. CP68-217]

**TRANSCONTINENTAL GAS PIPE LINE  
CORP.****Notice of Petition To Amend**

JANUARY 6, 1969.

Take notice that on December 27, 1968, Transcontinental Gas Pipe Line Corp. (Petitioner), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP68-217 a petition to amend the Commission's order issued October 14, 1968, in said docket, to refer to a temporary certificate which has been applied for by Union Oil Company of California (Union Oil) in Docket No. CI69-563 in lieu of a temporary certificate issued to but rejected by Union Oil in Docket No. CI68-920, all as more fully set forth in the subject petition to amend which is on file with the Commission and open to public inspection.

The order of October 14, 1968, authorized Petitioner to construct and operate certain natural gas facilities necessary to receive natural gas to be purchased from Union Oil in the Block 89 Field, East Cameron Area, Offshore Louisiana. Ordering paragraph (C) of said order conditioned the authorization "\* \* \* upon the acceptance by Union Oil Company of California of the temporary certificate issued concurrently with this order in Docket No. CI68-920." Applicant states that on December 11, 1968, Union Oil rejected the aforesaid temporary certificate, and, at the same time, filed in Docket No. CI69-563 a new application for a certificate and a request for a temporary certificate covering the sale to Petitioner of gas to be produced from certain depths underlying the same properties hereinabove described.

Accordingly, Petitioner requests that, upon the issuance of a temporary certificate in Docket No. CI69-563, the order of October 14, 1968, in the instant docket be amended to refer to such temporary certificate.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the

regulations under the Natural Gas Act (§ 157.10) on or before February 3, 1969.

KENNETH F. PLUMB,  
*Acting Secretary.*[F.R. Doc. 69-420; Filed, Jan. 13, 1969;  
8:46 a.m.]

[Docket No. CP69-185]

**TRUNKLINE GAS CO.****Notice of Application**

JANUARY 7, 1969.

Take notice that on December 31, 1968, Trunkline Gas Co. (Applicant), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP69-185 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of an additional 75,000 Mcf of natural gas per day to Consumers Power Co. (Consumers) and a total additional 5,320 Mcf per day to 17 other existing resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate the following facilities:

(1) 32.59 miles of 36-inch pipeline looping portions of Applicant's existing main transmission line between Longville, La., and Johnsonville, Ill.;

(2) 30.39 miles of 30-inch pipeline looping portions of Applicant's existing main transmission line between Tuscola, Ill., and Elkhart, Ind.;

(3) 17.2 miles of 24-inch pipeline looping a portion of Applicant's gathering line south of Longville, La.;

(4) 3,000 additional horsepower at existing Compressor Station No. 313, Centerville, La., and

(5) Miscellaneous facilities.

The application indicates that the total estimated cost of these facilities is \$17,550,000, which cost Applicant proposes to finance initially from funds on hand and by bank borrowings. Permanent financing will be through the issuance of long-term securities.

Applicant states that Consumers has advised that the increased deliveries of gas commencing November of 1969 are urgently needed to meet the requirements of Consumers' continually and rapidly growing markets. Applicant and Consumers have entered into an amending agreement, dated September 19, 1968, providing for the increased supply.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before February 3, 1969.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and pro-

cedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

GORDON M. GRANT,  
*Secretary.*[F.R. Doc. 69-403; Filed, Jan. 13, 1969;  
8:45 a.m.]

[Dockets Nos. RI69-406, RI69-407]

**UNION PRODUCING CO. ET AL.****Order Providing for Hearing on and  
Suspension of Proposed Changes in  
Rates, and Allowing Rate Changes  
To Become Effective Subject to  
Refund<sup>1</sup>**

DECEMBER 30, 1968.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

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

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

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

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement

<sup>1</sup> Does not consolidate for hearing or dispose of the several matters herein.

and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and under-

takings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the

Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before February 14, 1969.

By the Commission-

[SEAL]

KENNETH F. PLUMB,  
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf	
									Rate in effect	Proposed increased rate <sup>1</sup>
RI69-406----	Union Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	215	13	United Gas Pipe Line Co., Lirette Field, Terrebonne Parish, La. (S).	\$1,595	12-6-68	12-31-68	1-1-69	15.75	18.5
RI69-406-----	do-----	216	11	United Gas Pipe Line Co., Bay Baptiste Field, Terrebonne Parish, La. (S).	289	12-6-68	12-31-68	1-1-69	15.75	18.5
RI69-407----	Union Producing Co. (Operator) et al.	218	11	United Gas Pipe Line Co., Bourg Field, Terrebonne Parish, La. (S).	137,500	12-6-68	12-31-68	1-1-69	15.75	18.5
RI69-406----	Union Producing Co.-----	228	9	United Gas Pipe Line Co., DeLarge Field, Terrebonne Parish, La. (S).	11,490	12-6-68	12-31-68	1-1-69	15.75	18.6234
RI69-406-----	do-----	229	12	United Gas Pipe Line Co., Dulac Area, Terrebonne Parish, La. (S).	141,075	12-6-68	12-31-68	1-1-69	15.75	18.5
RI69-407----	Union Producing Co. (Operator) et al.	234	6	United Gas Pipe Line Co., Gibson Field, Terrebonne Parish, La. (S).	192,500	12-6-68	12-31-68	1-1-69	15.75	18.5

<sup>1</sup> Proposed increased rates are in accordance with the Commission's Opinion No. 546 issued 9-25-68 (South Louisiana Area Rate Proceeding, AR61-2) and are subject to the upward and downward B.t.u. adjustment provisions thereof.

<sup>2</sup> Includes 18.5 cents per Mcf base rate plus 0.1234 cent per Mcf upward B.t.u. adjustment for 1,057 B.t.u. gas.

NOTE.—All rates are stated at 15.025 p.s.l.a.

The proposed rate increases herein do not exceed the applicable just and reasonable rates found by the Commission in its Opinion No. 546, issued September 25, 1968 (South Louisiana Area Rate Proceeding, AR61-2), but are suspended for 1 day, as ordered herein, because the seller and buyer are affiliates.

Although we are suspending Union's increases for the reason set forth above, we believe it appropriate to waive the 30-day notice period in part so as to allow Union to collect the proposed rates as of January 1, 1969, subject to refund, as Union has requested. Such action is in accord with our general policy of waiving the statutory notice period where an increase does not exceed the applicable just and reasonable ceiling determined in Opinion No. 546.

[F.R. Doc. 69-414; Filed, Jan. 13, 1969; 8:46 a.m.]

## FEDERAL RESERVE SYSTEM

### FIRST HOLDING CO., INC.

#### Order Approving Application Under Bank Holding Company Act

In the matter of the application of First Holding Co., Inc., Waukesha, Wis., for approval of acquisition of 80 percent or more of the voting shares of New Berlin State Bank, New Berlin, Wis.

There has come before the Board of Governors, pursuant to section 3(a) (3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Holding Co., Inc., Waukesha, Wis., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of New Berlin State Bank, New Berlin, Wis.

As required by section 3(b) of the Act, the Board notified the Wisconsin Com-

missioner of Banking of the application and requested his views and recommendation. The Commissioner advised the Board that he had no objection to the proposed transaction.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 10, 1968 (33 F.R. 11433), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement<sup>1</sup> of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

Dated at Washington, D.C., this 2d day of January 1969.

By order of the Board of Governors.<sup>2</sup>

[SEAL] ROBERT P. FORRESTAL,  
Assistant Secretary.

[F.R. Doc. 69-421; Filed, Jan. 13, 1969; 8:46 a.m.]

<sup>1</sup> Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

<sup>2</sup> Voting for this action: Chairman Martin and Governors Robertson, Mitchell, Daane, Malsel, Brimmer, and Sherrill.

## FIRST SECURITY CORP.

### Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (1)), by First Security Corp., Sheboygan, Wis., for prior approval of the Board of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of each of the following banks: Security First National Bank of Sheboygan, Sheboygan, Wis., and South-West State Bank, Sheboygan, Wis.

Section 3(c) of the Act, as amended, provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects

of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Dated at Washington, D.C., this 6th day of January 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,  
Assistant Secretary.

[F.R. Doc. 69-422; Filed, Jan. 13, 1969;  
8:46 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

### OMEGA EQUITIES CORP.

#### Order Suspending Trading

JANUARY 8, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Omega Equities Corp., New York, N.Y., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 9, 1969, through January 18, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 69-431; Filed, Jan. 13, 1969;  
8:47 a.m.]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 9, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

#### LONG-AND-SHORT HAUL

FSA No. 41538—*Chlorine to Hamilton, Miss.* Filed by Southwestern Freight Bureau, agent (No. B-1), for interested rail carriers. Rates on chlorine, in tank carloads, from specified points in Arkansas, Louisiana, and Texas, to Hamilton, Miss. Grounds for relief—Market competition.

Tariffs—Supplements 216, 138, and 45 to Southwestern Freight Bureau, agent, tariffs ICC 4529, 4668, and 4773, respectively.

By the Commission.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-429; Filed, Jan. 13, 1969;  
8:47 a.m.]

[Notice 274]

### MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 9, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

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

No. MC-FC-70870. By order of December 31, 1968, the Transfer Board approved the acquisition of control, through purchase of capital stock, by United American Investment Co., R. H. Isensee, President, 25 West State Street, Mason City, Iowa, and A. J. Allen and Louise M. Allen, 110 Seventh Avenue North, Clear Lake, Iowa, of Mason City Travel Agency, Inc., 215 North Federal Avenue, Mason City, Iowa, which holds license No. MC-12995 issued August 3, 1967, authorizing it to engage in operations as a broker in connection with the transportation of passengers and their baggage, in special and charter operations, in round trip all-expense tours, beginning and ending at Mason City, Iowa, and extending to points in the United States, including Alaska and Hawaii.

No. MC-FC-70997. By order of December 31, 1968, the Transfer Board approved the transfer to Burgess & Cook, Inc., Fernandina Beach, Fla., of certificate No. MC-129487 (Sub-No. 1), issued September 12, 1968, to John D. Johnson, Jacksonville, Fla., authorizing the transportation of: Clay, in bags, from Wrens, Macon, and McIntyre, Ga., to Jacksonville, Fla. Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, Fla. 32207, attorney for applicants.

No. MC-FC-71004. By order of December 30, 1968, the Transfer Board approved the transfer to Miller Transporters, Inc., a Mississippi corporation, Jackson, Miss., of the operating rights in certificate No. MC-107002 and subs thereunder, to Miller Transporters, Inc., Jackson, Miss., a Louisiana corporation, authorizing the transportation of various commodities, primarily petroleum and petroleum products and chemicals, in bulk, in tank vehicles, between points in Alabama, Mississippi, Georgia, Tennessee, Texas, Arkansas, Florida, Colorado, Connecticut, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, and Wisconsin. Phineas Stevens, 700 Petroleum Building, Post Office Box 22567, Jackson, Miss. 39205, attorney for applicants.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-430; Filed, Jan. 13, 1969;  
8:47 a.m.]

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