

# FEDERAL REGISTER

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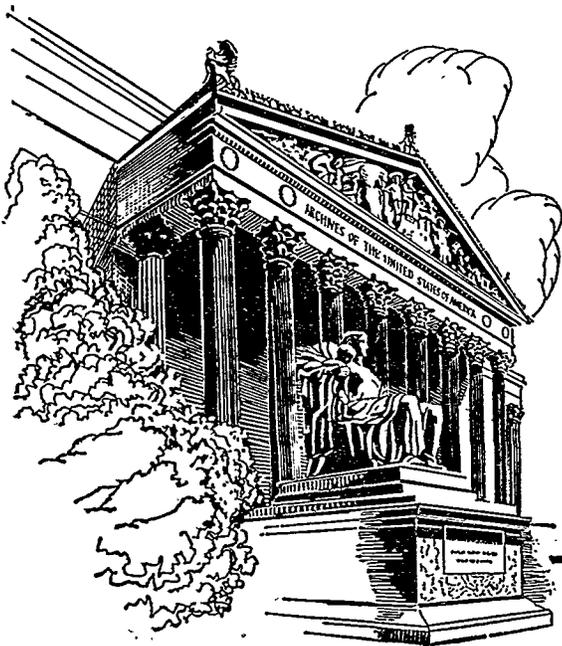
Thursday, January 23, 1969 • Washington, D.C.

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Civil Aeronautics Board  
Consumer and Marketing Service  
Federal Aviation Administration  
Federal Communications Commission  
Federal Highway Administration  
Federal Maritime Commission  
Federal Power Commission  
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Land Management Bureau  
Mint Bureau  
Packers and Stockyards Administration  
Public Roads Bureau  
Securities and Exchange Commission  
Tariff Commission  
Transportation Department

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Volume 81

UNITED STATES  
STATUTES AT LARGE

[90th Cong., 1st Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1967, reorganization plans, the twenty-fifth amendment to the Constitution, and Presidential proclamations. Also included are: a subject index, tables

of prior laws affected, a numerical listing of bills enacted into public and private law, and a guide to the legislative history of bills enacted into public law.

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## Title 26—INTERNAL REVENUE

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

#### SUBCHAPTER A—INCOME TAX

[T.D. 6999]

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

#### Definition of Group-Term Life Insurance

On October 31, 1967, a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under section 79 of the Internal Revenue Code of 1954, relating to the definition of group-term life insurance, was published in the FEDERAL REGISTER (32 F.R. 15029). After consideration of all the relevant matter presented by interested persons regarding the rules proposed, the amendments so proposed are adopted subject to the changes set forth below:

Subdivision (d) of paragraph (b) (1) (iii) of § 1.79-1 as set forth in the notice of proposed rule making is revised.

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

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

Approved: January 16, 1969.

STANLEY S. SURREY,  
Assistant Secretary  
of the Treasury.

In order to modify the definition of group-term life insurance applicable to the Income Tax Regulations (26 CFR Part 1) under section 79 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Paragraph (b) (1) (iii) of § 1.79-1 is amended to read as follows:

§ 1.79-1 General rules relating to group-term life insurance purchased for employees.

(b) *Meaning of terms.* \* \* \*

(1) *Group-term life insurance.* \* \* \*

(iii) *Plan of group insurance defined.*

(a) To constitute a plan of group insurance, the plan must be arranged for by an employer for his employees. The provisions of the plan of the employer may be incorporated in a separate written document or may be incorporated in the master policy providing life insurance protection for the employees. For purposes of determining whether the requirements of this subdivision are satis-

fied, the plan of each employer is considered separately even though the policy which provides insurance protection for the employees covered under the plan also provides insurance protection for the employees of another employer. Furthermore, if the plan of one employer does not satisfy the requirements of this subdivision, such failure to qualify does not affect the qualification of the plan of any other employer who provides his employees with group-term life insurance protection under the same policy.

(b) To constitute a plan of group insurance, the plan must make term life insurance available to a group of lives. Such group must include all of the employees of the employer, or, subject to the provisions of (d) of this subdivision, a class or classes of such employees the members of which are determined on the basis of factors which preclude individual selection. Examples of such factors are membership in a union whose members are employed by the employer, marital status, and age. A plan under which insurance is available only to employees who own stock in the employer corporation does not qualify as a plan of group insurance for purposes of section 79 since eligibility is not based primarily on the employment relationship. Furthermore, the coverage under the plan of the employer must in operation conform to the provisions relating to the eligibility of employees which are incorporated therein.

(c) To constitute a plan of group insurance, the amounts of insurance protection provided under the plan must be based upon some formula which precludes individual selection of such amounts. Thus, for example, the amounts of insurance on the lives of those individuals eligible for insurance under the plan must be based on a factor such as salary, years of service, or position, or a combination of such factors. (See (d) of this subdivision for requirement when a plan covers less than 10 employees.) The requirements of this subdivision do not prevent the use of a limited number of alternative schedules based upon the amount the employee elects to contribute, provided each such schedule satisfies the requirements of this subdivision independently.

(d) As a general rule, to constitute a plan of group insurance for a calendar year, an employer's plan must provide term insurance protection for at least 10 full-time employees at some time during a calendar year. However, a plan which, for an entire calendar year, provides protection for less than 10 full-time employees may also qualify as group in-

surance if the following requirements to preclude individual selection are met:

(1) The plan provides protection for all full-time employees (except as otherwise permitted in (3));

(2) Except as otherwise permitted in (3), the amount of protection for employees is computed either as a uniform percentage of salary or on the basis of coverage brackets (established independently of this employer's particular situation) under which no bracket exceeds 2½ times the next lower bracket and the lowest bracket is at least 10 percent of the highest bracket;

(3) Evidence of insurability may be a factor affecting either the employee's eligibility for insurance or the amount of insurance on his life only to the extent that such eligibility or amount of insurance is determined solely on the basis of a medical questionnaire completed by the employee and not requiring a medical examination.

(4) If evidence of insurability is not a factor affecting either the employee's eligibility for insurance or the amount of insurance, then a plan which provides protection for less than 10 full-time employees but does not meet the requirements in (1) or (2) of this subdivision may nevertheless qualify as a plan of group insurance if (i) such plan is a part of an overall plan which provides protection for the employees of two or more unrelated employers, (ii) participation in the plan is restricted to, but mandatory for, all employees of an employer who belong to or are represented by a particular organization (such as a union), and (iii) such organization carries on substantial activities in addition to obtaining insurance.

For purposes of (d) of this subdivision, a plan shall be considered to be providing insurance protection for any employee who was eligible for such protection but who elected not to participate in the plan. Moreover, a plan of group-term insurance providing insurance for less than 10 full-time employees will not be disqualified merely because employees are not provided term insurance under the plan because they are required, by the terms of the policy, to be employed for a waiting period of not more than 6 months before their insurance becomes effective, or are part-time employees. Employees whose customary employment is for not more than 20 hours in any one week, or 5 months in any calendar year, are presumed to be part-time employees.

[F.R. Doc. 69-382; Filed, Jan. 17, 1969; 4:01 p.m.]

[T.D. 7000]

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

**Information Reporting by Payers of Dividends and Interest and Persons Engaged in Banking Business**

On October 30, 1968, notice of proposed rule making with respect to amendment of the Income Tax Regulations (26 CFR Part 1) under sections 6041, 6042, and 6049 of the Internal Revenue Code of 1954, relating to information reporting, was published in the FEDERAL REGISTER (33 F.R. 15949). After consideration of all the relevant matter presented by interested persons regarding the rules proposed, the amendments so proposed are adopted subject to the change set forth below:

Paragraph (q) of § 1.6041-3, as set forth in paragraph 1 of the notice of proposed rule making is revised.

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

[SEAL] SHELDON S. COHEN,  
Commissioner.

Approved: January 16, 1969.

STANLEY S. SURREY,  
Assistant Secretary  
of the Treasury.

In order to clarify the requirements for information reporting by payers of dividends and interest and persons engaged in the banking business, the Income Tax Regulations (26 CFR Part 1) under sections 6041, 6042, and 6049 of the Internal Revenue Code of 1954, are amended as follows:

PARAGRAPH 1. Section 1.6041-3 is amended by deleting the word "and" at the end of paragraph (o), by deleting the period at the end of paragraph (p) and inserting in lieu thereof "; and", and by adding a new paragraph (q) to read as follows:

§ 1.6041-3 Payments for which no return of information is required under section 6041.

(q) Payments made to principals by persons carrying on the banking business, and by persons which are mutual savings banks, cooperative banks, building and loan associations, homestead associations, credit unions, or similar organizations chartered and supervised by Federal or State law, of funds collected when acting in the capacity of collection agents. This exception does not apply to collection of items on a regular and continuing basis under a so-called escrow, trust, custody, or investment advisory agreement. However, returns of information are not required unless payment is of the type with respect to which such returns would otherwise be required under section 6041 if the payer were engaged in a trade or business; nor are returns of information required on payments pursuant to a

trust with respect to which Form 1041 is required to be filed by the trustee. The exception from reporting set forth in this paragraph shall apply until such time as the Commissioner determines that it is feasible for such persons to report the payments, and this paragraph is amended accordingly to require such reporting.

PAR. 2. Paragraph (a) (1) (i) of § 1.6042-2 is amended to read as follows:

§ 1.6042-2 Returns of information as to dividends paid in calendar years after 1962.

(a) Requirement of reporting—(1) In general. (i) Every person who makes payments of dividends (as defined in § 1.6042-3) aggregating \$10 or more to any other person during a calendar year after 1962 shall make an information return on Forms 1096 and 1099 for such calendar year showing the aggregate amount of such payments, the name and address of the person to whom paid, the total of such payments for all persons, and such other information as is required by the forms. In the case of dividends paid during the calendar year 1963 or 1964, the requirement of this subdivision for the filing of Form 1099 will be met if a person making payments of dividends to another person on two or more classes of stock files a separate Form 1099 with respect to each such class of stock on which \$10 or more of dividends are paid to such other person during the calendar year. Thus, if during 1963 a corporation pays to a person dividends totaling \$15 on its common stock and \$20 on its preferred stock, it may file separate Forms 1099 with respect to the payments of \$15 and \$20. If the dividends on the preferred stock totaled \$5 instead of \$20, no return would be required with respect to the \$5. In addition, in the case of dividends paid during calendar years beginning with 1965 and continuing until such time as the Commissioner determines that it is feasible to aggregate payments on two or more separate stock ownership accounts and this subdivision is amended accordingly to provide for reporting on an aggregate basis, the requirement of this subdivision for the filing of Form 1099 will be met if a person making payments of dividends to another person on two or more such separate stock ownership accounts (regardless of whether the payments are made on only one class of stock) files a separate Form 1099 with respect to each such stock ownership account on which \$10 or more of dividends are paid to such other person during the calendar year.

PAR. 3. Paragraph (a) (1) (i) of § 1.6049-1 is amended to read as follows:

§ 1.6049-1 Returns of information as to interest paid in calendar years after 1962.

(a) Requirement of reporting—(1) In general. (i) Every person who makes payments of interest (as defined in § 1.6049-3) aggregating \$10 or more to

any other person during a calendar year after 1962 shall make an information return on Forms 1096 and 1099 for such calendar year showing the aggregate amount of such payments, the name and address of the person to whom paid, the total of such payments for all persons, and such other information as is required by the forms. In the case of interest paid during calendar years beginning with 1963 and continuing until such time as the Commissioner determines that it is feasible to aggregate payments on two or more accounts, insurance contracts, or investment certificates and this subdivision is amended accordingly to provide for reporting on an aggregate basis, the requirement of this subdivision for the filing of Form 1099 will be met if a person making payments of interest to another person on two or more such accounts, insurance contracts, or investment certificates, files a separate Form 1099 with respect to each such account, contract, or certificate on which \$10 or more of interest is paid to such other person during the calendar year. In the case of evidences of indebtedness described in section 6049 (b) (1) (A), separate Forms 1099 may be filed as provided in the preceding sentence with respect to holdings in different issues. Thus, if a bank pays to a person interest totaling \$15 on one account and \$20 on a second account, it may file separate Forms 1099 with respect to the payments of \$15 and \$20. If the interest on the second account totaled \$5 instead of \$20, no return would be required with respect to the \$5.

[F.R. Doc. 69-833; Filed, Jan. 17, 1969; 4:01 p.m.]

[T.D. 7001]

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

**SUBCHAPTER C—EMPLOYMENT TAXES**

**PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955**

**SUBCHAPTER F—PROCEDURE AND ADMINISTRATION**

**PART 301—PROCEDURE AND ADMINISTRATION**

**Treatment of Tips**

On January 25, 1966, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1), the Employment Tax Regulations (26 CFR Part 31), and the Regulations on Procedure and Administration (26 CFR Part 301) to conform such regulations to amendments made to the Internal Revenue Code of 1954 by section 313 of the Social Security Amendments of 1965 (79 Stat. 382), relating to the treatment of tips, was

published in the FEDERAL REGISTER (31 F.R. 965). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraphs (a), (b), (c) (1) (ii) and (iii), and (d) of § 31.3102-3, as set forth in paragraph 6 of the notice of proposed rule making, are revised.

PAR. 1a. The amendments proposed to be made to paragraphs (a) (1) and (b) (1) of § 31.3121(a) (1)-1, as set forth in paragraph 9 of the notice of proposed rule making, are deleted.

PAR. 2. Section 31.3121(a) (12)-1, as set forth in paragraph 11 of the notice of proposed rule making, is revised.

PAR. 3. Section 31.3401(a) (16)-1, as set forth in paragraph 16 of the notice of proposed rule making, is revised.

PAR. 4. Paragraph (b) (1) (ii) and (iii) of § 31.3402(h)-1, as set forth in paragraph 21 of the notice of proposed rule making, is revised.

PAR. 5. Section 31.3402(k)-1, as set forth in paragraph 22 of the notice of proposed rule making, is revised.

PAR. 6. Paragraph (a) (3) of § 31.6001-2, added by, and set forth in, paragraph 23 of the notice of proposed rule making, is revised.

PAR. 7. Paragraph (a) (16) of § 31.6001-5, added by, and set forth in, paragraph 24 of the notice of proposed rule making, is revised.

PAR. 8. Paragraphs (b) (2) (ii) and (c) (2) of § 31.6053-1, as set forth in paragraph 28 of the notice of proposed rule making, are revised.

PAR. 9. Paragraph (a) (1) of § 31.6071 (a)-1, as set forth in paragraph 29 of the notice of proposed rule making, is deleted and paragraph (a) (4) of such section, as set forth in such paragraph 29, is revised.

PAR. 10. Paragraph (b) of § 31.6652 (c)-1, as set forth in paragraph 30 of the notice of proposed rule making, is revised.

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

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

Approved: January 16, 1969.

STANLEY S. SURREY,  
Assistant Secretary  
of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1), the Employment Tax Regulations (26 CFR Part 31), and the Regulations on Procedure and Administration (26 CFR Part 301) to the amendments made to the Internal Revenue Code of 1954 by section 313 of the Social Security Amendments of 1965 (79 Stat. 382), relating to the treatment of tips, such regulations are amended as follows:

PARAGRAPH 1. Section 1.451 is amended by adding a new subsection (c) to section 451 and by adding a historical note. These added provisions read as follows:

§ 1.451 Statutory provisions; general rule for taxable year of inclusion.

SEC. 451. *General rule for taxable year of inclusion.* \* \* \*

(c) *Special rule for employee tips.* For purposes of subsection (a), tips included in a written statement furnished an employer by an employee pursuant to section 6053(a) shall be deemed to be received at the time the written statement including such tips is furnished to the employer.

[Sec. 451 as amended by sec. 313(b), Social Security Amendments, 1965 (79 Stat. 382)]

PAR. 2. Section 1.451-1 is amended by adding at the end thereof a new paragraph (c) to read as follows:

§ 1.451-1 General rule for taxable year of inclusion.

\* \* \* \* \*

(c) *Special rule for employee tips.* Tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053 (a) shall be included in gross income of the employee for the taxable year in which the written statement is furnished to the employer. For provisions relating to the reporting of tips by an employee to his employer, see section 6053 and § 31.6053-1 of this chapter (Employment Tax Regulations).

PAR. 3. Section 31.3102 is amended by revising subsection (a) of section 3102, by adding a new subsection (c) to section 3102, and by revising the historical note. These revised and added provisions read as follows:

§ 31.3102 Statutory provisions; deduction of tax from wages.

SEC. 3102. *Deduction of tax from wages—*

(a) *Requirement.* The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar quarter pays to an employee cash remuneration to which paragraph (7) (B) or (C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar quarter is less than \$50; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8) (B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$150 and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12) (B) of section 3121(a) is applicable may deduct

an amount equivalent to such tax with respect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.

\* \* \* \* \*

(c) *Special rule for tips.* (1) In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) as are under control of the employer.

(2) If the tax imposed by section 3101, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), exceeds the wages of the employee (excluding tips) from which the employer is required to collect the tax under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

(3) The Secretary or his delegate may, under regulations prescribed by him, authorize employers—

(A) To estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

(B) To determine the amount to be deducted upon each payment of wages (exclusive of tips) during such quarter as if the tips so estimated constituted the actual tips so reported, and

(C) To deduct upon any payment of wages (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such wages of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

(4) If the tax imposed by section 3101 with respect to tips which constitute wages exceeds the portion of such tax which can be collected by the employer from the wages of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

[Sec. 3102 as amended by Sec. 205A, Social Security Amendments, 1954; sec. 201(h) (3), Social Security Amendments, 1956; sec. 313(c) (1) and (2), Social Security Amendments, 1965 (79 Stat. 382)]

PAR. 4. Section 31.3102-1 is amended by revising the heading and paragraph (a) to read as follows:

**§ 31.3102-1 Collection of, and liability for, employee tax; in general.**

(a) The employer shall collect from each of his employees the employee tax with respect to wages for employment performed for the employer by the employee. The employer shall make the collection by deducting or causing to be deducted the amount of the employee tax from such wages as and when paid. (For provisions relating to the time of such payment, see § 31.3121(a)-2.) The employer is required to collect the tax, notwithstanding the wages are paid in something other than money, and to pay over the tax in money. (As to the exclusion from wages of remuneration paid in any medium other than cash for certain types of services, see § 31.3121(a) (7)-1, relating to such remuneration paid for service not in the course of the employer's trade or business or for domestic service in a private home of the employer; and § 31.3121(a) (8)-1, relating to such remuneration paid for agricultural labor.) For provisions relating to the collection of, and liability for, employee tax in respect of tips, see § 31.3102-3.

PAR. 5. Section 31.3102-2 is amended to read as follows:

**§ 31.3102-2 Manner and time of payment of employee tax.**

The employee tax is payable to the district director in the manner and at the time prescribed in Subpart G of the regulations in this part. For provisions relating to the payment by an employee of employee tax in respect of tips, see paragraph (d) of § 31.3102-3.

PAR. 6. There is inserted after § 31.3102-2 the following new section:

**§ 31.3102-3 Collection of, and liability for, employee tax on tips.**

(a) *Collection of tax from employee—*  
(1) *In general.* Subject to the limitations set forth in subparagraph (2) of this paragraph, the employer shall collect from each of his employees the employee tax on those tips received by the employee which constitute wages for purposes of the tax imposed by section 3101. (For provisions relating to the treatment of tips as wages, see §§ 31.3121(a) (12) and 31.3121(q).) The employer shall make the collection by deducting or causing to be deducted the amount of the employee tax from wages (exclusive of tips) which are under the control of the employer or other funds turned over by the employee to the employer (see subparagraph (3) of this paragraph). For purposes of this section the term "wages (exclusive of tips) which are under the control of the

employer" means, with respect to a payment of wages, an amount equal to wages as defined in section 3121(a) except that tips and noncash remuneration which are wages are not included, less the sum of—

(i) The tax under section 3101 required to be collected by the employer in respect of wages as defined in section 3121(a) (exclusive of tips);

(ii) The tax under section 3402 required to be collected by the employer in respect of wages as defined in section 3401(a) (exclusive of tips); and

(iii) The amount of taxes imposed on the remuneration of an employee withheld by the employer pursuant to State and local law (including amounts withheld under an agreement between the employer and the employee pursuant to such law) except that the amount of taxes taken into account in this subdivision shall not include any amount attributable to tips.

(2) *Limitations.* An employer is required to collect employee tax on tips which constitute wages only in respect of those tips which are reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a). The employer is responsible for the collection of employee tax on tips reported to him only to the extent that the employer can—

(i) During the period beginning at the time the written statement is submitted to him and ending at the close of the 10th day of the month following the month in which the statement was submitted, or

(ii) In the case of an employer who elects to deduct the tax on an estimated basis (see paragraph (c) of this section), during the period beginning at the time the written statement is submitted to him and ending at the close of the 30th day following the quarter in which the statement was submitted,

collect the employee tax by deducting it or causing it to be deducted as provided in subparagraph (1).

(3) *Furnishing of funds to employer.* If the amount of employee tax in respect of tips reported by the employee to the employer in a written statement (or statements) furnished pursuant to section 6053(a) exceeds the wages (exclusive of tips) which are under the control of the employer, the employer may furnish to the employer, within the period specified in subparagraph (2) (i) or (ii) of this paragraph (whichever is applicable), an amount of money equal to the amount of such excess.

(b) *Less than \$20 of tips.* Notwithstanding the provisions of paragraph (a) of this section, if an employee furnishes to his employer a written statement—

(1) Covering a period of less than 1 month, and

(2) The statement is furnished to the employer prior to the close of the 10th day of the month following the month in which the tips were actually received by the employee, and

(3) The aggregate amount of tips reported in the statement and in all other

statements previously furnished by the employee covering periods within the same month is less than \$20, and the statements, collectively, do not cover the entire month,

the employer may deduct amounts equivalent to employee tax on such tips from wages (exclusive of tips) which are under the control of the employer or other funds turned over by the employee to the employer. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of employee tax, see § 31.6413(a)-1. (As to the exclusion from wages of tips of less than \$20, see § 31.3121(a) (12)-1.)

(c) *Collection of employee tax on estimated basis—*(1) *In general.* Subject to certain limitations and conditions, an employer may, at his discretion, make collection of the employee tax in respect of tips reported by an employee to the employer on an estimated basis. An employer who elects to make collection of the employee tax on an estimated basis shall:

(i) In respect of each employee, make an estimate of the amount of tips that will be reported, pursuant to section 6053(a), by the employee to the employer in a calendar quarter.

(ii) Determine the amount which must be deducted upon each payment of wages (exclusive of tips) which are under the control of the employer to be made during the quarter by the employer to the employee in order to collect from the employee during the quarter an amount equal to the amount obtained by multiplying the estimated quarterly tips by the sum of the rates of tax under subsections (a) and (b) of section 3101.

(iii) Deduct from any payment of such employee's wages (exclusive of tips) which are under the control of the employer, or from funds referred to in paragraph (a) (3) of this section, such amount as may be necessary to adjust the amount of tax withheld on the estimated basis to conform to the amount of employee tax imposed upon, and required to be deducted in respect of, tips reported by the employee to the employer during the calendar quarter and within the first 30 days following the quarter in written statements furnished to the employer pursuant to section 6053(a). If an adjustment is required, the additional employee tax required to be collected may be deducted upon any payment of the employee's wages (exclusive of tips) which are under the control of the employer during the quarter or from funds turned over by the employee to the employer for such purposes within such period. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of employee tax, see § 31.6413(a)-1.

(2) *Estimating tips employee will report—*(i) *Initial estimate.* The initial

estimate of the amount of tips that will be reported by a particular employee in a calendar quarter shall be made on the basis of the facts and circumstances surrounding the employment of that employee. However, if a number of employees are employed under substantially the same circumstances and working conditions, the initial estimate established for one such employee may be used as the initial estimate for other employees in that group.

(ii) *Adjusting estimate.* If the quarterly estimate of tips in respect of a particular employee continues to differ substantially from the amount of tips reported by the employee and there are no unusual factors involved (for example, an extended absence from work due to illness) the employer shall make an appropriate adjustment of his estimate of the amount of tips that will be reported by the employee.

(iii) *Reasonableness of estimate.* The employer must be prepared, upon request of the district director, to disclose the factors upon which he relied in making the estimate, and his reasons for believing that the estimate is reasonable.

(d) *Employee tax not collected by employer.* If—

(1) The amount of the employee tax imposed by section 3101 in respect of those tips received by an employee which constitute wages exceeds

(2) The amount of employee tax imposed by section 3101 (in respect of tips reported by the employee to the employer) which can be collected by the employer from such employee's wages (exclusive of tips) which are under the control of the employer or from funds referred to in paragraph (a) (3) of this section,

the employee shall be liable for the payment of tax in an amount equal to such excess. For provisions relating to the manner and time of payment of employee tax by an employee, see paragraph (d) of § 31.6011(a)-1 and paragraph (a) (4) of § 31.6071(a)-1. For provisions relating to statements required to be furnished by employers to employees in respect of uncollected employee tax on tips reported to the employer, see § 31.6053-2.

PAR. 7. Section 31.3121(a)-1 is amended by revising paragraphs (a), (b), (e), and (j) to read as follows:

§ 31.3121(a)-1 Wages.

(a) Whether remuneration paid after 1954 for employment performed after 1936 constitutes wages is determined under section 3121(a). This section and §§ 31.3121(a) (1)-1 to 31.3121(a) (12)-1, inclusive (relating to the statutory exclusions from wages), apply with respect only to remuneration paid after 1954 for employment performed after 1936. Whether remuneration paid after 1936 and before 1940 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 401 (Regulations 91).

Whether remuneration paid after 1939 and before 1951 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 402 (Regulations 106). Whether remuneration paid after 1950 and before 1955 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 408 (Regulations 128).

(b) The term "wages" means all remuneration for employment unless specifically excepted under section 3121(a) (see §§ 31.3121(a) (1)-1 to 31.3121(a) (12)-1, inclusive) or paragraph (j) of this section.

(e) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, goods, lodging, food, or clothing. Remuneration paid in items other than cash shall be computed on the basis of the fair value of such items at the time of payment. See, however, §§ 31.3121(a) (7)-1, 31.3121(a) (8)-1, 31.3121(a) (10)-1, and 31.3121(a) (12)-1, relating to the treatment of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business and for domestic service in a private home of the employer, for agricultural labor, for services performed by certain homeworkers, and as tips, respectively.

(j) In addition to the exclusions specified in §§ 31.3121(a) (1)-1 to 31.3121(a) (12)-1, inclusive, the following types of payments are excluded from wages:

(1) Remuneration for services which do not constitute employment under section 3121(b) and which are not deemed to be employment under section 3121(c) (see § 31.3121(c)-1).

(2) Remuneration for services which are deemed not to be employment under section 3121(c) (see § 31.3121(c)-1).

(3) Tips or gratuities paid, prior to January 1, 1966, directly to an employee by a customer of an employer, and not accounted for by the employee to the employer. For provisions relating to the treatment of tips received by an employee after December 31, 1965, as wages, see §§ 31.3121(a) (12) and 31.3121(q).

PAR. 8. Section 31.3121(a)-2 is amended by revising paragraph (a) to read as follows:

§ 31.3121(a)-2 Wages; when paid and received.

(a) In general, wages are received by an employee at the time that they are paid by the employer to the employee. Wages are paid by an employer at the time that they are actually or constructively paid unless under paragraph (c) of this section they are deemed to be subsequently paid. For provisions relating to the time when tips received by an employee are deemed paid to the employee, see § 31.3121(q)-1.

PAR. 10. Section 31.3121(a) (10) is amended to read as follows:

§ 31.3121(a) (10) Statutory provisions; definitions; wages; payments to certain homeworkers.

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(10) Remuneration paid by an employer in any calendar quarter to an employee for service described in subsection (d) (3) (C) (relating to homeworkers), if the cash remuneration paid in such quarter by the employer to the employee for such service is less than \$50;

[Sec. 3121(a) (10) as amended by sec. 4(b), P.L. 88-650 (78 Stat. 1077); sec. 313(c) (3), Social Security Amendments, 1965 (79 Stat. 383)]

PAR. 11. The following sections are inserted immediately following § 31.3121(a) (10)-1:

§ 31.3121(a) (11) Statutory provisions; definitions; wages; moving expenses.

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(11) Remuneration paid to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217; or

[Sec. 3121(a) (11) as added by sec. 4(b), P.L. 88-650 (78 Stat. 1077); as amended by sec. 313(c) (3), Social Security Amendments, 1965 (79 Stat. 383)]

§ 31.3121(a) (11)-1 Moving expenses. [Reserved]

§ 31.3121(a) (12) Statutory provisions; definitions; wages; tips.

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

(12) (A) Tips paid in any medium other than cash;

(B) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more. [Sec. 3121(a) (12) as added by sec. 313(c) (3), Social Security Amendments, 1965 (79 Stat. 383)]

§ 31.3121(a) (12)-1 Tips.

The term "wages" does not include remuneration received by an employee after December 1965 in the form of tips if—

(a) The tips are paid in any medium other than cash, or

(b) The cash tips received by an employee in any calendar month in the course of his employment by an employer are less than \$20.

If the cash tips received by an employee in a calendar month after December 1965 in the course of his employment by an employer amount to \$20 or more, none of the cash tips received by the employee in such calendar month are excluded from the term "wages" under this section. The cash tips to which this section applies include checks and other monetary media of exchange. Tips received by an employee in any medium other than cash, such as passes, tickets, or other goods or commodities do not constitute wages. If an employee in any calendar month performs services for two or more employers and receives tips in the course of his employment by each employer, the \$20 test is to be applied separately with respect to the cash tips received by the employee in respect of his services for each employer and not to the total cash tips received by the employee during the month. As to the time tips are deemed paid, see § 31.3121(q)-1. For provisions relating to the treatment of tips received by an employee prior to 1966, see paragraph (j) (3) of § 31.3121(a)-1.

PAR. 12. The following sections are inserted immediately after § 31.3121(p):

**§ 31.3121(q) Statutory provisions; definitions; tips included for employee taxes.**

**Sec. 3121. Definitions. \* \* \***

(q) *Tips included for employee taxes.* For purposes of this chapter other than for purposes of the taxes imposed by section 3111, tips received by an employee in the course of his employment shall be considered remuneration for employment. Such remuneration shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.

[Sec. 3121(q) as added by sec. 313(c) (4), Social Security Amendments, 1965 (79 Stat. 383)]

**§ 31.3121(q)-1 Tips included for employee taxes.**

(a) *In general.* Except as otherwise provided in paragraph (b) of this section, tips received after 1965 by an employee in the course of his employment shall be considered remuneration for employment. (For definition of the term "employee" see §§ 31.3121(d) and 31.3121(d)-1.) Tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053(a) (see § 31.6053-1) shall be deemed to be paid to the employee at the time the written statement is furnished to the employer. Tips received by an employee which are not reported to his employer in a written statement furnished pursuant to section 6053(a) shall be deemed to be paid to the employee at the time the tips are actually received by the employee. For provisions relating to the collection of employee tax in respect of tips from the employee, see § 31.3102-3.

(b) *Tips not included for employer taxes.* Tips received after 1965 by an employee in the course of his employment do not constitute remuneration for em-

ployment for purposes of computing wages subject to the taxes imposed by subsections (a) and (b) of section 3111.

(c) *Tips received by an employee in course of his employment.* Tips are considered to be received by an employee in the course of his employment for an employer regardless of whether the tips are received by the employee from a person other than his employer or are paid to the employee by the employer. However, only those tips which are received by an employee on his own behalf (as distinguished from tips received on behalf of another employee) shall be considered as remuneration paid to the employee. Thus, where employees practice tip splitting (for example, where waiters pay a portion of the tips received by them to the busboys), each employee who receives a portion of a tip left by a customer of the employer is considered to have received tips in the course of his employment.

(d) *Computation of annual wage limitation.* In connection with the application of the annual wage limitation (see § 31.3121(a) (1)-1), tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053(a) shall be taken into account for purposes of the tax imposed by section 3101. However, since tips received by an employee in the course of his employment do not constitute remuneration for employment for purposes of the tax imposed by section 3111, they are disregarded for purposes of the annual wage limitation in respect of such tax. Accordingly, separate computations for purposes of the annual wage limitation may be required in respect of an employee who receives tips. The provisions of this paragraph may be illustrated by the following example:

*Example.* During 1966, A is employed as a waiter by X restaurant and is paid wages by X restaurant at the rate of \$100 a week. At the end of October 1966, A has been paid weekly wages in the amount of \$4,300 and has reported tips in the amount of \$2,200. On November 6, 1966, A is paid an additional week's wages in the amount of \$100 and on November 9, 1966, A furnishes X restaurant a report of tips actually received by him during October. The annual wage limitation of \$6,600 (weekly wages of \$4,400 (\$4,300 plus \$100) and tips of \$2,200) had been reached for purposes of the tax imposed by section 3101 prior to November 9 and, accordingly, no portion of the tips included in the report furnished on that date constitutes wages. However, since tips do not constitute remuneration for employment for purposes of the tax imposed by section 3111, the weekly wages paid to A during the remainder of 1966 will be subject to the tax imposed by section 3111.

PAR. 13. Section 31.3401(a)-1 is amended by revising paragraphs (a) (4) and (b) (11) to read as follows:

**§ 31.3401(a)-1 Wages.**

(a) *In general. \* \* \**

(4) Generally the medium in which remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, stocks, bonds, or other forms of property. (See, however, § 31.3401(a) (11)-1, relating to the exclusion from wages of remunera-

tion paid in any medium other than cash for services not in the course of the employer's trade or business, and § 31.3401(a) (16)-1, relating to the exclusion from wages of tips paid in any medium other than cash.) If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages. If the services were rendered at a stipulated price, in the absence of evidence to the contrary, such price will be presumed to be the fair value of the remuneration received. If a corporation transfers to its employees its own stock as remuneration for services rendered by the employee, the amount of such remuneration is the fair market value of the stock at the time of the transfer.

(b) *Certain specific items—\* \* \**

(11) *Tips or gratuities.* Tips or gratuities paid, prior to January 1, 1966, directly to an employee by a customer of an employer, and not accounted for by the employee to the employer are not subject to withholding. For provisions relating to the treatment of tips received by an employee after December 31, 1965, as wages, see §§ 31.3401(f)-1 and 31.3402(k)-1.

PAR. 14. Section 31.3401(a) (6) is amended to read as follows:

**§ 31.3401(a) (6) Statutory provisions; definitions; wages; remuneration for services of certain nonresident alien individuals.**

**Sec. 3401. Definitions—(a) Wages.** For purposes of this chapter, the term "wages" means all remuneration \* \* \* for services performed by an employee for his employer \* \* \*, except that such term shall not include remuneration paid—

(6) For services performed by a nonresident alien individual, other than—

(A) A resident of a contiguous country who enters and leaves the United States at frequent intervals; or

(B) A resident of Puerto Rico if such services are performed as an employee of the United States or any agency thereof; or

(C) An individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a) (15) of the Immigration and Nationality Act, as amended, if such remuneration is exempt, under section 1441 (c) (4) (B), from deduction and withholding under section 1441(a), and is not exempt from taxation under section 872(b) (3); or

[Sec. 3401(a) (6) as amended by sec. 110 (g) (1), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 537); sec. 313 (d) (2), Social Security Amendment, 1965 (79 Stat. 384)]

PAR. 15. Section 31.3401(a) (12) is amended to read as follows:

**§ 31.3401(a) (12) Statutory provisions; definitions; wages; payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans.**

**Sec. 3401. Definitions—(a) Wages.** For purposes of this chapter, the term "wages" means all remuneration \* \* \* for services performed by an employee for his employer

\*\*\*; except that such term shall not include remuneration paid—

(12) To, or on behalf of, an employee or his beneficiary—

(A) From or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

(B) Under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a); or

(C) Under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a); or

[Sec. 3401(a) (12) as amended by sec. 201(c), Peace Corps Act (75 Stat. 625); sec. 7(e), Self-Employed Individuals Tax Retirement Act, 1962 (76 Stat. 830); sec. 313(d)(2), Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 16. The following sections are inserted immediately following § 31.3401(a) (13)—I:

§ 31.3401(a) (14) Statutory provisions; definitions; wages; group-term life insurance.

Sec. 3401. *Definitions*—(a) *Wages*. For purposes of this chapter, the term "wages" means all remuneration \*\*\* for services performed by an employee for his employer \*\*\*; except that such term shall not include remuneration paid—

(14) In the form of group-term life insurance on the life of an employee; or

[Sec. 3401(a) (14) as added by sec. 204(b), Rev. Act, 1964 (78 Stat. 36)]

§ 31.3401(a) (14)—I Group-term life insurance. [Reserved]

§ 31.3401(a) (15) Statutory provisions; definitions; wages; moving expenses.

Sec. 3401. *Definitions*—(a) *Wages*. For purposes of this chapter, the term "wages" means all remuneration \*\*\* for services performed by an employee for his employer \*\*\*; except that such term shall not include remuneration paid—

(15) To or on behalf of an employee if (and to the extent that) at the time the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217; or

[Sec. 3401(a) (15) as added by sec. 213(c), Rev. Act, 1964 (78 Stat. 52); as amended by sec. 313(d)(2), Social Security Amendments, 1965 (79 Stat. 384)]

§ 31.3401(a) (15)—I Moving expenses. [Reserved]

§ 31.3401(a) (16) Statutory provisions; definitions; wages; tips.

Sec. 3401. *Definitions*—(a) *Wages*. For purposes of this chapter, the term "wages" means all remuneration \*\*\* for services performed by an employee for his employer \*\*\*; except that such term shall not include remuneration paid—

(16) (A) As tips in any medium other than cash;

(B) As cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more.

[Sec. 3401(a) (16) as added by sec. 313(d) (2), Social Security Amendments, 1965 (79 Stat. 384)]

§ 31.3401(a) (16)—I Tips.

Tips paid to an employee are excepted from wages and hence not subject to withholding if—

(a) The tips are paid in any medium other than cash, or

(b) The cash tips received by an employee in any calendar month in the course of his employment by an employer are less than \$20.

However, if the cash tips received by an employee in a calendar month in the course of his employment by an employer amount to \$20 or more, none of the cash tips received by the employee in such calendar month are excepted from wages under this section. The cash tips to which this section applies include checks and other monetary media of exchange. Tips received by an employee in any medium other than cash, such as passes, tickets, or other goods or commodities do not constitute wages. If an employee in any calendar month performs services for two or more employers and receives tips in the course of his employment by each employer, the \$20 test is to be applied separately with respect to the cash tips received by the employee in respect of his services for each employer and not to the total cash tips received by the employee during the month. As to the time tips are deemed paid, see § 31.3401(f)—1. For provisions relating to the treatment of tips received by an employee prior to 1966, see paragraph (b) (11) of § 31.3401(a)—1.

PAR. 17. The following new sections are inserted immediately following § 31.3401(e)—1:

§ 31.3401(f) Statutory provisions; definitions; tips.

Sec. 3401. *Definitions*. \*\*\*  
(f) *Tips*. For purposes of subsection (a), the term "wages" includes tips received by an employee in the course of his employment. Such wages shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received.

[Sec. 3401(f) as added by sec. 313(d) (1), Social Security Amendments, 1965 (79 Stat. 383)]

§ 31.3401(f)—1 Tips.

(a) *Tips considered wages*. Tips received after 1965 by an employee in the course of his employment are considered to be wages, and thus subject to withholding of income tax at source. For an exception to the rule that tips constitute wages, see §§ 31.3401(a) (16) and 31.3401(a) (16)—1, relating to tips paid in a medium other than cash and cash tips of less than \$20. For definition of the term "employee," see §§ 31.3401(c) and 31.3401(c)—1.

(b) *When tips deemed paid*. Tips reported by an employee to his employer in a written statement furnished to the employer pursuant to section 6053(a) (see § 31.6053—1) shall be deemed to be

paid to the employee at the time the written statement is furnished to the employer. Tips received by an employee which are not reported to his employer in a written statement furnished pursuant to section 6053(a) shall be deemed to be paid to the employee at the time the tips are actually received by the employee.

PAR. 18. Section 31.3402(a) is amended by revising subsection (a) of section 3402 and the historical note. These revised provisions read as follows:

§ 31.3402(a) Statutory provisions; income tax collected at source; requirement of withholding.

Sec. 3402. *Income tax collected at source*—  
(a) *Requirements of withholding*. Every employer making payment of wages shall deduct and withhold upon such wages (except as provided in subsections (j) and (k)) a tax equal to 14 percent of the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in subsection (b) (1).

[Sec. 3402(a) as amended by sec. 2(a), Act of Aug. 9, 1955 (Pub. Law 306, 84th Cong., 69 Stat. 605); sec. 302(a), Rev. Act 1964 (78 Stat. 140); sec. 313(d) (3), Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 19. Section 31.3402(a)—1 is amended by revising paragraph (c) to read as follows:

§ 31.3402(a)—I Requirement of withholding.

(c) Except as provided in sections 3402 (j) and (k) (see §§ 31.3402(j)—1 and 31.3402(k)—1, relating to noncash remuneration paid to retail commission salesman and to tips received by an employee in the course of his employment, respectively), an employer is required to deduct and withhold the tax notwithstanding the wages are paid in something other than money (for example, wages paid in stocks or bonds; see § 31.3401(a)—1) and to pay over the tax in money. If wages are paid in property other than money, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment in money.

PAR. 20. Section 31.3402(h) is amended by revising subsection (h) (3) of section 3402 and by adding a historical note. These revised and added provisions read as follows:

§ 31.3402(h) Statutory provisions; income tax collected at source; withholding on basis of average wages.

Sec. 3402. *Income tax collected at source*.

(h) *Withholding on basis of average wages*. \*\*\*

(3) To deduct and withhold upon any payment of wages to such employee during such quarter (and, in the case of tips referred to in subsection (k), within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this subsection.

[Sec. 3402(h) as amended by sec. 313(d) (4), Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 21. Section 31.3402(h)-1 is amended to read as follows:

**§ 31.3402(h)-1 Withholding on basis of average wages.**

(a) *In general.* The Commissioner may authorize the employer to withhold the tax under section 3402 on the basis of the employee's average estimated wages, with necessary adjustments, for any quarter. Before using such method the employer must receive authorization from the Commissioner. Applications to use such method must be accompanied by evidence establishing the need for the use of such method. This paragraph applies only where the method desired to be used includes wages other than tips (whether or not tips are also included).

(b) *Withholding on the basis of average estimated tips—(1) In general.* Subject to certain limitations and conditions, an employer may, at his discretion, withhold the tax under section 3402 in respect of tips reported by an employee to the employer on an estimated basis. An employer who elects to make withholding of the tax on an estimated basis shall:

(i) In respect of each employee, make an estimate of the amount of tips that will be reported, pursuant to section 6053, by the employee to the employer in a calendar quarter.

(ii) Determine the amount which must be deducted and withheld upon each payment of wages (exclusive of tips) which are under the control of the employer to be made during the quarter by the employer to the employee. The total amount which must be deducted and withheld shall be determined by assuming that the estimated tips for the quarter represent the amount of wages and withheld shall be determined by assuming that the estimated tips for the quarter will be ratably (in terms of pay periods) paid during the quarter.

(iii) Deduct and withhold from any payment of wages (exclusive of tips) which are under the control of the employer, or from funds referred to in section 3402(k) (see §§ 31.3402(k) and 31.3402(k)-1), such amount as may be necessary to adjust the amount of tax withheld on the estimated basis to conform to the amount required to be withheld in respect of tips reported by the employee to the employer during the calendar quarter in written statements furnished to the employer pursuant to section 6053(a). If an adjustment is required, the additional tax required to be withheld may be deducted upon any payment of wages (exclusive of tips) which are under the control of the employer during the quarter and within the first 30 days following the quarter or from funds turned over by the employee to the employer for such purpose within such period. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of tax, see § 31.6413(a)-1.

(2) *Estimating tips employee will report—(i) Initial estimate.* The initial estimate of the amount of tips that will be reported by a particular employee in a calendar quarter shall be made on the basis of the facts and circumstances surrounding the employment of that employee. However, if a number of employees are employed under substantially the same circumstances and working conditions, the initial estimate established for one such employee may be used as the initial estimate for other employees in that group.

(ii) *Adjusting estimate.* If the quarterly estimate of tips in respect of a particular employee continues to differ substantially from the amount of tips reported by the employee and there are no unusual factors involved (for example, an extended absence from work due to illness) the employer shall make an appropriate adjustment of his estimate of the amount of tips that will be reported by the employee.

(iii) *Reasonableness of estimate.* The employer must be prepared, upon request of the district director, to disclose the factors upon which he relied in making the estimate, and his reasons for believing that the estimate is reasonable.

PAR. 22. The following sections are inserted immediately following § 31.3402(j)-1:

**§ 31.3402(k) Statutory provisions; income tax collected at source; tips.**

SEC. 3402. *Income tax collected at source.* \* \* \*

(k) *Tips.* In the case of tips which constitute wages, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that the tax can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (16) (B) of section 6401(a) is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20. Such tax shall not at any time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds (including funds turned over under section 3102(c) (2)) minus any tax required by section 3102(a) to be collected from such wages and funds.

[Sec. 3402(k) as added by sec. 313(d) (5), Social Security Amendments, 1965 (79 Stat. 384)]

**§ 31.3402(k)-1 Special rule for tips.**

(a) *Withholding of income tax in respect of tips—(1) In general.* Subject to the limitations set forth in subparagraph (2) of this paragraph, an em-

ployer is required to deduct and withhold from each of his employees tax in respect of those tips received by the employee which constitute wages. (For provisions relating to the treatment of tips as wages, see §§ 31.3401(a) (16) and 31.3401(f).) The employer shall make the withholding by deducting or causing to be deducted the amount of the tax from wages (exclusive of tips) which are under the control of the employer or other funds turned over by the employee to the employer (see subparagraph (3) of this paragraph). For purposes of this section the terms "wages (exclusive of tips) which are under the control of the employer" means, with respect to a payment of wages, an amount equal to wages as defined in section 3401(a) except that tips and noncash remuneration which are wages are not included, less the sum of—

(i) The tax under section 3101 required to be collected by the employer in respect of wages as defined in section 3121(a) (exclusive of tips);

(ii) The tax under section 3402 required to be collected by the employer in respect of wages as defined in section 3401(a) (exclusive of tips); and

(iii) The amount of taxes imposed on the remuneration of an employee withheld by the employer pursuant to State and local law (including amounts withheld under an agreement between the employer and the employee pursuant to such law) except that the amount of taxes taken into account in this subdivision shall not include any amount attributable to tips.

(2) *Limitations.* An employer is required to deduct and withhold the tax on tips which constitute wages only in respect of those tips which are reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a). The employer is responsible for the collection of the tax on tips reported to him only to the extent that the employer can, during the period beginning at the time the written statement is submitted to him and ending at the close of the calendar year in which the statement was submitted, collect the tax by deducting it or causing it to be deducted as provided in subparagraph (1) of this paragraph.

(3) *Furnishing of funds to employer.* If the amount of the tax in respect of tips reported by the employee to the employer in a written statement furnished pursuant to section 6053(a) exceeds the wages (exclusive of tips) which are under the control of the employer from which the employer is required to withhold the tax in respect of such tips, the employee may furnish to the employer, within the period specified in subparagraph (2) of this paragraph, an amount of money equal to the amount of such excess.

(b) *Less than \$20 of tips.* Notwithstanding the provisions of paragraph (a) of this section, if an employee furnishes to his employer a written statement—

(1) Covering a period of less than 1 month, and

(2) The statement is furnished to the employer prior to the close of the 10th

day of the month following the month in which the tips were actually received by the employee, and

(3) The aggregate amount of tips reported in the statement and in all other statements previously furnished by the employee covering periods within the same month is less than \$20, and such statements, collectively, do not cover the entire month,

the employer may deduct amounts equivalent to the tax on such tips from wages (exclusive of tips) which are under the control of the employer or other funds turned over by the employee to the employer. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of tax, see §31.6413(a)-1. (As to the exclusion from wages of tips of less than \$20, see §31.3401(a)(16)-1.)

(c) *Priority of tax collection*—(1) *In general.* In the case of a payment of wages (exclusive of tips), the employer shall deduct or cause to be deducted in the following order:

(i) The tax under section 3101 and the tax under section 3402 with respect to such payment of wages.

(ii) Any tax under section 3101 which, at the time of the payment of the wages, the employer is required to collect—

(a) In respect of tips reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a), or

(b) By reason of the employer's election to make collection of the tax under section 3101 in respect of tips on an estimated basis,

but which has not been collected by the employer and which cannot be deducted from funds turned over by the employee to the employer for such purpose. (See §31.3102-3, relating to collection of, and liability for, employee tax on tips.)

(iii) Any tax under section 3402 which, at the time of the payment of the wages, the employer is required to collect—

(a) In respect of tips reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a), or

(b) By reason of the employer's election to make collection of the tax under section 3402 in respect of tips on an estimated basis,

but which has not been collected by the employer and which cannot be deducted from funds turned over by the employee to the employer for such purpose. For provisions relating to the withholding of tax on the basis of average estimated tips, see paragraph (b) of §31.3402(h)-1.

(2) *Examples.* The application of subparagraph (1) of this paragraph may be illustrated by the following examples (The amounts used in the following examples are intended for illustrative purposes and do not necessarily reflect currently effective rates or amounts.):

*Example (1).* W is a waiter employed by R restaurant. W's principal remuneration for his services is in the form of tips received from patrons of R; however, he also receives a salary from R of \$40 per week, which is paid to him every Friday. W is a member of a labor union which has a contract with R pursuant to which R is to collect dues for the union by withholding from the wages of its employees at the rate of \$1 per week. In addition to the taxes required to be withheld under the Internal Revenue Code, W's wages are subject to withholding of a state income tax imposed upon both his regular wage and his tips received and reported to R.

On Monday of a given week W furnishes a written statement to R pursuant to section 6053(a) in which he reports the receipt of \$160 in tips. The \$40 wage to be paid to W on Friday of the same week is subject to the following items of withholding:

	Taxes with respect to regular wage	Taxes with respect to tips	Total
Section 3101 (F.I.C.A.)	\$1.76	\$7.04	\$8.80
Section 3402 (income tax at source)	5.65	28.30	33.95
State income tax	1.20	4.80	6.00
Union dues			1.00
<b>Total</b>			<b>49.75</b>

W does not turn over any funds to R. R should satisfy the taxes imposed by sections 3101 and 3402 out of W's \$40 wage as follows: The taxes imposed with respect to the regular wage (a total of \$7.41) should be satisfied first. The taxes imposed with respect to tips are to be withheld only out of "wages (exclusive of tips) which are under the control of the employer" as that phrase is defined in §§31.3102-3(a)(1) and 31.3402(k)-1(a)(1). The amount of such wages under the control of employer in this example is \$31.39, or \$40, less the amounts applied in satisfaction of the Federal and State withholding taxes imposed with respect to the regular \$40 wage (\$8.61). This \$31.39 is applied first in satisfaction of the tax under section 3101 with respect to tips (\$7.04) in the balance of \$24.35 is applied in partial satisfaction of the withholding of income tax at source under section 3402 with respect to tips. The amount of the tax with respect to tips under section 3402 which remains unsatisfied (\$3.95) should be withheld from wages under the control of the employer the following week.

*Example (2).* During the week following the week dealt with in example (1), W furnishes a written statement to R pursuant to section 6053(a) in which he reports the receipt of \$130 in tips. In addition, R receives a notice of garnishment of W's wages issued by the State court, pursuant to which R is required to withhold \$10 per week from W's wages for a period of 10 weeks. The \$40 wage to be paid to W at the end of the week is subject to the following items of withholding:

	Taxes with respect to regular wage	Taxes with respect to tips	Total
Section 3101 (F.I.C.A.)	\$1.76	\$5.72	\$7.48
Section 3402 (Income tax at source):			
Current week	5.65	22.30	27.95
Carryover from prior week		3.95	3.95
State income tax	1.20	3.90	5.10
Union dues			1.00
Garnishment			10.00
<b>Total</b>			<b>55.48</b>

As in example (1), the amount of "wages (exclusive of tips) which are under the control of the employer" is \$31.39. This amount is applied first in satisfaction of the tax under section 3101 with respect to tips (\$5.72) and the balance is applied in partial satisfaction of the withholding of income tax at source under section 3402 with respect to tips (a total of \$26.25), including that portion of the amount required to be withheld from the prior week's wages which remained unsatisfied. The amount of the tax with respect to tips under section 3402 which remains unsatisfied (\$0.58) should be withheld from wages under the control of the employer the following week.

PAR. 23. Paragraph (a) of §31.6001-2 is amended by revising subparagraph (1) (iii) and by adding a new subparagraph (3). The revised and added provisions read as follows:

**§ 31.6001-2 Additional records under Federal Insurance Contributions Act.**

(a) *In general.* (1) \* \* \*

(iii) The amount of each such remuneration payment which constitutes wages subject to tax. See §§31.3121(a)-1 to 31.3121(a)(12)-1, inclusive.

\* \* \* \* \*

(3) Every employer shall keep records of all remuneration in the form of tips received by his employees after 1965 in the course of their employment and reported to him pursuant to section 6053(a). The employer shall keep as part of his records employee statements of tips furnished him pursuant to section 6053(a) (unless the information disclosed by such statements is recorded on another document retained by the employer pursuant to subparagraph (1) of this paragraph) and copies of employer statements furnished employees pursuant to section 6053(b).

\* \* \* \* \*

PAR. 24. Paragraph (a) of §31.6001-5 is amended by revising that portion thereof which precedes subparagraph (1), by adding a new subparagraph (16) immediately after subparagraph (15), and by revising the flush material following subparagraph (16) (as added by this paragraph). The added and revised provisions read as follows:

**§ 31.6001-5 Additional records in connection with collection of income tax at source on wages.**

(a) Every employer required under section 3402 to deduct and withhold income tax upon the wages of employees shall keep records of all remuneration paid to (including tips reported by) such employees. Such records shall show with respect to each employee—

\* \* \* \* \*

(16) In the case of tips received by an employee after 1965 in the course of his employment, copies of any statements furnished by the employee pursuant to section 6053(a) unless the information disclosed by such statements is recorded on another document retained by the employer pursuant to the provisions of this paragraph.

The term "remuneration," as used in this paragraph, includes all payments

whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business, and does not include tips received by an employee in any medium other than cash or in cash if such tips amount to less than \$20 for any calendar month. See §§ 31.3401(a)(11)-1 and 31.3401(a)(16)-1, respectively.

PAR. 25. Section 31.6011(a)-1 is amended by revising paragraph (a)(1), redesignating paragraph (d) as paragraph (e), and by adding a new paragraph (d). The revised and added provisions read as follows:

**§ 31.6011(a)-1 Returns under Federal Insurance Contributions Act.**

(a) *Requirement*—(1) *In general.* Except as otherwise provided in § 31.6011(a)-5, every employer required to make a return under the Federal Insurance Contributions Act, as in effect prior to 1955, for the calendar quarter ended December 31, 1954, in respect of wages other than wages for agricultural labor, shall make a return for each subsequent calendar quarter (whether or not wages are paid in such quarter) until he has filed a final return in accordance with § 31.6011(a)-6. Except as otherwise provided in § 31.6011(a)-5, every employer not required to make a return for the calendar quarter ended December 31, 1954, shall make a return for the first calendar quarter thereafter in which he pays wages, other than wages for agricultural labor, subject to the tax imposed by the Federal Insurance Contributions Act as in effect after 1954, and shall make a return for each subsequent calendar quarter (whether or not wages are paid therein) until he has filed a final return in accordance with § 31.6011(a)-6. Except as otherwise provided in subparagraphs (3) and (4) of this paragraph, Form 941 is the form prescribed for making the return required by this subparagraph. Such return shall not include wages for agricultural labor required to be reported on any return prescribed by subparagraph (2) of this paragraph. The return shall include wages received by an employee in the form of tips only to the extent of the tips reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a).

(d) *Returns by employees in respect of tips.* If—

(1) An employee, during a calendar year, is paid wages in the form of tips which are subject to the tax under section 3101, and

(2) Any portion of the tax under section 3101 in respect of such wages cannot be collected by the employer from wages (exclusive of tips) of such employee or from funds turned over by the employee to the employer,

the employee shall make a return for the calendar year in respect of the employee

tax not collected by the employer. Except as otherwise provided in this subparagraph, the return shall be made on Form 1040. The form to be used by residents of the Virgin Islands, Guam, or American Samoa is Form 1040SS. In the case of a resident of Puerto Rico who is not required to make a return of income under section 6012(a), the form to be used is Form 1040SS, except that Form 1040PR shall be used if it is furnished by the Internal Revenue Service to such resident for use in lieu of Form 1040SS.

(e) *Time and place for filing returns.* For provisions relating to the time and place for filing returns, see §§ 31.6071(a)-1 and 31.6091-1, respectively.

PAR. 26. Section 31.6051 is amended by adding a new sentence at the end of subsection (a) of section 6051 and by revising the historical note. These added and revised provisions read as follows:

**§ 31.6051 Statutory provisions; receipts for employees.**

Sec. 6051. *Receipts for employees*—(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

- (1) The name of such person,
- (2) The name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),
- (3) The total amount of wages as defined in section 3401(a),
- (4) The total amount deducted and withheld as tax under section 3402,
- (5) The total amount of wages as defined in section 3121(a), and
- (6) The total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for services as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a).

[Sec. 6051 as amended by sec. 412, Servicemen's and Veteran's Survivor Benefits Act (70 Stat. 879); sec. 202(a)(4), Peace Corps Act (75 Stat. 626); sec. 313(e)(1), Social Security Amendments, 1965 (79 Stat. 384)]

PAR. 27. Paragraph (a)(1) of § 31.6051-1 is amended by adding a new subdivision (vi) to read as follows:

**§ 31.6051-1 Statements for employees.**

(a) *Requirement if wages are subject to withholding of income tax*—(1) *General rule.* \* \* \*

(vi) In the case of remuneration in the form of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) of section 6051(a) (see subdivision (i)(c) and (e) of this subparagraph) shall include only such tips as are reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a).

PAR. 28. The following sections are inserted immediately after § 31.6051-1:

**§ 31.6053 Statutory provisions; reporting of tips.**

Sec. 6053. *Reporting of tips*—(a) *Reports by employees.* Every employee who, in the course of his employment by an employer, receives in any calendar month tips which are wages (as defined in section 3121(a) or section 3401(a)) shall report all such tips in one or more written statements furnished to his employer on or before the 10th day following such month. Such statements shall be furnished by the employee under such regulations, at such other times before such 10th day, and in such form and manner, as may be prescribed by the Secretary or his delegate.

(b) *Statements furnished by employers.* If the tax imposed by section 3101 with respect to tips reported by an employee pursuant to subsection (a) exceeds the tax which can be collected by the employer pursuant to section 3102, the employer shall furnish to the employee a written statement showing the amount of such excess. The statement required to be furnished pursuant to this subsection shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary or his delegate may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary or his delegate.

[Sec. 6053 as added by sec. 313(e)(2)(A), Social Security Amendments, 1965 (79 Stat. 384)]

**§ 31.6053-1 Report of tips by employee to employer.**

(a) *Requirement that tips be reported.* An employee who receives after 1965, in the course of his employment by an employer, tips which constitute wages as defined in section 3121(a) or section 3401 shall furnish to his employer a written statement, or statements, disclosing the total amount of such tips received by the employee in the course of his employment by such employer. For provisions relating to the treatment of tips as wages for purposes of the tax under section 3101, see §§ 31.3121(a)(12) and 31.3121(q). For provisions relating to the treatment of tips as wages for purposes of the tax under section 3402, see §§ 31.3401(a)(16) and 31.3401(f). Tips received by an employee in a calendar month in the course of his employment by an employer which are required to be reported to the employer must be so reported on or before the 10th day of the following month. Thus, tips received by an employee in January 1966, are required to be reported by the employee to

his employer on or before February 10, 1966.

(b) *Statement for use in reporting tips*—(1) *In general.* The written statement furnished by the employee to the employer in respect of tips received by the employee shall be signed by the employee and should disclose:

(i) The name, address, and social security number of the employee.

(ii) The name and address of the employer.

(iii) The period for which, and the date on which, the statement is furnished. If the statement is for a calendar month, the month and year should be specified. If the statement is for a period of less than 1 calendar month, the beginning and ending dates of the period should be shown (for example, January 1 through January 8, 1966).

(iv) The total amount of tips received by the employee during the period covered by the statement which are required to be reported to the employer (see paragraph (a) of this section).

(2) *Form of statement*—(i) *In general.* No particular form is prescribed which must be used in all cases in furnishing the statement required by this section. Unless some other form is provided by the employer for use by the employee in reporting tips received by him, Form 4070 may be used by the employee. Copies of Form 4070 will be furnished by district directors upon request.

(ii) *Forms provided by employers.* Subject to certain conditions and limitations, an employer may provide a form or forms for use by his employees in reporting tips received by them. Any such form provided for use by an employee, which is to be used solely for the purpose of reporting tips, shall meet all the requirements of subparagraph (1) of this paragraph, and a blank copy of the form shall be made available to the employee for completion and retention by him. In lieu of a special form for tip reporting, an employer may provide regularly used forms (such as time cards) for use by employees in reporting tips. Any such regularly used form must meet the requirements of subparagraph (1) (iii) and (iv) of this paragraph and shall contain identifying information which will assure accurate identification of the employee by the employer. However, a regularly used form may be used for the purpose of reporting tips only if, at the time of the first payment of wages (or within a short period thereafter) following the reporting of tips by the employee, the employee is furnished a statement suitable for retention by him showing the amount of tips reported by the employee for the period. This requirement may be met, for example, through the use of a payroll check stub or other payroll document regularly furnished by the employer to the employee showing gross pay, deductions, etc.

(c) *Period covered by, and due date of, tip statement*—(1) *In general.* In no event shall the written statement furnished by the employee to the employer in respect of tips received by him cover a period in excess of 1 calendar month.

An employer may, in his discretion, require the submission of a written statement in respect of a specified period of time, for example, on a weekly or bi-weekly basis, regular payroll period, etc. An employer may specify, subject to the limitation in paragraph (a) of this section, the time within which, or the date on which, the statement for a specified period of time should be submitted by the employee. For example, a statement covering a payroll period may be required to be submitted on the first (or second) day following the close of such payroll period. However, a written statement submitted by an employee after the date specified by the employer for its submission shall be considered as a statement furnished pursuant to section 6053(a) and this section if it is submitted to the employer on or before the 10th day following the month in which the tips were received.

(2) *Termination of employment.* If an employee's employment is being terminated, a written statement in respect of tips shall be furnished by the employee to the employer at the time the employee ceases to perform services for the employer. However, a written statement submitted by an employee after the date on which he ceases to perform services for the employer shall be considered as a statement furnished pursuant to section 6053(a) and this section if the statement is submitted to the employer prior to the day on which the final payment of wages is made by the employer to the employee and on or before the 10th day following the month in which the tips were received.

**§ 31.6053-2 Employer statement of uncollected employee tax.**

(a) *Requirement that statement be furnished.* If—

(1) The amount of the employee tax imposed by section 3101 in respect of tips reported by an employee to his employer pursuant to section 6053(a) (see § 31.6053-1) exceeds

(2) The amount of employee tax imposed by section 3101 in respect of such tips which can be collected by the employer from wages (exclusive of tips) of such employee or from funds furnished to the employer by the employee,

the employer shall furnish to the employee a statement showing the amount of the excess. For provisions relating to the collection of, and liability for, employee tax on tips, see § 31.3102-3.

(b) *Form of statement.* Form W-2 is the form prescribed for use in furnishing the statement required by paragraph (a) of this section. A statement on Form W-2 is required under this section in respect of an excess referred to in paragraph (a) of this section, even though the employer may not be required to furnish a statement on Form W-2 to the employee under § 31.6051. Provisions applicable to the furnishing of a statement on Form W-2 under § 31.6051 shall be applicable to statements under this section.

(c) *Excess to be shown on statement.* If there is an excess in respect of the tips

reported by an employee in two or more statements furnished pursuant to section 6053(a), only the total excess for the period covered by the statement on Form W-2 shall be shown on the Form W-2.

PAR. 29. Paragraph (a) of § 31.6071 (a)-1 is amended by revising subparagraph (1) and by adding a new subparagraph (4). These revised and added provisions read as follows:

**§ 31.6071(a)-1 Time for filing returns and other documents.**

(a) *Federal Insurance Contributions Act and income tax withheld from wages.* \* \* \*

(4) *Employee returns under Federal Insurance Contributions Act.* A return of employee tax under section 3101 required under paragraph (d) of § 31.6011 (a)-1 to be made by an individual for a calendar year on Form 1040 shall be filed on or before the due date of such individual's return of income (see § 1.6012-1 of this chapter (Income Tax Regulations)) for the calendar year, or, if the individual makes his return of income on a fiscal year basis, on or before the due date of his return of income for the fiscal year beginning in the calendar year for which a return of employee tax is required. A return of employee tax under section 3101 required under paragraph (d) of § 31.6011(a)-1 to be made for a calendar year—

(i) On Form 1040SS or Form 1040PR, or

(ii) On Form 1040 by an individual who is not required to make a return of income for the calendar year or for a fiscal year beginning in such calendar year,

shall be filed on or before the 15th day of the fourth month following the close of the calendar year.

\* \* \* \* \*

PAR. 30. The following sections are inserted immediately after § 31.6414-1:

**§ 31.6652 Statutory provisions; failure to file certain information returns.**

SEC. 6652. *Failure to file certain information returns.* \* \* \*

(c) *Failure to report tips.* In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee, in addition to the tax imposed by section 3101 with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

[Sec. 6652(c) as added by sec. 313(e)(3), Social Security Amendments, 1965 (79 Stat. 385)]

**§ 31.6652(c)-1 Failure of employee to report tips for purposes of the Federal Insurance Contributions Act.**

(a) *In general.* In the case of failure by an employee to furnish, pursuant to the provisions of section 6053(a), to his employer a report of tips received by him in the course of his employment, which constitute wages (as defined in section

3121(a)), there shall be paid by the employee, in addition to the tax imposed by section 3101 with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax. The additional amount imposed for such failure shall be paid in the same manner as tax upon notice and demand by the district director.

(b) *Reasonable cause.* Payment of an amount equal to 50 percent of the tax imposed by section 3101 with respect to the tips which the employee failed to report will not be required if it is established to the satisfaction of the district director or the director of the regional service center that such failure was due to reasonable cause and not due to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, containing a declaration that it is made under the penalties of perjury, setting forth all the facts alleged as a reasonable cause. An employee's reluctance to disclose to his employer the amount of tips received by him will not establish that the employee's failure to report tips to his employer was due to reasonable cause and not due to willful neglect.

PAR. 31. Section 31.6674 is amended by revising section 6674 and by adding a historical note. The revised and added provisions read as follows:

**§ 31.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.**

Sec. 6674. *Fraudulent statement or failure to furnish statement to employee.* In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 or 6053(b) to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051 or 6053(b), or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of \$50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

[Sec. 6674 as amended by sec. 313(e) (2) (C), Social Security Amendments, 1965 (79 Stat. 385)]

PAR. 32. Section 31.6674-1 is amended to read as follows:

**§ 31.6674-1 Penalties for fraudulent statement or failure to furnish statement.**

Any person required to furnish a statement to an employee under the provisions of section 6051 or 6053(b) is subject to a civil penalty for willful failure to furnish such statement in the manner, at the time, and showing the information required under such section (or § 31.6051-1 or § 31.6053-2), or for willfully furnishing a false or fraudulent statement to an employee. The penalty for each such violation is \$50, which shall be assessed and collected in the same manner as the tax imposed on employers under the Federal Insurance Contributions Act. See section 7204 for criminal penalty.

PAR. 33. Section 301.6652 is amended by revising subsection (b) of section 6652, by redesignating subsection (c) of section 6652 as subsection (d), by adding a new subsection (c) to section 6652, and by revising the historical note. These revised and added provisions read as follows:

**§ 301.6652 Statutory provisions; failure to file certain information returns.**

Sec. 6652. *Failure to file certain information returns.* \* \* \*

(b) *Other returns.* In the case of each failure to file a statement of a payment to another person required under authority of section 6041 (relating to certain information at source), section 6042(a)(2) (relating to payments of dividends aggregating less than \$10), section 6044(a)(2) (relating to payments of patronage dividends aggregating less than \$10), section 6049(a)(2) (relating to payment of interest aggregating less than \$10), section 6049(a)(3) (relating to other payments of interest by corporations), or section 6051(d) (relating to information returns with respect to income tax withheld), and in the case of each failure to furnish a statement required by section 6053(b) relating to statements furnished by employers with respect to tips, on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing to so file the statement, \$1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed \$1,000.

(c) *Failure to report tips.* In the case of failure by an employee to report to his employer on the date and in the manner prescribed therefor any amount of tips required to be so reported by section 6053(a) which are wages (as defined in section 3121(a)), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be paid by the employee in addition to the tax imposed by section 3101 with respect to the amount of tips which he so failed to report, an amount equal to 50 percent of such tax.

[Sec. 652 as amended by sec. 85, Technical Amendments Act, 1958 (72 Stat. 1664); sec. 19(d), Revenue Act, 1962 (76 Stat. 1057); sec. 313(e) (2) (B) and (3), Social Security Amendments, 1965 (79 Stat. 385)]

PAR. 34. Section 301.6652-1 is amended by revising paragraph (a)(2) and adding a new paragraph (h). These revised and added provisions read as follows:

**§ 301.6652-1 Failure to file certain information returns.**

(a) *Returns with respect to payments made in calendar years after 1962.* \* \* \*

(2) *Other payments; statements with respect to tips.* In the case of each failure—

(i) To file a statement of a payment made after December 31, 1962, to another person required under authority of section 6041, relating to information returns with respect to certain information at source, or section 6051(d), relating to information returns with respect to payments of wages as defined in section 3401(a), or

(ii) To file a statement required under authority of section 6053(b), re-

lating to statements furnished by employers with respect to tips, and the regulations under such section, within the time prescribed for filing such statement (determined with regard to any extension of time for filing),

there shall be paid by the person failing to so file the statement \$1 for each such statement not so filed. However, the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$1,000.

(h) *Tips.* For regulations under section 6652(c) in respect of failure to report tips, see § 31.6652-1 of this chapter (Employment Tax Regulations).

PAR. 35. Section 301.6674 is amended by revising section 6674 and by adding a historical note. These revised and added provisions read as follows:

**§ 301.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.**

Sec. 6674. *Fraudulent statement or failure to furnish statement to employee.* In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 or 6053(b) to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051 or 6053(b), or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of \$50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

[Sec. 6674 as amended by sec. 313(e) (2) (C), Social Security Amendments, 1965 (79 Stat. 385)]

[E.R. Doc. 69-834; Filed, Jan. 17, 1969; 1:07 p.m.]

## Title 7—AGRICULTURE

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

[Navel Orange Reg. 166]

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

##### Limitation of Handling

##### § 907.466 Navel Orange Regulation 166.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 21, 1969.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period January 24, 1969, through January 30, 1969, are hereby fixed as follows:

- (i) District 1: 984,000 cartons;
- (ii) District 2: 168,000 cartons;
- (iii) District 3: 48,000 cartons.

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

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

Dated: January 22, 1969.

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

[F.R. Doc. 69-1025; Filed, Jan. 22, 1969;  
11:20 a.m.]

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

[Milk Order 106]

**PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA**

**Order Suspending Certain Provision**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area (7 CFR Part 1106), it is hereby found and determined that:

(a) The following provision of the order no longer tends to effectuate the declared policy of the Act during the pendency of proceedings based on a current hearing record and until this provision can be revised by an amended order:

That portion of § 1106.7(c) which reads "on routes" after the word "milk" and before the word "and" relating to pooling standards for distributing plants.

(b) Thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

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

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

(3) This suspension order would continue to pool a distributing plant that is presently pooled by changing the requirement for disposition from 50 percent of Grade A receipts from dairy farmers and pool plants as Class I milk on routes to 50 percent of such receipts as Class I milk. This action will continue the effect of an order issued December 17, 1968 (33 F.R. 18981) suspending this provision for the period of December 1968 through January 1969.

(4) A public hearing was held January 9, 1969, at which evidence was received with respect to amendment of the provision to be suspended. At the hearing a representative of the plant involved requested that suspension be continued during pendency of the proceeding in order that opportunity for filing exceptions to a recommended decision might be provided. There was no opposition to such request. It is now evident that preparation, issuance and publication of a recommended decision, time for receipt of exceptions, preparation and issuance of a final decision and amendatory order cannot be completed before expiration of the suspension effective through January 1969. While it is expected that these proceedings may be completed during February 1969, the suspension should continue until completion of the proceedings in the event that time beyond February should be required.

Therefore, good cause exists for making this order effective February 1, 1969.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period from February 1, 1969, until an amended order can be issued.

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

Effective date: February 1, 1969.

Signed at Washington, D.C., on January 17, 1969.

TED J. DAVIS,  
Assistant Secretary.

[F.R. Doc. 69-876; Filed, Jan. 22, 1969;  
8:50 a.m.]

**Title 8—ALIENS AND NATIONALITY**

**Chapter I—Immigration and Naturalization Service, Department of Justice**

**MISCELLANEOUS AMENDMENTS TO CHAPTER**

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

**PART 100—STATEMENT OF ORGANIZATION**

1. The last sentence of § 100.2 *Organization and delegations* is amended to read as follows: "The Commissioner has delegated his authority to the following-described officers of the Service, within their respective operational areas of activity: Associate Commissioner, Operations; Associate Commissioner, Management; Deputy Associate Commissioner, Domestic Control; Deputy Associate Commissioner, Travel Control; Deputy Associate Commissioner, Security; Deputy Associate Commissioner, Administrative Services; Assistant Commissioner, Investigations; Assistant Commissioner, Enforcement; Assistant Commissioner, Examinations; Assistant Commissioner, Special Projects; Assistant Commissioner, Field Inspection and Security; Assistant Commissioner, Naturalization; Assistant Commissioner, Administration; Assistant Commissioner, Detention and Deportation; General Counsel; Chief Special Inquiry Officer; regional commissioners; district directors; officers in charge; immigration officers; special inquiry officers, and chief patrol inspectors."

2. Sector No. 16—Marfa, Tex., of paragraph (d) *Border Patrol Sectors* of § 100.4 *Field Service* is amended by adding "Amarillo, Tex.," and "Big Spring, Tex.," in alphabetical sequence.

**PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS**

1. Paragraph (e) *Regional Commissioners* of § 103.1 *Delegations of authority* is amended in the following respects:

a. New subparagraphs (1) and (9) are added to read as follows:

(1) Decisions on breaching of bonds as provided in § 103.6(e);

(9) Decisions on applications for waiver of the two-year foreign residence requirement, as provided in § 212.7(c) of this chapter;

b. The existing paragraphs (1) through (7) are renumbered (2) through (8) and existing items (8) through (19) are renumbered (10) through (21).

2. Section 103.1 is further amended by adding paragraph (j) to read as follows:

(j) *Chief patrol inspectors.* Under the executive direction of a regional commissioner, the Border Patrol activities of the Service within their respective sector areas, including exercise of the authority contained in section 242(b) of the Act to permit aliens to depart voluntarily from the United States prior to commencement of hearing.

3. The last sentence of paragraph (e) *Breach of bond* of § 103.6 *Surety bonds* is amended to read as follows: "The district director having jurisdiction over the place where any immigration bond is retained shall determine whether a bond shall be declared breached or cancelled, and shall notify the obligors in writing on Form I-323 or Form I-391 of his decision, and, if declared breached, the reasons therefor, and of his right to appeal in accordance with the provisions of this part."

#### PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. Paragraph (d) *Aliens who will perform skilled or unskilled labor* of § 204.1 *Petition* is amended by deleting the phrase "§ 204.2(g)" and substituting "§ 204.2(f)" therefor.

2. Section 204.2 *Documents* is amended by deleting present paragraph (a) *General* and by redesignating paragraphs (b) through (g) as paragraphs (a) through (f).

3. Subparagraph (1) *General* of redesignated paragraph (d) *Evidence required to accompany petition for orphan* is amended by deleting the phrase "paragraph (b)" and substituting the phrase "paragraph (a)" therefor.

#### PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. Subparagraph (1) *Transit without visa* of paragraph (e) *Direct transits* of § 212.1 *Documentary requirements for nonimmigrants* is amended by deleting the last sentence thereof.

2. Paragraph (g) *Nonimmigrants re-entering the United States from Mexico between April 1, and November 15, 1968*

of § 212.1 *Documentary requirements for nonimmigrants* is deleted.

3. The last three sentences of paragraph (c) *Section 212(e)* of § 212.7 *Waiver of certain grounds of excludability* are deleted and the following four sentences inserted in lieu thereof: "The applicant and his spouse may be interviewed by an immigration officer in connection with the application. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter. However, no appeal shall lie from denial of an application for lack of a favorable recommendation from the Secretary of State. The interested U.S. Government agency requesting a waiver of the 2-year foreign residence requirement shall be notified of the decision on its request and, if the request is denied, of the reasons therefor, and of the foregoing right of appeal."

#### PART 221—ADMISSION OF VISITORS OR STUDENTS

The first sentence of § 221.1 *Admission under bond* is amended to read as follows: "The district director having jurisdiction over the intended place of residence of an alien may accept a bond on behalf of an alien defined in section 101(a)(15)(B) or (F) of the Act prior to the issuance of a visa to the alien upon receipt of a request directly from a U.S. consular officer or upon presentation by an interested person of a notification from the consular officer requiring such a bond; such a bond also may be accepted by the district director with jurisdiction over the port of entry or preinspection station where inspection of the alien takes place."

#### PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The fifth sentence of paragraph (a) *Land border agreements and overseas agreements* of § 238.2 *Transportation lines bringing aliens to the United States from or through foreign contiguous territory or adjacent islands and lines bringing aliens destined to the United States into such territory or islands* is amended to read as follows: "Forms I-420 or I-421 shall not be used to cover special situations such as mechanical difficulties, accidents, severe weather conditions or other emergencies which result in nonscheduled diversions to a port in foreign contiguous territory or adjacent islands; instead, the facts shall be presented to the regional commissioner in order that an appropriate agreement may be drafted."

2. The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the transportation line "Mackey International, Inc." in alphabetical sequence and by deleting the transportation line "West Coast Airlines, Inc." from the listing.

#### PART 316a—RESIDENCE, PHYSICAL PRESENCE, AND ABSENCE

1. Section 316a.2 *American institutions of research* is amended by adding the following institution of research in alphabetical sequence to the listing: "American Universities Field Staff, Inc."

2. Section 316a.4 *International Organizations Immunities Act designations* is amended by deleting "Lake Ontario Claims Tribunal (E.O. 11372, Sept. 18, 1967)" from the listing.

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

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of 5 U.S.C. 553, as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments to §§ 100.2, 100.4, and 103.1(j) relate to agency management; the amendments to §§ 103.1(e), 103.6(e), 204.2, 212.7(c), and 221.1 confer benefits upon persons affected thereby; the amendments to §§ 204.1(d), 212.1(e)(1), and 212.1(g) are editorial in nature; the amendment to § 238.2 is clarifying in nature; the amendment to § 238.3(b) adds one transportation line to the listing and deletes one line from the listing; the amendment to § 316a.2 adds an institution of research to the listing; and the amendment to § 316a.4 deletes an organization from the listing.

RAYMOND F. FARRELL,  
Commissioner of  
Immigration and Naturalization.

JANUARY 17, 1969.

[F.R. Doc. 69-854; Filed, Jan. 22, 1969; 8:48 a.m.]

## Title 14—AERONAUTICS AND SPACE

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

[Docket No. 68-CE-18-AD, Amdt. 39-712]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Beech Models 95 and 95-55 Series Airplanes

Amendment 39-702 (34 F.R. 8, 9), AD 68-26-6, applicable to Beech Models 95 and 95-55 series airplanes, is an airworthiness directive which requires in part, within the next 10 hours' time in service after the effective date of the airworthiness directive, the installation of a permanent type placard utilizing  $\frac{3}{16}$ -inch-high letters on the leading edge of the fuel selector panel with the following wording: "Take-off and land on main tanks only. Turning type take-offs or take-offs immediately following fast taxi turns prohibited. Refer to FAA Flight Manual for other fuel system limitations."

After issuing Amendment 39-702, the Federal Aviation Administration has determined that it is impractical to install a placard in that location and that it would be more advantageous to either install the placard on the lower portion of the pilot's shock mounted instrument panel, utilizing a minimum of 1/8-inch-high letters or at any equivalent location approved by the FAA. 3/16-inch-high letters should be used if the placard is installed at a location other than the pilot's shock mounted instrument panel. Accordingly, the first paragraph of paragraph (B) of the airworthiness directive and the note following the airworthiness directive are being amended to effect this change. In addition, the applicability statement of AD 68-26-6 inadvertently did not include Beech Model 95-B55A, 95-C55A, and D-55A Airplanes and must be amended to include these model airplanes.

Since this amendment is in the interest of safety, and is relaxatory in nature, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-702 (34 F.R. 8, 9), AD 68-26-6 is amended as follows:

(1) The applicability statement is amended to read as follows:

**BEECH.** Applies to Models 95, B95, 95-55, 95-A55, B95A, D95A, E95, 95-B55, 95-B55A, 95-B55B, 95-C55, 95-C55A, D55 and D-55A Airplanes.

(2) Revise the first paragraph of paragraph (B) to read as follows:

Within 10 hours' time in service after the effective date of this airworthiness directive, either install a permanent type placard on the lower portion of the pilot's shock mounted instrument panel utilizing a minimum of 1/8-inch-high letters or at any equivalent location approved by the FAA with the following wording:

(3) Revise the note following the airworthiness directive as follows:

The operator may make and install the above placard. 3/16-inch-high letters must be used if the placard is installed at a location other than the pilot's shock mounted instrument panel.

This amendment becomes effective January 27, 1969.

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

Issued in Kansas City, Mo., on January 14, 1969.

**EDWARD C. MARSH,**  
Director, Central Region.

[F.R. Doc. 69-808; Filed, Jan. 22, 1969; 8:45 a.m.]

[Airworthiness Docket No. 68-WE-40-AD, Amdt. 39-713]

**PART 39—AIRWORTHINESS DIRECTIVES**

**Certain Avions Marcel Dassault-Fan Jet Falcon**

There have been reports of the failure of the Dassault artificial feel system monitor to provide a continuous indication of the artificial feel system condition. A failure could go undetected. An autopilot elevator servo malfunction and an undetected feel system failure at speeds greater than 250 kts could result in excessive structural loads on the airplane. This condition applies to Avions Marcel Dassault (A.M.D.) Sud Aviation Model Fan Jet Falcon airplanes which have a Collins AP-103E or AP-103F autopilot system installed in accordance with Pacific Airmotive Corporation Supplemental Type Certificate (STC) No. SA1131WE. An Airworthiness Directive is being issued to: (1) Require reducing the elevator servo torque to 20.5 in-lbs and increasing the stabilizer trim to 8 degrees/minute; and (2) impose an operating limitation until the modification is accomplished.

Since a condition exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective immediately upon publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

**AVIONS MARCEL DASSAULT.** Applies to Fan Jet Falcon Airplanes which have a Collins AP-103E or AP-103F autopilot installed in accordance with Pacific Airmotive Corporation STC No. SA1131WE.

Compliance required as indicated, unless already accomplished.

To prevent possible hazardous in-flight load factors:

A. The following operating limitation is hereby adopted:

"The autopilot shall not be engaged or operated at speeds in excess of 250 knots IAS."

B. Within the next 10 hours time in service after the effective date of this AD unless already accomplished, the operating limitation specified in paragraph A above must be placed in the aircraft in the form of a placard in clear view of the pilot, near the autopilot controller stating:

"The autopilot shall not be engaged or operated at speeds in excess of 250 knots IAS."

C. Remove the placard only upon accomplishment of the modifications described in paragraph E below, or of an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

D. The operating limitation specified in paragraph A above shall not apply if the

modifications described in paragraph E below have been accomplished.

E. Modify the Collins AP-103E or AP-103F autopilot system as follows:

1. Replace the elevator primary servo unit Collins P/N 334C-3A with a Collins P/N 334C-3E with the servo torque adjusted to 20.5±0.2 in.-lbs.

2. Check the following:

(a) Aileron and elevator capstan cables for correct seating of ball end fittings into capstan groove.

(b) Aileron and elevator cables for a tension of 65 lbs.±5 lbs. If cables are not seated or cannot be tensioned correctly, they should be replaced.

NOTE: Refer to the STC SA1131 WE data for rigging instructions.

3. Modify the Dassault aircraft Trim Relay Box M20.632.18, per Dassault Service Bulletin 307, Section 1, or later FAA approved revision, or equivalent modification approved by Chief, Aircraft Engineering Division, FAA Western Region.

4. Adjust 161A-1A trim coupler for 8 degrees±1 degree per minute trim speed in accordance with the following instructions, or to an equivalent procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(a) Adjust dc ground power to aircraft for 28 vdc (measured at the aircraft bus).

(b) Set the 161A-1A trim coupler potentiometers R2 (up) and R22 (down) to middle of travel.

(c) Engage the autopilot and overpower the elevator servo enough to cause the torque limiting clutch to slip. Adjust R47 to obtain a trim speed of 8 degrees per minute average (check both up and down travel).

(d) Disengage the autopilot and remove servo amplifiers from the 562C-4E computer/amplifier.

(e) Engage the autopilot and apply 540 millivolts dc from external source to test jacks J2 (positive) and J3 in the 161A-1A trim coupler. Adjust R2 to obtain minimum pulsing that actuates the aircraft trim system (up). The time interval between these short pulses should not exceed three seconds.

(f) Remove external source from the 161A-1A trim coupler test jacks J2 and J3 and apply 75 millivolts dc to test jacks J4 (positive) and J5. Adjust R22 to obtain minimum pulsing that actuates the aircraft trim system (down). The time interval between these short pulses should not exceed three seconds.

(g) Recheck trim speed and readjust R47 for 8 degrees ± 1 degree per minute if necessary.

NOTE: Collins Service Information Letter 23-68, dated July 15, 1968, paragraphs 3 through 6, covers the modification of the AP-103F flight control system only.

This amendment becomes effective on January 25, 1969.

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

Issued in Los Angeles, Calif., on January 15, 1969.

**ARVIN O. BASNIGHT,**  
Director, Western Region.

[F.R. Doc. 69-835; Filed, Jan. 22, 1969; 8:47 a.m.]

[Airspace Docket No. 68-WE-86]

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

**Alteration of Control Zone**

On November 26, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 17661) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the La Verne, Calif., control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

*Effective date.* This amendment shall be effective 0901 G.m.t., April 3, 1969.

Issued in Los Angeles, Calif., on January 10, 1969.

ARVIN O. BASNIGHT,  
*Director, Western Region.*

In § 71.171 (33 F.R. 2097) the description of the La Verne, Calif., control zone is amended to read as follows:

**LA VERNE, CALIF.**

Within a 3-mile radius of Brackett Field (latitude 34°05'30" N., longitude 117°47'00" W.), within 2 miles each side of the Pomona VOR 179° radial, extending from the 3-mile radius zone to 3 miles south of the VOR. This control zone shall be effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

[F.R. Doc. 69-804; Filed, Jan. 22, 1969; 8:45 a.m.]

[Airspace Docket No. 68-SO-93]

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

**Alteration of Control Zone and Designation of Transition Area**

On December 4, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 18047), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the New Bern, N.C., control zone and designate the New Bern, N.C., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 3, 1969, as hereinafter set forth.

In § 71.171 (33 F.R. 2058), the New Bern, N.C., control zone is amended as follows: " \* \* \* Long. 77°02'35" W. \* \* \* " is deleted and " \* \* \* long. 77°02'38" W. \* \* \* " is substituted therefor.

In § 71.181 (33 F.R. 2137), the following transition area is added:

**NEW BERN, N.C.**

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Simmons-Nott Airport (lat. 35°04'20" N., long. 77°02'38" W.); excluding the portion within R-5306A.

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

Issued in East Point, Ga., on January 10, 1969.

JAMES G. ROGERS,  
*Director, Southern Region.*

[F.R. Doc. 69-805; Filed, Jan. 22, 1969; 8:45 a.m.]

[Airspace Docket No. 69-SO-4]

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

**Alteration of Transition Area**

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Hattiesburg, Miss., 700-foot transition area.

The Hattiesburg transition area is described in § 71.181 (33 F.R. 2137 and 5350).

In the description, extensions are predicated on the Hattiesburg VORTAC 155° radial and the 315° bearing from Hattiesburg (Private) NDB.

The final approach radial of AL-583-VOR RWY 13 instrument approach procedure has been redefined from the 155° to the 156° radial. The NDB RWY 13 instrument approach procedure has been cancelled and a new procedure, designating the 330° bearing from Hattiesburg RBN as the final approach bearing, has been developed. Accordingly, it is necessary to alter the 700-foot transition area to provide the required controlled airspace protection. The new instrument approach procedure permits a reduction from 12 to 8 miles to the extension presently predicated on the 315° bearing from the Hattiesburg RBN and requires redesignating the extension on the 330° bearing from the Hattiesburg RBN.

Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 6, 1969, as hereinafter set forth.

In § 71.181 (33 F.R. 2137), the Hattiesburg, Miss., 700-foot transition area (33 F.R. 5350) is amended to read:

**HATTIESBURG, MISS.**

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hattiesburg Municipal Airport (lat. 31°16'01" N., long. 89°15'16" W.); within 2 miles each side of the Hattiesburg VORTAC 156° radial, extending from the 7-mile radius area to the VORTAC; within 2 miles each side of the 330° bearing from Hattiesburg RBN (lat. 31°17'59" N., long. 89°17'59" W.), extending from the 7-mile radius area to 8 miles northwest of the RBN.

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

Issued in East Point, Ga., on January 13, 1969.

GORDON A. WILLIAMS, JR.,  
*Acting Director, Southern Region.*

[F.R. Doc. 69-806; Filed Jan. 22, 1969; 8:45 a.m.]

[Airspace Docket No. 68-WE-30]

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

**Designation of Additional Control Area**

On June 28, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 9507) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area in the vicinity of Rattlesnake, Wyo.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Three comments were received; one favored the proposal and two objected. The respondents objecting to the proposal alleged that VFR activity within the affected area exceeds IFR activity and the proposal as written would restrict the greatest activity to minimal airspace, thereby decreasing the amount of traffic that could safely use the airspace.

After a detailed review of the proposed designated airspace environment, we agree that the volume of IFR activity could be accommodated within a lesser amount of airspace. Therefore, we have determined that the proposed additional control airspace should be reduced.

Since this modification does not involve designated additional controlled airspace and is less burdensome on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 3, 1969, as hereinafter set forth.

Section 71.163 (33 F.R. 2051) is amended by adding the following:

**RATTLESNAKE, WYO.**

That airspace extending upward from 8,500 feet MSL bounded on the north by V-298S, on the east by Casper, Wyo., 1,200-foot transition area, on the south and southwest by a line 4 NM south and southwest and parallel to the Casper ILS west course and Riverton, Wyo., VOR 099° radial and on the west by the Riverton, Wyo., 1,200-foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 14, 1969.

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

[F.R. Doc. 69-807; Filed, Jan. 22, 1969; 8:45 a.m.]

[Airspace Docket No. 68-WE-73]

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

**Designation of Transition Area**

On December 6, 1968, a notice of proposed rule-making was published in the FEDERAL REGISTER (33 F.R. 18198) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area for Carbon County Airport, Price, Utah.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

*Effective date.* This amendment shall be effective 0901 G.m.t., April 3, 1969.

Issued in Los Angeles, Calif., on January 10, 1969.

ARVIN O. BASNIGHT,  
Director, Western Region.

In § 71.181 (33 F.R. 2137) the following transition area is added:

**PRICE, UTAH**

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Price radio beacon (latitude 39°36'44" N., longitude 110°44'59" W.) and within 2 miles each side of the 199° bearing from the Price radio beacon extending from the 5-mile radius area to 8 miles south of the radio beacon; that airspace extending upward from 1,200 feet above the surface within 6 miles west and 9 miles east of the 199° and 019° bearings from the Price radio beacon extending from 7 miles north to 18 miles south of the radio beacon.

[F.R. Doc. 69-808; Filed, Jan. 22, 1969; 8:45 a.m.]

[Airspace Docket No. 68-WE-87]

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

**Designation of Transition Area**

On November 28, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 17798) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area for the McMinnville Municipal Airport, Ore.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted subject to the following change:

Amend the geographical coordinates of the McMinnville Municipal Airport to read " \* \* \* (latitude 45°11'35" N., longitude 123°08'15" W.) \* \* \*".

*Effective date.* This amendment shall be effective 0901 G.m.t., April 3, 1969.

Issued in Los Angeles, Calif., on January 10, 1969.

ARVIN O. BASNIGHT,  
Director, Western Region.

In § 71.181 (33 F.R. 2137) the following transition area is added:

**McMINNVILLE, OREG.**

That airspace extending upward from 700 feet above the surface within a 5-mile radius of McMinnville Municipal Airport (latitude 45°11'35" N., longitude 123°08'15" W.) and within 2 miles each side of the Newberg VORTAC 215° radial extending from the 5-mile radius area to the VORTAC.

[F.R. Doc. 69-809; Filed, Jan. 22, 1969; 8:45 a.m.]

[Airspace Docket No. 68-SW-78]

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

**Alteration of Federal Airways**

On December 19, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 18938) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the segments of VOR Federal airway Nos. 12, 190, and 291 associated with the Grants, N. Mex., VOR, and that would alter the floor of a segment of VOR Federal airway No. 264, east of St. Johns, Ariz.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 6, 1969, as hereinafter set forth.

Section 71.123 (33 F.R. 2009) is amended as follows:

1. In V-12 all between "85 MSL Zuni, N. Mex.;" and "12 AGL Otto, N. Mex.;" is deleted and "12 AGL Albuquerque, N. Mex., including a 12 AGL south alternate via INT Zuni 104° and Albuquerque 253° radials;" is substituted therefor.

2. In V-190 all between "12 AGL Albuquerque, N. Mex.;" and "12 AGL Las Vegas, N. Mex.;" is deleted and "including a 12 AGL south alternate via INT St. Johns 092° and Albuquerque 238° radials;" is substituted therefor.

3. In V-264 all between "12 AGL St. Johns, Ariz.;" and "12 AGL Corona, N. Mex.;" is deleted and "55 miles, 12 AGL, 25 miles, 115 MSL, 12 AGL Socorro, N. Mex.;" is substituted therefor.

4. In V-291 all before "12 AGL Winslow, Ariz.;" is deleted and "From Albuquerque, N. Mex.; 12 AGL Gallup, N. Mex., including a 12 AGL north alternate via INT Albuquerque 303° and Gallup 089° radials;" is substituted therefor.

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

Issued in Washington, D.C., on January 17, 1969.

T. McCORMACK,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[F.R. Doc. 69-888; Filed, Jan. 22, 1969; 8:50 a.m.]

**Title 15—COMMERCE AND FOREIGN TRADE**

**Chapter III—Bureau of International Commerce, Department of Commerce**

**SUBCHAPTER B—EXPORT REGULATIONS**

[11th Gen. Rev. of Export Regs., Admt. 16]

**MISCELLANEOUS AMENDMENTS TO CHAPTER**

Parts 370, 371, 373, and 379 of the Code of Federal Regulations are amended as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-63 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-63 Comp.)

Effective date: January 16, 1969.

RAUER H. MEYER,  
Director,  
Office of Export Control.

**PART 370—SCOPE OF EXPORT CONTROL**

In § 370.2 *Prohibited exports* paragraph (a)(1) is hereby revised to read as follows:

**§ 370.2 Prohibited exports.**

(a) *General provisions.* \* \* \*

(1) Any export to Canada, other than:<sup>1</sup>

(i) The types of technical data described in § 385.4(c) of this chapter;

(ii) Commodities related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in §§ 373.7 (b) and 385.4(c) (4) of this chapter; and

(iii) The following copper commodities:

(a) Copper bearing ash and residues (Export Control Commodity No. 28401);

(b) Copper or copper-base alloy waste and scrap (Export Control Commodity No. 28402);

(c) Nickel alloy waste and scrap containing 50 percent or more copper, irrespective of nickel content (Export Control Commodity No. 28403); and

(d) Copper-base alloy ingots (Export Control Commodity No. 68212).

\* \* \* \* \*

<sup>1</sup> See § 370.3 for shipments to Canada, not intended for consumption in Canada, and regarding the requirement of a Shipper's Export Declaration for certain exports to Canada.

**PART 371—GENERAL LICENSES**

In § 371.2 *General provisions* paragraph (c) is hereby revised to read as follows:

**§ 371.2 General provisions.**

(c) *Applicability*—(1) *Prohibited shipments*. No general license set forth in this part or in Part 385 of this chapter may be used to effect an export to any destination if:

(i) The general license has been suspended, revoked, or is otherwise not applicable to the intended destination. (General licenses and other authorizations to export may, at any time without prior notice, be revised, suspended, or revoked by the Office of Export Control, as set forth in § 370.2(c) of this chapter, whenever there is reason to believe that the export regulations have been, or will be violated.);

(ii) The commodity and/or technical data will be unladen from a vessel or aircraft in Country Group Y or Z, or will move in transit through Country Group Y or Z, en route to another country, except as provided in § 370.10 of this chapter;

(iii) The shipment, except for an export of a commodity under General License RCS (see § 371.13(d) of this chapter), is destined to, or for the use of, a foreign vessel or aircraft whether an operating vessel or aircraft or one under construction, located in any port including a Canadian port, unless a general license would permit the shipment to be made (a) to the country in which the vessel or aircraft is located, and (b) to the country in which the vessel or aircraft is registered, or will be registered in the case of a vessel or aircraft under construction, and (c) to the country, including a national thereof, which is currently controlling, leasing, or chartering the vessel or aircraft;

(iv) The export of the commodity and/or technical data is contrary to a Denial or Probation Order listed in Supplement No. 1 to Part 382 of this chapter;

(v) The exporter knows or has reason to believe that the commodity and/or technical data will be reexported from the country of the foreign purchaser and/or ultimate consignee, and such re-export has not been approved by the Office of Export Control either specifically or by general authorization in the export regulations, or is otherwise prohibited by the export regulations. (See § 371.4 and § 372.12 of this chapter.);

(vi) The commodity to be shipped is related to nuclear weapons, nuclear explosive devices, or nuclear testing as described in § 373.7(b) of this chapter, or the technical data to be shipped is related to nuclear weapons, nuclear explosive devices, or nuclear testing, as described in § 385.2(c) (3) (vi) of this chapter, unless the technical data may be exported under the provisions of General License GTDP or GTDS; or

(vii) The commodity is not listed on the Commodity Control List, § 399.1.

(2) *Choice of general license*. When two or more types of general licenses are applicable, any one of such general licenses may be used. However, exports of commodities under any applicable general license on a vessel or aircraft of foreign registry departing from the United States for use on board such vessel or aircraft must conform to the requirements for export under General License Ship Stores or General License Plane Stores. (See § 371.13.)

In § 371.17 *General license GTF-F; goods temporarily exported for display at foreign exhibitions or trade fairs*, the introductory text is hereby revised to read as follows:

§ 371.17 *General license GTF-F; goods temporarily exported for display at foreign exhibitions or trade fairs*.

A general license designated GTF-F is hereby established authorizing, under the conditions set forth below, the temporary export of commodities to a foreign exhibition(s) or trade fair(s) located in Country Group T or V for the purpose of display, exhibition, or demonstration. The terms "foreign exhibition" and "trade fair" as used in this regulation apply to only foreign exhibitions and trade fairs which are open either to the general public or to a recognized segment of industry. These terms do not relate to private demonstrations in a foreign country.

**PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS**

In § 373.4 *Distribution of U.S. commodities by foreign-based subsidiary, affiliate, or branch* paragraph (i) is revised to read as follows:

§ 373.4 *Distribution of U.S. commodities by foreign-based subsidiary, affiliate, or branch*.

(i) *Extension of validity period*—(1) *New form required*. The validity period of a Form FC-143 or FC-243 may be extended by the submission to the Office of Export Control of a new form prior to the expiration date of a current form.

(2) *"C" Number or "D" Number required*. In addition to the information furnished on a new Form FC-143 or FC-243 submitted to extend the validity period of a current form, there must be set forth in the "Reference" box on Form FC-243 the customer's assigned "C" Number, and in the "Reference" box on Form FC-143 the distributor's assigned "D" Number. These are the numbers entered by the Office of Export Control on the reverse of the previously approved forms, immediately below the U.S. Department of Commerce validation stamp in the "Validation" box.

Supplement 1 to Part 373 is hereby revised to read as follows:

**Supplement No. 1—Time Schedules for Submission of Applications for Certain Commodities**

Export control commodity No.	Commodity	Submission dates for non-historical applicants (No later than date shown below)	Submission dates for historical applicants (No later than date shown below)
28401	Copper metalliferous ash and residues	Feb. 7, 1969 <sup>1</sup>	May 29, 1969 <sup>1</sup>
28402	Copper or copper-base alloy waste and scrap, including copper alloy waste and scrap of less than 40 percent copper content where copper is the component of chief weight.	do. <sup>1</sup>	Do. <sup>1</sup>
28403	Nickel alloy waste and scrap containing 60 percent or more copper irrespective of nickel content.	do. <sup>1</sup>	Do. <sup>1</sup>
68212	Refined copper of domestic origin, including remelted, in cathodes, billets, ingots (except copper-base alloy ingots), wire bars and other crude forms.	do.	Do.
68212	Copper-base alloy ingots composed essentially of copper with one or more other metals, for example: beryllium copper ingots, devarda alloy ingots, guinea alloy ingots, ounce metal ingots, etc.	do. <sup>1</sup>	Do. <sup>1</sup>

<sup>1</sup> These time schedules do not apply to submission of applications for licenses to export these commodities to Canada; filing dates for license applications covering exports of these commodities to Canada will be announced in a forthcoming Current Export Bulletin.

**PART 379—EXPORT CLEARANCE AND DESTINATION CONTROL**

In § 379.1 *General export clearance requirements* paragraphs (a) and (b) are hereby amended as follows:

§ 379.1 *General export clearance requirements*.

(a) *Exports by water or air carrier*.

(1) No exporter or his agent, including any carrier, shall load or carry or permit loading or carrying onto an exporting carrier, or present to the Customs Office for inspection and clearance for export, any commodity until:

(b) *Exports by mail*—(1) *Shipments requiring a validated license*—(i) *General requirements*. No person shall export any commodity by means of mail, including surface and air parcel post, until:

(a) A validated license therefor has been presented to the Postmaster at the place of mailing, together with a related duly executed Declaration covering the commodity to be so mailed, whether or not required by the regulations of the Bureau of the Census; and

(b) The sender (exporter) has entered the complete validated license number on the address side of the

wrapper of the package and on the duly executed Declaration.

In § 379.2 *Presentation and use of validated license* paragraph (c) is hereby revised to read as follows:

§ 379.2 *Presentation and use of validated license.*

(c) *Filing of license at time of first shipment.* A validated license (except a Project License or a Distribution License) must be presented to and filed with the Customs Office before any commodity is loaded or carried onto an exporting carrier. In the case of a shipment to be made by mail, the validated license shall be presented to the Postmaster or to the Customs Office when the Declaration covering the first partial shipment is presented for export under that license.

[F.R. Doc. 69-828; Filed, Jan. 22, 1969; 8:47 a.m.]

**Chapter X—Office of Foreign Direct Investments, Department of Commerce**

**PART 1035—RULES OF PRACTICE FOR APPEALS IN PROCEEDINGS ORIGINATING UNDER PART 1030**

The Secretary of Commerce, acting under the authority conferred in E.O. 11387, hereby amends Chapter X of Title 15 of the Code of Federal Regulations by adding new Part 1035 thereto, to be effective upon publication.

The purpose of this part is to set forth rules of practice for the Appeals Board for the Department of Commerce in proceedings originating under Part 1030 of this chapter.

The text of the new Part 1035 is as follows:

Sec.	
1035.101	Scope of rules.
1035.102	Board.
1035.103	Filing of appeals.
1035.104	Grounds for appeal.
1035.105	Appeal brief.
1035.106	Other briefs.
1035.107	Oral argument.
1035.108	Disposition of appeals by Board.
1035.109	Content of orders.
1035.110	Stays.

**AUTHORITY:** The provisions of this Part 1035 issued under sec. 5 of the act of Oct. 6, 1917, as amended (12 U.S.C. 95a); E.O. 11387, Jan. 1, 1968, 33 F.R. 47.

**§ 1035.101 Scope of rules.**

The rules of practice in this part shall govern appeals from final decisions of presiding officers in proceedings originating under Part 1030 of this chapter. Appeals in proceedings originating under Part 1000 of this chapter shall be governed by § 1000.802 of this chapter.

**§ 1035.102 Board.**

(a) The Appeals Board for the Department of Commerce (referred to in this part as the "Board") shall have sole and exclusive jurisdiction to hear administrative appeals from final decisions of presiding officers in proceedings under Part 1030 of this chapter, and to make

final administrative determinations in respect thereto.

(b) The Chairman of the Board shall designate a panel of three Board members, from time to time, to pass upon such appeals.

(c) All communications to the Board shall be addressed to: Chairman, Department of Commerce Appeals Board (Foreign Direct Investment Appeals), Department of Commerce, Washington, D.C. 20230, and shall be in writing.

**§ 1035.103 Filing of appeals.**

Any party to a proceeding under Part 1030 of this chapter, including the agency (as represented by counsel for the Compliance Division), may appeal from the decision therein, upon the grounds set forth in § 1035.104, by serving an appeal brief upon the appellee and filing it with the Board within ten (10) days after the date of service of the decision upon the appellant.

**§ 1035.104 Grounds for appeal.**

Any party may appeal from the order of the presiding officer (see § 1030.514 of this chapter) upon the ground that prejudicial error of law was committed or that the provisions of the order are arbitrary, capricious, or an abuse of discretion. In the case of an order entered pursuant to § 1030.514 (b)-(e) of this chapter, the party may further appeal upon the ground that the findings are not supported by substantial evidence. In the case of an order entered pursuant to § 1030.514(a) of this chapter, the party may further appeal upon the ground that the findings are clearly erroneous.

**§ 1035.105 Appeal brief.**

(a) The appeal brief shall not exceed thirty (30) pages (letter-size and double-spaced if typewritten), exclusive of appendices thereto, and shall contain in the following order:

- (1) Index, table of cases, statutes, and other authorities—and page references thereto;
- (2) Concise, nonargumentative statement of facts, with specific page references to the record to support each assertion;
- (3) Argument, with specific page references to the record to support each assertion, and with specific explanation of how the grounds for appeal fall within the standards of § 1035.301(a);
- (4) Conclusion, including any forms of order proposed by respondent for issuance in lieu of that contained in the presiding officer's decision;
- (5) Appendix A, the presiding officer's decision;
- (6) Appendix B (optional), any record material or exhibits on which appellant places particular reliance.

(b) The appellant shall file an original and five copies of the appeal brief, and shall serve three copies upon the appellee.

**§ 1035.106 Other briefs.**

Any answering brief shall be in the form prescribed in § 1035.105(a), and the appellee shall serve and file copies thereof as specified in § 1035.105(b) within ten (10) days after the date of

service of the appeal brief. There shall be no reply brief filed except for rebuttal purposes. Any such brief shall not exceed fifteen (15) pages, and the appellant shall file and serve it within seven (7) days after service of the answering brief.

**§ 1035.107 Oral argument.**

The Board will ordinarily determine an appeal on the basis of the briefs. The Board will allow oral argument only in exceptional cases when it deems it necessary, upon its own motion.

**§ 1035.108 Disposition of appeals by Board.**

(a) The appeal shall be determined upon the basis of the record (see § 1030.422 of this chapter) and the briefs and argument, and shall not constitute a hearing de novo. The Board shall not substitute its discretion for that of the presiding officer in any matter involving expertise in interpreting, defining, administering, or effectuating the policies and purposes of the regulations or other agency actions under Foreign Direct Investment Program. The Board shall not consider facts or arguments affecting the merits of the policies embodied in the regulations or other agency actions alleged to have been violated.

(b) The Board may set aside the order of the presiding officer by granting the appeal; it may uphold the order by denying the appeal; or it may set aside part of the order and uphold the remainder by granting the appeal in part and denying it in part.

(c) Unless two members of the Board are of the opinion, and so advise the Chairman of the Board in writing within 20 days after the date of the filing of the appeal brief, that they desire to grant the appeal or consider further briefs or arguments, the Chairman of the Board shall, on the 20th day after the date of the filing of the appeal brief, enter an order pursuant to § 1035.109(b).

**§ 1035.109 Content of orders.**

(a) The grant of an appeal will be by an order remanding the matter to the presiding officer, accompanied with a brief statement of reasons therefor.

(b) The denial of an appeal ordinarily will be in the form of an order signed by the Chairman of the Board, stating that the appeal was denied by the Board on a particular date, and ordinarily will not be accompanied by an explanatory statement. Such denial without an explanatory statement shall be deemed equivalent to adoption by the Board of the presiding officer's decision.

(c) Where the Board grants an appeal in part and denies it in part, it ordinarily will remand the matter to the presiding officer, as specified in paragraph (a) of this section. Where the Board can appropriately dispose of such a matter by entering its own order, rather than by remanding the matter, it may do so.

**§ 1035.110 Stays.**

(a) The filing of a petition for reconsideration or of any other motion

or application shall not operate of its own force to stay the effective dates specified in § 1030.515.

(b) The Board may, where it finds that justice so requires, postpone the effective date of any order issued pursuant to Part 1030 of this chapter, when the appellant establishes that such postponement is necessary to prevent irreparable injury. The postponement may be made subject to such conditions as the Board may require.

C. R. SMITH,  
Secretary of Commerce.

JANUARY 17, 1969.

[F.R. Doc. 69-855; Filed, Jan. 22, 1969;  
8:48 a.m.]

## Title 21—FOOD AND DRUGS

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

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

#### PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### Parathion or Its Methyl Homolog

No adverse comments were received in response to the notice published in the FEDERAL REGISTER of November 19, 1968 (33 F.R. 17146), proposing establishment of a tolerance of 0.2 part per million for residues of the insecticide methyl parathion in or on the raw agricultural commodity sunflower seed. Also, no requests were received for referral of the proposal to an advisory committee pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act. Accordingly, the Commissioner of Food and Drugs concludes that the proposal should be adopted without change.

Therefore, pursuant to the provisions of the act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and under authority delegated to the Commissioner (21 CFR 2.120), § 120.121 is revised to read as follows to establish the subject tolerance:

§ 120.121 Parathion or its methyl homolog; tolerances for residues.

Tolerances for residues of the insecticide parathion (*O,O*-diethyl-*O-p*-nitrophenyl thiophosphate) or its methyl homolog in or on raw agricultural commodities are established as follows:

1 part per million in or on alfalfa, apples, apricots, artichokes, avocados, barley, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, clover, collards, corn, corn forage, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapes, grass forage, guavas, hops, kale, kohlrabi, lettuce, loganberries, mangoes, melons,

mustard greens, nectarines, oats, okra, olives, onions, parsnips (with or without tops) or parsnip greens alone, peaches, pea forage, peanuts, pears, peas, peppers, pineapples, plums, (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rice, rutabagas (with or without tops) or rutabaga tops, spinach, squash, strawberries, summer squash, Swiss chard, tomatoes, turnips (with or without tops) or turnip greens, vetch, wheat, youngberries.

0.2 part per million in or on sunflower seed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication 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 objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: January 15, 1969.

J. K. KIRK,  
Associate Commissioner,  
for Compliance.

[F.R. Doc. 69-875; Filed, Jan. 22, 1969;  
8:50 a.m.]

## Title 23—HIGHWAYS

### Chapter I—Bureau of Public Roads, Department of Transportation

#### PART 21—NATIONAL STANDARDS FOR DIRECTIONAL AND OTHER OFFICIAL SIGNS

The purpose of this amendment is to add a new Part 21—National Standards for Directional and Other Official Signs—to chapter I of title 23 of the Code of Federal Regulations. The new part will include all national standards established under section 131(c)(1) of title 23, United States Code.

Section 303(a) of the Highway Beautification Act of 1965 (Public Law 89-285) requires public hearings to be held in each State by the Secretary before issuing standards necessary to carry out section 131 of title 23, United States Code. Notice of the public hearings was published in the FEDERAL REGISTER on January 28, 1966 (31 F.R. 1162).

Pursuant to this notice, public hearings were conducted in each State, the District of Columbia, and Puerto Rico.

Based on the testimony received at the 52 public hearings which were held, draft standards were developed. The draft standards were given wide circulation among the outdoor advertising industry, roadside councils, garden clubs, State highway departments, and other interested groups. Comments thereon were evaluated and given full consideration in the preparation of the proposed standards.

On January 10, 1967, proposed national standards for directional and official signs were reported to Congress by the Secretary in accordance with section 303(b) of the Highway Beautification Act of 1965, and printed as Senate Document No. 6, 90th Congress, first session.

Thereafter proposed standards were distributed to the States, the District of Columbia, and Puerto Rico, and other interested parties for comment.

A review of the proposed national standards and all additional comments and recommendations submitted as a result of the distribution has been completed with all such pertinent matter, recommendations and comments having been fully considered and evaluated.

The national standards added by this amendment are minimum standards. They have been developed in cooperation with the States and other interested organizations, groups, and individuals.

In consideration of the foregoing, Chapter I of title 23, Code of Federal Regulations is amended by adding a new Part 21, "National Standards for Directional and Other Official Signs" as set forth below, effective February 25, 1969.

This amendment is made under authority of sections 131 and 315 of title 23, United States Code, section 6(a)(1)(H) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), and the delegation of authority contained in Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.4(c)).

Issued in Washington, D.C., on January 17, 1969.

LOWELL K. BRIDWELL,  
Federal Highway Administrator.

Sec.	
21.1	Purpose.
21.2	Application.
21.3	Definitions.
21.4	Standards for directional signs.
21.5	State standards.

*AUTHORITY:* The provisions of this Part 21 issued under secs. 131 and 315 of title 23, U.S.C., sec. 6 (a)(1)(H), Department of Transportation Act (Public Law 89-670, 80 Stat. 931); delegation of authority to 49 CFR 1.4(c).

##### § 21.1 Purpose.

(a) In section 131 of title 23, United States Code, Congress has declared that:

(1) The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect

the public investment in such highways, to promote safety and recreational value of public travel, and to preserve natural beauty.

(2) Directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, shall conform to national standards authorized to be promulgated by the Secretary, which standards shall contain provisions concerning the lighting, size, number and spacing of signs, and such other requirements as may be appropriate to implement the section.

(b) The standards in this part are issued as provided in section 131 of title 23, United States Code.

§ 21.2 Application.

The following standards apply to directional and other official signs and notices which are erected and maintained within 660 feet of the nearest edge of the right-of-way of the Interstate and Federal-aid primary system, and which are visible from the main traveled way of the system. These standards do not apply to directional and other official signs erected on the highway right-of-way.

§ 21.3 Definitions.

For the purpose of this part—

(a) "Sign" means an outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway.

(b) "Main traveled way" means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes, and ramps.

(c) "Interstate system" means the National System of Interstate and Defense Highways described in section 103(d) of title 23, United States Code.

(d) "Primary system" means the Federal-aid highway system described in section 103(b) of title 23, United States Code.

(e) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) "Maintain" means to allow to exist.

(g) "Scenic area" means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(h) "Parkland" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(i) "Federal or State law" means a Federal or State constitutional provi-

sion or statute, or an ordinance, rule, or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to a Federal or State constitution or statute.

(j) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(k) "Freeway" means a divided arterial highway for through traffic with full control of access.

(l) "Rest area" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

(m) "Directional and other official signs and notices" includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(n) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.

(o) "Public utility signs" means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(p) "Service club and religious notices" means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(q) "Public service signs" means signs located on school bus stop shelters, which signs—

(1) Identify the donor, sponsor, or contributor of said shelters;

(2) Contain safety slogans or messages, which shall occupy not less than 60 percent of the area of the sign;

(3) Contain no other message;

(4) Are located on school bus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and

(5) May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(r) "Directional signs" means signs containing directional information about public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(s) "State" means any one of the 50 States, the District of Columbia, or Puerto Rico.

§ 21.4 Standards for directional signs.

The following apply only to directional signs:

(a) *General.* The following signs are prohibited:

(1) Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of those activities.

(2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

(3) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(4) Obsolete signs.

(5) Signs which are structurally unsafe or in disrepair.

(6) Signs which move or have any animated or moving parts.

(7) Signs located in rest areas, parklands or scenic areas.

(b) *Size.* (1) No sign shall exceed the following limits:

(i) Maximum area—150 square feet.

(ii) Maximum height—20 feet.

(iii) Maximum length—20 feet.

(2) All dimensions include border and trim, but exclude supports.

(c) *Lighting.* Signs may be illuminated, subject to the following:

(1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

(2) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(3) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) *Spacing.* (1) Each location of a directional sign must be approved by the State highway department.

(2) No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

(3) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

(4) (i) No two directional signs facing the same direction of travel shall be spaced less than 1 mile apart;

(ii) Not more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;

(iii) Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and

(iv) Signs located adjacent to the Primary System shall be within 50 air miles of the activity.

(e) *Message content.* The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

(f) *Selection methods and criteria.* (1) Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.

(2) To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

(3) Each State shall develop specific selection methods and criteria to be used in determining whether or not an activity qualifies for this type of signing. A statement as to selection methods and criteria shall be furnished to the Secretary of Transportation before the State permits the erection of any such signs under section 131(c) of title 23, United States Code, and this part.

#### § 21.5 State standards.

This part does not prohibit a State from establishing and maintaining standards which are more restrictive with respect to directional and other official signs and notices along the Federal-aid highway systems than these national standards.

[F.R. Doc. 69-881; Filed, Jan. 22, 1969; 8:50 a.m.]

### PART 22—NATIONAL STANDARDS AND CRITERIA FOR OFFICIAL HIGHWAY SIGNS WITHIN INTERSTATE RIGHTS-OF-WAY GIVING SPECIFIC SERVICE INFORMATION FOR THE TRAVELING PUBLIC

The purpose of this amendment is to add a new Part 22—"National Standards and Criteria for Official Highway Signs Within Interstate Rights-of-way Giving Specific Service Information for the Traveling Public"—to chapter I of title 23 of the Code of Federal Regulations. The new part will include all national standards established under section 131(f) of title 23, United States Code.

Section 303(a) of the Highway Beautification Act of 1965 (Public Law 89-285) requires public hearings to be held in each State by the Secretary before issuing standards necessary to carry out section 131 of title 23, United States Code. Notice of the public hearings was published in the FEDERAL REGISTER on January 28, 1966 (31 F.R. 1162).

Pursuant to this notice, public hearings were conducted in each State, the District of Columbia, and the Commonwealth of Puerto Rico.

Based on the testimony received at the 52 public hearings, draft standards were developed. The draft standards were given wide circulation among the outdoor advertising industry, roadside councils, garden clubs, State highway departments, and other interested groups. Comments thereon were evaluated and given full consideration in the preparation of the proposed standards.

On January 10, 1967, proposed national standards and criteria for official highway signs within Interstate rights-of-way giving specific service information for the traveling public were reported to Congress by the Secretary in accordance with section 303(b) of the Highway Beautification Act of 1965, Public Law 89-285, and printed as Senate Document No. 6, 90th Congress, first session.

Thereafter proposed final standards were distributed to the States, the District of Columbia, and Puerto Rico and other interested parties for comment.

A review of the proposed national standards and all additional comments and recommendations submitted as a result of the distribution has been completed with all such pertinent matter, recommendations, and comments having been fully considered and evaluated.

The national standards added by this amendment are minimum standards. They have been developed in cooperation with the States and other interested organizations, groups, and individuals.

In consideration of the foregoing, chapter I of title 23, Code of Federal Regulations is amended by adding a new Part 22, "National Standards and Criteria for Official Signs Within Interstate Rights-of-Way Giving Specific Service Information for the Traveling Public," as set forth below, effective February 25, 1969.

This amendment is made under authority of sections 131 and 315 of title 23, United States Code, section 6(a) (1) (H) of the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), and the delegation of authority contained in Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.4(c)).

Issued in Washington, D.C., on January 17, 1969.

LOWELL K. BRIDWELL,  
Federal Highway Administrator.

Sec.	
22.1	Purpose.
22.2	Definitions.
22.3	Location.
22.4	Criteria to determine specific information permitted.
22.5	Composition.
22.6	Size.
22.7	Color, reflectorization and illumination.
22.8	Structural design and transverse location of signs and sign supports.
22.9	Inclusiveness of use.
22.10	Procedures to be followed by States.

**AUTHORITY:** The provisions of this Part 22 issued under secs. 131 and 315 of title 23, U.S.C., sec. 6(a) (1) (H), Department of

Transportation Act. (Public Law 89-670, 80 Stat. 931); delegation of authority to 49 CFR 1.4(c).

#### § 22.1 Purpose.

The purpose of this part is to establish standards for the erection of signs and displays within the rights-of-way of the Interstate highway system to give the traveling public specific information as to gas, food, or lodging available on the crossroad at or near an interchange.

#### § 22.2 Definitions.

As used in this part—

(a) "Specific information panel" means a panel, rectangular in shape, located in the same manner as other official traffic signs readable from the main traveled ways, and consisting of—

(1) The words "GAS," "FOOD," or "LODGING" and directional information; and

(2) One or more individual business signs mounted on the panel.

(b) "Roadside area information panel or display" means a panel or display, located so as not to be readable from the main traveled way, erected in a safety rest area, scenic overlook, or similar roadside area, for providing motorists with specific services information.

(c) "Business sign" means a separately attached sign mounted on the specific information panel or roadside area information panel to show the brand or trademark and name, or both, of the motorist services available on the crossroad at or near the interchange. Nationally, regionally, or locally known commercial symbols or trademarks for service stations, restaurants and motels shall be used when applicable. The brand or trademark identification symbol used on the business sign shall be reproduced with the colors and general shape consistent with customary use. Any messages, trademarks, or brand symbols which interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal or device are prohibited.

(d) "State" means any one of the 50 States, the District of Columbia, or Puerto Rico.

#### § 22.3 Location.

(a) The specific information panels are designed for application at rural interchanges where a number of motorist services normally are not available. Specific information panels may not be installed within suburban or urban areas, except on circumferential, bypass, or beltway-type routes where existing roadside development is not urban in character.

(b) A separate specific information panel shall be provided on the interchange approach for each qualified type of motorist service. Where a qualified type of motorist service is not available at an interchange, the specific information panel may not be erected.

(c) The specific information panels shall be erected between the previous interchange and in advance of the first advance guide sign for the approaching interchange. These panels shall be located in the same general manner as

other official traffic signs in advance of the interchange, readable from the main traveled way. The panels shall be erected in advance of the first advance guide sign and no panel shall be closer than 1,500 feet to any major guide signs, with at least an 800-foot spacing between the information panels. In the direction of traffic, the successive panels shall be those for "LODGING," "FOOD," "GAS," in that order.

(d) The specific information panel may not be erected at an interchange at which an exit from the Interstate highway is provided, but at which no entrance ramp exists at that interchange or at another reasonably convenient location that would permit a motorist to proceed in the desired direction of travel without undue indirection or use of poor connection roads.

(e) The motorist services information, shown on the specific information panels, shall be repeated on the signs located along the interchange ramp or at the ramp terminal where the service installations are not visible from the ramp terminal. In addition, appropriate trail blazer assemblies or direction information panels, described below, may also be provided along the crossroad, as required, to adequately direct motorists to the respective service facilities. The signs shall be the same in shape, color, and message as those shown on the specific information panels, together with an arrow showing the directions for the different services and, where needed, the mileage to the service installation. Normally, this signing will not be necessary at double-exit interchanges. These sign legends or symbols shall be smaller (minimum 4-inch letter height, except that any legend on a symbol shall be in proportion to the size of the symbol) than those shown on the specific information panels.

(f) As a confirmation to the specific information panels, a sign carrying the legend "GAS-FOOD-LODGING" and, where applicable, "PHONE" and "HOSPITAL" shall be erected below the ground mounted exit direction sign, or may be a separate sign with appropriate directional information erected a minimum of 800 feet following the last advance guide sign. This sign shall have reflectorized white letters and border on a blue background. The legend shall be 10-inch capital letters.

(g) Roadside area information panels and displays for subsequent interchanges shall be located within safety rest areas. Motorist services information may be displayed in one roadside area for all interchanges preceding the next roadside area.

**§ 22.4 Criteria to determine specific information permitted.**

The following are minimum criteria for permitting business signs to be erected on the specific information panel or the roadside area information panel:

(a) The individual business installation whose name, symbol, or trademark appears on a business sign, shall have given written assurance of its conformity with all applicable laws concerning the

provision of public accommodations without regard to race, religion, color, or national origin, and shall not be in continuing breach of that assurance.

(b) The maximum distance that the "GAS," "FOOD," or "LODGING" services can be located from the main traveled way to qualify for a business sign shall be in accordance with State standards, but may not exceed 3 miles in either direction, if within that 3-mile limit one or more of the service types considered is available, or, if not available, continue in 3-mile increments of consideration up to a 15-mile maximum if necessary to find an available service of the type being considered. Services beyond the 15-mile limit do not qualify for signing.

(c) "GAS" and associated services to qualify for erection on a panel shall include—

(1) Vehicle services such as fuel, oil, lubrication, tire repair, and water;

(2) Rest room facilities and drinking water;

(3) Continuous operation at least 16 hours per day, 7 days a week; and

(4) Telephone.

(d) "FOOD" to qualify for erection on a panel shall include—

(1) Where required, licensing or approval by State or political subdivision;

(2) Continuous operation to serve three meals a day, 7 days a week; and

(3) Telephone.

(e) "LODGING" to qualify for erection on a panel shall include—

(1) Where required, licensing or approval by State or political subdivision;

(2) Adequate sleeping accommodations; and

(3) Telephone.

**§ 22.5 Composition.**

(a) The "GAS" specific information panel shall be limited to six business signs; the "FOOD" and the "LODGING" specific information panels shall be limited to four business signs each. For a single exit interchange, the business signs shall be arranged on the panel, with a maximum of two horizontal rows. When the number of business signs is one-half or less of the maximum permitted, the arrangement shall be in one horizontal row. The maximum in one horizontal row shall be limited to one-half of the maximum permitted on the panel. The signs shall be mounted on the panel in the order of the travel distance measured from the point of the intersection of the main traveled way and the exit traveled way, the closest at the top left, the next closest at the bottom left, and continuing to the end.

(b) In the case of a double-exit interchange, the specific information panels shall consist of two sections where the same type of motorist services are to be signed for each exit. The arrangement of the business signs on each section of the panel shall be in accordance with the requirements for a single-exit specific information panel. For double exit interchanges, the travel distance shall be measured from the intersection of the main traveled way and the first exit traveled way.

(c) In the case of a double-exit interchange, the specific information panel shall display the appropriate business sign or signs and directional information for each exit. The top section of this panel shall display the supplemental signs for the first exit with the directional legend "NEXT RIGHT." The lower section of the panel shall display the business signs for the second exit with the directional legend "SECOND RIGHT." Exit numbering, where used, may be placed on the panels, such as "EXIT 28" in place of the "NEXT RIGHT" or "SECOND RIGHT" message. The number of business signs on this panel (both sections) shall be limited to six for "GAS", or four each for "FOOD" and "LODGING."

**§ 22.6 Size.**

(a) The business signs displayed on the "GAS" information panel shall be contained within a 36-inch wide and a 24-inch high rectangular background area, including border. The business signs on the "FOOD" and "LODGING" information panels shall be contained within a 54-inch wide and a 24-inch high rectangular background area, including border.

(b) For the single-exit interchange, the maximum size of the specific information panel shall be 12 feet wide and 8 feet high, including border; the minimum size shall be 12 feet wide and 5 feet high, including border.

(c) For double-exit interchanges, where the same type of motorist services are to be signed for each exit, the specific information panel shall consist of two 12-foot wide and 5-foot high sections, one for each exit. Each section shall be capable of accommodating a maximum of either three gas business signs or two food or lodging business signs. For double-exit interchanges where a type of motorist service is to be signed for only one exit, only one 12-foot wide by 5-foot high specific information panel may be used.

(d) Latitude in design is permitted in provision of roadside area information signs or displays. Design by the State should include considerations of the architectural treatment of the buildings and other structures in the roadside area. Additional considerations are recreational, historic, and other sightseeing attractions in the area. Flexibility in design is expected and desirable. Standard symbols and trademarks, where applicable, can be used for glance recognition.

**§ 22.7 Color, reflectorization, and illumination.**

(a) The background color of the specific information panel shall be blue with a white reflectorized border. The words "GAS," "FOOD," and "LODGING" and exit direction messages shall be white reflectorized 10-inch capital letters mounted on the blue panel.

(b) The business sign color shall be a white message on a blue background, except that colors consistent with customary use should be used with nationally, regionally, or locally known symbols or trademarks. The principal legend on the

business sign shall be at least 8 inches in height, whether capitals or lower case. However, where the symbol or trademark is used alone for the business sign, any legend on the symbol or trademark shall be in proportion to the size thereof, consistent with customary use. The business signs, symbols, or trademarks shall have a white border.

(c) The specific information panel may be illuminated, but on any interchange approach all panels shall be consistent with the treatment for other guide signs for that approach.

#### § 22.8 Structural design and transverse location of signs and sign supports.

Where signs along the roadside cannot be placed at a safe distance away from the line of traffic, or in an otherwise protected site, they shall be designed to minimize the impact forces in the event of being hit by out-of-control vehicles.

#### § 22.9 Inclusiveness of use.

States electing to provide service signing as described in this Part may choose to install—

(a) Specific information panels only;  
(b) Roadside area information panels or displays only; or

(c) Both specific information panels and roadside area information panels or displays.

#### § 22.10 Procedures to be followed by States.

Procedures to be followed by the States in applying for and obtaining approval for the erection of service signing shall be as outlined by the Director, Bureau of Public Roads.

[F.R. Doc. 69-882; Filed, Jan. 22, 1969; 8:50 a.m.]

## Title 25—INDIANS

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

#### SUBCHAPTER T—OPERATION AND MAINTENANCE

#### PART 221—OPERATION AND MAINTENANCE CHARGES

##### Chuichu Indian Irrigation Project, Ariz.

On page 18377 of the FEDERAL REGISTER of December 11, 1968, there was published a notice of intention to modify section 221.190 of Title 25, Code of Federal Regulations, dealing with the annual basic operation and maintenance assessment rates for land to which water can be delivered under the Chuichu Indian Irrigation Project, Ariz., by increasing the annual per acre assessment against non-Indian owned lands and Indian owned lands leased to non-Indians from \$22 to \$26 per acre.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed modification. No comments, suggestions, or objections

have been received, and the proposed modification is hereby adopted without change as set forth below.

Section 221.190 is modified to read as follows:

#### § 221.190 Charges.

The annual basic operation and maintenance assessment rates for land to which water can be delivered under the Chuichu Indian Irrigation Project, Ariz., for operation and maintenance of the project are hereby fixed at \$26 per acre for non-Indian owned lands and Indian owned lands leased to non-Indians and \$2 per irrigable acre for Indian owned lands farmed and operated by Indians. The foregoing charges shall become effective for the calendar year 1969 and continue in effect thereafter until further notice. Payment of the annual basic per acre rate entitles the landowner to delivery of not to exceed 4 acre feet of water per acre annually. Additional water, when available, may be delivered upon written application of the landowner or lessee at the rate of \$5 per acre foot or fraction thereof.

W. WADE HEAD,  
Area Director.

[F.R. Doc. 69-819; Filed, Jan. 22, 1969; 8:46 a.m.]

## Title 29—LABOR

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

#### PART 60—IMMIGRATION: AVAILABILITY OF, AND ADVERSE EFFECT UPON AMERICAN WORKERS

##### Certification Procedure

On November 21, 1968 (33 F.R. 17244), a notice of proposed amendments to 29 CFR Part 60 was published in the FEDERAL REGISTER. After consideration of all matter presented by interested persons concerning the proposal, I have decided to and do hereby amend the regulations set forth in that part as set forth below, effective March 1, 1969.

1. Section 60.3 is revised to read as follows:

##### § 60.3 Request for certification not covered by § 60.2.

(a) Any alien seeking admission to the United States under sections 101(a) (27) (A) (other than the parent, spouse, or child of a U.S. citizen or alien lawfully admitted to the United States for permanent residence), 203(a) (3), 203(a) (6), or 203(a) (8) whose category of employment is not included in the certification Schedule A, or noncertification Schedule B referred to in § 60.2 or is not the subject of paragraph (b) or (c) of this section, or other person on his behalf, may request a 212(a) (14) certification by filing a Form ES-575A describing the alien's qualifications and a Form ES-575B, describing his prospective employment in the United States. These forms and instructions concerning their

use, completion and transmission may be obtained from any consular office, any office of the Immigration and Naturalization Service, or any local office of a State Employment Service. These forms should be filed at the local office of the State Employment Service serving the area where the alien will be employed. They should not be filed directly with the U.S. Department of Labor in Washington, D.C.

(b) Any alien qualified as a professional or who has exceptional ability in the sciences or arts and whose occupation or qualifications are not listed on Schedule A shall request a 212(a) (14) certification by filing a Form ES-575A describing his qualifications and shall omit filing a Form ES-575B describing his prospective employment in the United States. Forms (and instructions) for filing are available from U.S. Consular offices abroad and Immigration and Naturalization Service offices in the United States. Such instructions will require aliens to indicate where they will reside. Except as provided in paragraph (c) of this section, U.S. Consular offices abroad or the Immigration and Naturalization Service offices shall send the ES-575A's to the Department of Labor. All sources of labor available for the area of intended residence will be reviewed. Certification will be issued if warranted by the circumstances at that time. If the review shows workers are available, or that wages or working conditions of workers similarly employed will be adversely affected, the certification will not be issued. Applications will not be accepted by the U.S. Department of Labor directly from the alien, because initial review by U.S. Consular offices abroad or Immigration and Naturalization Service offices is required.

(c) In those cases where the Secretary of Labor has determined after continuous review of sources for filling demands for particular occupations (not on Schedule A or B) that U.S. workers are not available except in particular areas and that the employment of aliens except in those particular areas will not adversely affect workers in the United States similarly employed, the occupations will be listed on Schedule C—Precertification List, and U.S. Consular offices abroad and Immigration and Naturalization Service offices will be notified that any alien whose occupation is described in such Schedule C—Precertification List and whose intended place of residence is not excluded from precertification is certified under section 212(a) (14) of the Immigration and Nationality Act. The Schedule C—Precertification List will be reviewed continuously to be sure that it will be kept current, and will be issued quarterly or more frequently if necessary. If adverse effects occur from the admission of alien workers in a listed occupation, or if an adequate supply of qualified workers in a listed occupation becomes available in a particular area, the occupation will be removed or the area for which it is certified will be changed. Copies of the Schedule C—Precertification List may be

obtained from the Manpower Administrator, U.S. Department of Labor, Washington, D.C. 20210. Any person may at any time file requests at the above address for additions to or deletions from the Schedule C—Precertification List. Aliens whose occupations are described in the Schedule C—Precertification List and whose intended place of residence is not excluded from precertification shall apply for certification by filing a Form ES-575A describing his qualifications and shall omit filing a Form ES-575B describing his prospective employment in the United States. Forms (and instructions) for filing are available from U.S. Consular offices abroad and Immigration and Naturalization Service offices in the United States. Applications will not be accepted by the U.S. Department of Labor directly from the alien, because initial review by U.S. Consular offices abroad or Immigration and Naturalization Service offices is required. If the alien's occupation appears on the Schedule C—Precertification List, but (1) his intended place of residence is excluded from precertification, or (2) his qualifications do not meet the requirements of the listed occupation, he should follow the procedure set forth in paragraph (a) of this section.

2. "Schedule C" now appearing at the end of 29 CFR Part 60 is revoked in its entirety.

(79 Stat. 911; 8 U.S.C. 1182)

Signed at Washington, D.C., this 16th day of January 1969.

WILLARD WIRTZ,  
Secretary of Labor.

[F.R. Doc. 69-820; Filed, Jan. 22, 1969; 8:46 a.m.]

## Title 30—MINERAL RESOURCES

### Chapter II—Geological Survey, Department of the Interior

#### PART 225—DISPOSAL OF GOVERNMENT ROYALTY OIL

On October 26, 1968, a notice of rule making was published in the FEDERAL REGISTER (33 F.R. 15872-15873) which proposed a revision of 30 CFR Part 225. The notice invited interested parties to submit written comments, suggestions, or objections with respect to the proposed revision to the Director, Geological Survey, within 30 days of the date of its publication. All of such comments, suggestions, and objections received have been carefully considered, and certain changes have been made in definition (a) under § 225.2 and in §§ 225.6 and 225.7. Also, § 225.8 has been added.

Part 225 of Title 30, Code of Federal Regulations, is revised to read as stated below, effective at the beginning of the calendar day on which it is published in the FEDERAL REGISTER.

- Sec.  
225.1 Statutory authority.  
225.2 Definitions.  
225.3 Policy.

- Sec.  
225.4 Exchange agreements.  
225.5 Application; contents.  
225.6 Action by the Supervisor.  
225.7 Action by the Secretary.  
225.8 Notices.

**AUTHORITY:** The provisions of this Part 225 issued under secs. 32, 36, 41 Stat. 450, 451, as amended; 61 Stat. 913, 30 U.S.C. 189, 192, 359.

#### § 225.1 Statutory authority.

Section 36 of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 192) authorizes the Secretary of the Interior to sell royalty oil accruing to the United States under oil and gas leases issued pursuant to that Act. The Act of July 13, 1946 (60 Stat. 533), which amended section 36 in order to assist small business enterprise, authorizes and directs the Secretary, when he determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, to grant a preference to such refineries in the sale of royalty oil for processing or use in such refineries and not for resale in kind. The Act of July 13, 1946, also provides that the sale of royalty oil to such refineries may be at private sale at not less than the market price and that in selling such oil the Secretary may at his discretion prorate such oil among such refineries in the area in which the oil is produced. The provisions of said section 36, as amended, also are applicable to royalty oil accruing to the United States under leases issued pursuant to the Mineral Leasing Act for Acquired Lands of August 7, 1947 (61 Stat. 913). The Act of September 1, 1949, provided for the elimination of premium payments in then existing contracts entered into pursuant to the Act of July 13, 1946.

#### § 225.2 Definitions.

The following definitions shall be applicable to the regulations in this part:

(a) "Eligible refiners" under the Act of July 13, 1946, shall be owners of existing refineries (including refineries not in operation) who qualify as a small business enterprise under the rules of the Small Business Administration and who are unable to purchase in the open market an adequate supply of crude oil to meet the needs of their existing refinery capacities.

(b) "Secretary" shall be the Secretary of the Interior.

(c) "Supervisor" shall be the Regional Oil and Gas Supervisor of the U.S. Geological Survey authorized and empowered to supervise and direct oil and gas operations under 30 CFR Part 221.

(d) "Region" is the area over which a Supervisor is authorized to exercise supervisory jurisdiction.

(e) "Preference eligible refiners" shall be eligible refiners applying for purchase of royalty oil produced in a given Region for use in their refineries located within that Region.

(f) "Market price" shall be (1) the highest price per barrel regularly posted, published, or generally paid, or offered, by any principal purchaser of crude oil

of equal A.P.I. gravity in the field where produced, or (2) if there are no postings in the field, the highest price posted in the nearest field where a comparable grade of crude oil is produced and sold, or (3) the true value as determined by the Supervisor when in his judgment such highest price regularly posted, published, or generally paid or offered in the same field or the nearest field is found by him to be less than the true value of the royalty oil. In no event shall the "market price" be less than the estimated reasonable value which the Supervisor would determine as the value of production, pursuant to § 221.47 of this chapter, if royalties on the production in question were being paid by the lessee rather than being taken in kind.

#### § 225.3 Policy.

Except in times of general unavailability of an adequate supply of crude oil in the United States, or when special circumstances warrant other action, as determined by the Secretary, Government royalty oil available for disposal pursuant to the Act of February 25, 1920, as amended, will be sold in accordance with the regulations in this part. Such oil will be sold only to "Eligible refiners" under the Act of July 13, 1946, and all such sales will be made at the "market price" without premium or bonus. "Preference eligible refiners" will be given a preference over other "Eligible refiners" in the purchase of such oil. When applications are filed by two or more "Preference eligible refiners" for the same oil, the oil will be allocated among such applicants by a drawing or on an equitable prorated basis as determined by the Supervisor prior to execution of contracts for sale of such oil. When applications are filed by two or more "Eligible refiners" for the same oil, and no applications for the same oil are filed by "Preference eligible refiners", or their needs are adequately supplied with only a part of the royalty oil available, the royalty oil available to such "Eligible refiners" shall be similarly allocated among them by the Supervisor.

#### § 225.4 Exchange agreements.

The act of July 13, 1946, requires refiners granted a preference to process or use in such refineries and not resell in kind royalty oil purchased thereunder. Agreements providing for the exchange of crude oil purchased under the act for other crude oil on a volume or equivalent value basis will not be construed as constituting a resale in kind prohibited by the act. Where an exchange agreement has been entered into or is contemplated with regard to royalty oil available for sale, full information relative thereto must be furnished either at the time of filing application to purchase royalty oil or at such later date as specified by the Supervisor.

#### § 225.5 Application; contents.

An eligible refiner may file an application with the Supervisor of the Region in which the oil is produced. Such application shall be filed in triplicate and must be accompanied by a detailed

statement containing the following information:

(a) The full name and address of the applicant; the location of his refinery or refineries; a complete disclosure of applicant's affiliation or association with any other refiner of oil if such relationship exists; and reasons for believing that applicant is entitled to a preference under the act of July 13, 1946, including a full showing of efforts made to purchase the needed oil in the open market.

(b) The capacity of the refinery to be supplied and the amount, source, and grade of all crude oil currently available to the applicant refiner from his own production or by purchase.

(c) The minimum amount and grade of additional crude oil needed to meet existing refinery commitments or existing refinery capacity, the field or fields which the refiner believes offer a potential source of crude-oil supply and the available transportation facilities which the refiner proposes to utilize.

(d) A tabulation for the preceding 12 months or for the last 12 months of operation of the amount and grade of crude oil refined each month, and the kind and amount of the principal finished products.

#### § 225.6 Action by the Supervisor.

The Supervisor shall examine each application filed pursuant to this Part and where he finds that the showing submitted is inadequate or unsatisfactory, such additional showing shall be required as may be deemed necessary. Also, in his discretion, he may notify the lessees or operators of the Federal oil and gas leases involved and the then purchaser or purchasers of the oil of his receipt of the application and allow them not in excess of 30 days within which to submit comments. When royalty oil is available for purchase in his Region, the Supervisor shall make inquiries of other small refiners having refineries in his Region as to their interest in filing applications to purchase royalty oil. He shall also make similar inquiries of any other small refiners having refineries located outside his Region when he has reason to believe they would be interested in filing applications to purchase royalty oil produced within his Region. Thereafter, he shall make appropriate recommendations for consideration by the Director, Geological Survey, and the Secretary of the Interior.

#### § 225.7 Action by the Secretary.

When the Secretary makes a decision to sell royalty oil in any given Region, he shall specify or approve the manner in which the sale is to be effected, including the form of contract to be used. At such time he may authorize the Supervisor or another official of the Geological Survey to execute the contract, or contracts, of sale on behalf of the United States, to approve exchange agreements, and to determine the amount and type of bond or other security to be required from the purchaser under such contract or contracts.

#### § 225.8 Notices.

Prior to any change in the disposition of royalty oil each lessee or operator under the Federal oil and gas leases covering the leaseholds involved shall be notified of the proposed change at least 30 days before the effective date of such change.

Dated: January 17, 1969.

STEWART L. UDALL,  
Secretary of the Interior.

[F.R. Doc. 69-874; Filed, Jan. 22, 1969;  
8:50 a.m.]

## Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

### Chapter 114—Department of the Interior

#### ESTABLISHMENT OF NEW PARTS

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 (Supp. III, 1965-1967) and sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), new Parts 114-42 and 114-43 are added to Chapter 114, Title 41 of the Code of Federal Regulations as set forth below.

These new parts shall become effective on the date of publication in the FEDERAL REGISTER.

DAVID S. BLACK,  
Under Secretary of the Interior.

JANUARY 15, 1969.

#### PART 114-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

##### Subpart 114-42.2—Maintenance and Rehabilitation

###### § 114-42.203 Additional facilities.

(a) Should any Bureau or Office determine that (1) additional rehabilitation facilities are needed to perform required services or (2) that operation of existing facilities is to be discontinued, the prior information required by FPMR 101-42.203 should be embodied in a letter, prepared for the signature of the Assistant Secretary for Administration, and addressed to:

Commissioner, Property Management and Disposal Service, General Services Administration, Washington, D.C. 20405.

The letter should include details showing the need for additional facilities or, in the case of facilities to be discontinued, a statement setting forth the reasons for such discontinuance.

(5 U.S.C. 301 (Supp. III, 1965-1967); sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

#### PART 114-43—UTILIZATION OF PERSONAL PROPERTY

Sec.  
114-43.000 Scope of part.

##### Subpart 114-43.1—General Provisions

114-43.101 Surveys.  
114-43.102 Reassignment of property within executive agencies.

Sec.  
114-43.102-50 Holding bureau utilization.  
114-43.102-51 Screening nonreportable available property.  
114-43.102-52 Screening reportable available property.  
114-43.102-53 Documentation of transfers.  
114-43.104 Definitions.  
114-43.104-50 Available personal property.  
114-43.104-51 Reportable property.  
114-43.104-52 Nonreportable property.  
114-43.104-53 Foreign excess property.

##### Subpart 114-43.3—Utilization of Excess

114-43.301 Federal Government procedure.  
114-43.302 Agency responsibility.  
114-43.306 Property not required to be reported.  
114-43.311 Reporting requirements.  
114-43.311-1 Reporting.  
114-43.313-5 Electronic data processing equipment.  
114-43.315 Transfers of excess property.  
114-43.315-2 Information of availability.  
114-43.315-3 Fair value reimbursement.  
114-43.315-5 Procedure for effecting transfers.  
114-43.316 Contractor inventory.  
114-43.316-50 Reimbursement for available contractor inventory.  
114-43.317 Costs and proceeds.  
114-43.317-1 Costs of care and handling.  
114-43.319 Performance reports.

AUTHORITY: The provisions of this Part 114-43 issued under 5 U.S.C. 301 (Supp. III, 1965-1967); sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

##### § 114-43.000 Scope of part.

This part applies to all available and excess personal property under the jurisdiction of Bureaus and Offices of the Department of the Interior, exclusive of foreign excess property as defined in IPMR 114-43.104-53.

##### Subpart 114-43.1—General Provisions

###### § 114-43.101 Surveys.

The head of each Bureau and Office shall ensure that all personal property held by each Accountable Officer under his jurisdiction is continuously examined to determine that which is "available" and shall promptly facilitate the transfer of property so identified as provided in this part. Although the system which will best serve as a means of identifying unneeded property may vary between bureaus, or between offices within a bureau, it should include provisions for:

(a) Periodically reviewing stores and equipment records to identify items which may be on hand in excess of program requirements.

(b) Periodically reviewing and evaluating equipment utilization reports and physical inventories of nonexpandable property to identify idle or unneeded property.

###### § 114-43.102 Reassignment of property within executive agencies.

Available personal property shall be screened against Department of the Interior needs in accordance with this section before it is determined to be excess. The authority to reassign or to transfer available personal property has been delegated to heads of bureaus and offices in 205 DM 9.

§ 114-43.102-50 Holding bureau utilization.

Each Bureau and Office holding available personal property (see definition in IPMR 114-43.104-50) shall ensure that its own offices are afforded an opportunity to utilize such property either prior to or simultaneously with circularization of other Bureaus and Offices of the Department.

§ 114-43.102-51 Screening nonreportable available property.

(a) Nonreportable available property should not be routinely circularized within the Department, except in special instances where the holding office has reason to believe there may be general interest in the property. Instead, the holding office should make the availability of nonreportable property known to other Interior offices, and other Federal agencies in the area, to the extent the nature, amount, and condition of such property warrants. Often a telephone call to Federal agencies in the area may be all that is required to support a finding of excess and surplus.

(b) When no further Federal utilization is found for nonreportable personal property, a determination of surplus shall be made in writing and made a part of the disposal file. Surplus nonreportable property shall be processed for disposal in accordance with applicable provisions of FPMR 101-44 and 101-45.

§ 114-43.102-52 Screening reportable available property.

Reportable available property shall be circularized simultaneously to the offices listed in this section, except where its nature, location, or condition virtually precludes further utilization by such offices. Property not transferred as a result of the screening prescribed herein should be determined to be excess to the needs of the Department of the Interior and promptly reported to the appropriate GSA regional office in accordance with FPMR 101-43.311. The excess determination should be evidenced in writing and made a part of the disposal file. Only one copy of each availability notice is required by the offices listed unless otherwise indicated:

- (a) Director of Management Operations, Office of the Assistant Secretary for Administration, Department of the Interior, Washington, D.C. 20240.
- (b) Regional Solicitor, Room 1400, Building No. 67, Denver Federal Center, Denver, Colo. 80225.
- Regional Solicitor, 7759 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.
- Regional Solicitor, Second Bank Building, 420 Chestnut Street, Philadelphia, Pa. 19106.
- Regional Solicitor, Suite 3426, Federal Building, 125 South State Street, Salt Lake City, Utah 84111.
- Regional Solicitor, Post Office Box 3621, Federal Building, 1002 Holladay Street, Portland, Ore. 97208.
- Regional Solicitor, E-2753, 2800 Cottage Way, Sacramento, Calif. 95825.
- Regional Solicitor, Post Office Box 166, Rooms 62-66, Federal Building, Anchorage, Alaska 99501.

Regional Solicitor, Post Office Box 3156 (Zip Code 74101), U.S. Post Office and Federal Office Building, 333 West Fourth Street, Room 342, Tulsa, Okla. 74103.

(c) Bonneville Power Administration (2 copies), Procurement Section, Post Office Box 3621, Portland, Ore. 97208.

(d) Bureau of Commercial Fisheries (2 copies each).

Property Management Officer, Bureau of Commercial Fisheries, 6116 Arcade Building, 1319 Second Avenue, Seattle, Wash. 98101.

Property Management Officer, Bureau of Commercial Fisheries, Post Office Box 1668, Juneau, Alaska 99801.

Property Management Officer, Bureau of Commercial Fisheries, Federal Building, 144 First Avenue South, St. Petersburg, Fla. 33701.

Property Management Officer, Bureau of Commercial Fisheries, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Property Management Officer, Bureau of Commercial Fisheries, 5 Research Drive, Ann Arbor, Mich. 48103.

Assistant Regional Director for Administration, Bureau of Commercial Fisheries, Federal Building (Customhouse), 300 South Ferry Street, Terminal Island, Calif. 90731.

Property Management Officer, Bureau of Commercial Fisheries, Post Office Box 3830, Honolulu, Hawaii 96812.

(e) Geological Survey (3 copies each). Chief, Branch of Service and Supply, Geological Survey, Washington, D.C. 20242.

Management Officer, Geological Survey, 345 Middlefield Road, Menlo Park, Calif. 94025.

Management Officer, Geological Survey, Building 25, Federal Center, Denver, Colo. 80225.

(f) Bureau of Indian Affairs. Division of Property and Supply Management, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20242.

Aberdeen Area Office, Bureau of Indian Affairs, 820 South Main Street, Aberdeen, S. Dak. 57401.

Albuquerque Area Office, Bureau of Indian Affairs, 5301 Central Avenue NE., Post Office Box 8327, Albuquerque, N. Mex. 87108.

Minneapolis Area Office, Bureau of Indian Affairs, 1312 West Lake Street, Minneapolis, Minn. 55408.

Muskogee Area Office, Bureau of Indian Affairs, Federal Building, Muskogee, Okla. 74401.

Navajo Area Office, Bureau of Indian Affairs, Post Office Box 1060, Gallup, N. Mex. 87301.

Anadarko Area Office, Bureau of Indian Affairs, Federal Building, Anadarko, Okla. 73005.

Billings Area Office, Bureau of Indian Affairs, 316 North 26th Street, Billings, Mont. 59101.

Sacramento Area Office, Bureau of Indian Affairs, 2550 Fair Oaks Boulevard, Post Office Box 749, Sacramento, Calif. 95825.

Juneau Area Office, Bureau of Indian Affairs, Box 3-8000, Juneau, Alaska 99801.

Phoenix Area Office, Bureau of Indian Affairs, 124 West Thomas Road, Post Office Box 7007, Phoenix, Ariz. 85011.

Portland Area Office, Bureau of Indian Affairs, 1425 Northeast Irving Street, Post Office Box 3785, Portland, Ore. 97208.

Cherokee Agency, Bureau of Indian Affairs, Cherokee, N.C. 28719.

Seminole Agency, Bureau of Indian Affairs, 6075 Stirling Road, Hollywood, Fla. 33024.

(g) Bureau of Land Management (2 copies each). Division of Administrative Services, Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240.

Portland Service Center, Bureau of Land Management, 710 Northeast Holladay Street, Post Office Box 3861, Portland, Ore. 97208.

State Director, Bureau of Land Management, Federal Building, Room 3022, Phoenix, Ariz. 85025.

State Director, Bureau of Land Management, 14023 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

Denver Service Center, Bureau of Land Management, Federal Center, Building 50, Denver, Colo. 80225.

State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

State Director, Bureau of Land Management, Federal Building, Room E-2807, 2800 Cottage Way, Sacramento, Calif. 95825.

State Director, Bureau of Land Management, Federal Building, Room 334, Post Office Box 2237, Boise, Idaho 83701.

State Director, Bureau of Land Management, Federal Building and U.S. Courthouse, 316 North 26th Street, Billings, Mont. 59101.

State Director, Bureau of Land Management, U.S. Post Office and Federal Building, South Federal Place, Post Office Box 1449, Santa Fe, N. Mex. 87501.

State Director, Bureau of Land Management, Federal Building, 125 South State, Post Office Box 11505, Salt Lake City, Utah 84111.

State Director, Bureau of Land Management, Federal Building, Room 3008, 300 Booth Street, Reno, Nev. 89502.

State Director, Bureau of Land Management, Federal Building, Room 334, 550 West Fort Street, Boise, Idaho 83702.

State Director, Bureau of Land Management, 729 Northeast Oregon Street, Post Office Box 2965, Portland, Ore. 97208.

State Director, Bureau of Land Management, Post Office and Courthouse Building, 2120 Capitol Avenue, Box 1828, Cheyenne, Wyo. 82001.

Director, Boise Interagency Fire Center, Bureau of Land Management, Gowen Field, Route 3, Post Office Box 4158, Boise, Idaho 83705.

(h) Bureau of Mines (one copy to each of the following unless otherwise specified). Research Director, Albany Metallurgy Research Center, Box 70, Albany, Ore. 97321 (2 copies).

Research Director, Laramie Petroleum Research Center, Box 3395, University Station, Laramie, Wyo. 82071.

Research Director, Bartlesville Petroleum Research Center, Post Office Box 1398, Bartlesville, Okla. 74003.

Research Director, Salt Lake City Metallurgy Research Center, 1600 East First South Street, Salt Lake City, Utah 84112.

Research Director, Research Metallurgy Research Center, 1605 Evans Avenue, Reno, Nev. 89505.

Research Director, Health and Safety Research and Testing Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

Research Director, Rolla Metallurgy Research Center, Post Office Box 230, Rolla, Mo. 65401.

Research Director, Morgantown Coal Research Center, Post Office Box 880, Morgantown, W. Va. 26505.

Research Director, Twin Cities Research Center, Post Office Box 1660, Twin Cities Airport, Minn. 55111.

Chief, Western Administrative Office, Building 20, Denver Federal Center, Denver, Colo. 80225.

Chief, Boulder City, Metallurgy Research Laboratory, 500 Date Street, Boulder City, Nev. 89005.

District Manager, Health and Safety District E, 1457 Ammons Street, Lakewood, Colo. 80215.

District Manager, Health and Safety District C, Norton, Va. 24273.

Helium Activity, 1747 Avondale, Box 10085, Amarillo, Tex. 79106.

Research Director, Marine Minerals Technology Center, 3150 Paradise Drive, Tiburon, Calif. 94920.

Research Director, Pittsburgh Coal Research Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

Research Director, Pittsburgh Metallurgy Research Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

Research Director, College Park Metallurgy Research Center, College Park, Md. 20740.

Chief, Eastern Administrative Office, 4800 Forbes Avenue, Pittsburgh, Pa. 15213 (2 copies).

District Manager, Health and Safety District B, Mount Hope, W. Va. 25880.

District Manager, Health and Safety District D, 302 North Second Street, Vincennes, Ind. 47591.

Chief, Division of Procurement and Property Management, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

Chief, Grand Forks Coal Research Laboratory, Box 8213, University Station, Grand Forks, N. Dak. 58202.

Chief, San Francisco Petroleum Research Laboratory, 1429 Appraisers Building, San Francisco, Calif. 94111.

Chief, Spokane Mining Research Laboratory, 1430 North Washington Street, Spokane, Wash. 99201.

(i) National Park Service.

Regional Director, Southeast Region, National Park Service, Federal Building, Post Office Box 10008, 400 North Eighth Street, Richmond, Va. 23240.

Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.

Regional Director, Southwest Region, National Park Service, Post Office Box 728, Santa Fe, N. Mex. 87501.

Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, Post Office Box 36063, San Francisco, Calif. 94102.

Regional Director, Northeast Region, National Park Service, 143 South Third Street, Philadelphia, Pa. 19106.

Regional Director, National Capital Region, 1100 Ohio Drive SW., Washington, D.C. 20242.

(j) Bureau of Reclamation.

Commissioner of Reclamation, Attention 800, Interior Building, Washington, D.C. 20240.

Office of Chief Engineer, Bureau of Reclamation, Building 67, Denver Federal Center, Denver, Colo. 80225.

Regional Director, Bureau of Reclamation, Post Office Box 1609, Amarillo, Tex. 79105.

Regional Director, Bureau of Reclamation, Post Office Box 2553, Billings, Mont. 59103.

Regional Director, Bureau of Reclamation, Post Office Box 360, Salt Lake City, Utah 84111.

Regional Director, Bureau of Reclamation, Post Office Box 8008, Boise, Idaho 83707.

Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, Calif. 95825.

Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, Nev. 89005.

Regional Director, Bureau of Reclamation, Building 20, Denver Federal Center, Denver, Colo. 80225.

(k) Bureau of Sport Fisheries and Wildlife (2 copies each).

Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 3737, 730 Northeast Pacific Street, Portland, Oreg. 97208.

Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408.

Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building (30A), Atlanta, Ga. 30323.

Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Division of Property Management, Bureau of Sport Fisheries and Wildlife, Interior Building, Room 3450, Washington, D.C. 20240.

(l) Southeastern Power Administration.

Administrator, Southeastern Power Administration, Elberton, Ga. 30635.

(m) Southwestern Power Administration (2 copies).

Administrator, Southwestern Power Administration, Post Office Drawer 1619, Tulsa, Okla. 74101.

(n) Bureau of Outdoor Recreation.

Division of Program Development and Management Operations, Bureau of Outdoor Recreation, 18th and C Streets NW., Washington, D.C. 20240.

Regional Director, Bureau of Outdoor Recreation, Mid-Continent Regional Office, Building 41, Denver Federal Center, Denver, Colo. 80225.

Regional Director, Bureau of Outdoor Recreation, Northeast Regional Office, Federal Building, 1421 Cherry Street, Philadelphia, Pa. 19102.

Regional Director, Bureau of Outdoor Recreation, Southeast Regional Office, 810 New Walton Building, Atlanta, Ga. 30303.

Regional Director, Bureau of Outdoor Recreation, Lake Central Regional Office, 3853 Research Park Drive, Ann Arbor, Mich. 48104.

Regional Director, Bureau of Outdoor Recreation, Pacific Northwest Regional Office, U.S. Courthouse, Room 407, Seattle, Wash. 98104.

Regional Director, Bureau of Outdoor Recreation, Pacific Southwest Regional Office, Box 36062, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Regional Director, Bureau of Outdoor Recreation, Lake Central Regional Office, 3853 Research Park Drive, Ann Arbor, Mich. 48104.

(o) Federal Water Pollution Control Administration (3 copies each).

Department of the Interior, Federal Water Pollution Control Administration, Washington, D.C. 20240.

Federal Water Pollution Control Administration, Southeast Region, Suite 300, 1421 Peachtree Street NE., Atlanta, Ga. 30309.

Federal Water Pollution Control Administration, South Central Region, 1402 Elm Street, Dallas, Tex. 75202.

Federal Water Pollution Control Administration, Southwest Region, 760 Market Street, San Francisco, Calif. 94102.

Federal Water Pollution Control Administration, Missouri Basin Region, 911 Walnut Street, Kansas City, Mo. 64106.

Federal Water Pollution Control Administration, Ohio Basin Region, Robert A. Taft Sanitary Engineering Center, 4676 Columbia Parkway, Room 115, Cincinnati, Ohio 45226.

Federal Water Pollution Control Administration, Northwest Region, Pittock Block, Room 501, Portland, Oreg. 97205.

Federal Water Pollution Control Administration, Great Lakes Region, 33 East Congress Parkway, Room 410, Chicago, Ill. 60605.

Federal Water Pollution Control Administration, South Central Region, 1000 Main Street, Dallas, Tex. 75202.

Administrative Officer, Federal Water Pollution Control Administration, Middle Atlantic Region, 918 Emmet Street, Charlottesville, Va. 22901.

Federal Water Pollution Control Administration, Northeast Region, John F. Kennedy Federal Building, Room 2303, Boston, Mass. 02203.

(p) Alaska Power Administration (2 copies).

Alaska Power Administration, Post Office Box 50, Juneau, Alaska 99801.

Alaska Power Administration, Eklutna Project, Post Office Pouch No. 5, Star Route, Eagle River, Alaska 99577.

(q) Office of Saline Water.

Chief, Administrative Management, Office of Saline Water, Interior Building, 18th and C Streets NW., Washington, D.C. 20240.

(r) Office of Territories.

Property Officer, Office of Territories, Interior Building, Washington, D.C. 20240.

High Commissioner of the Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950.

Governor of American Samoa, Pago Pago, Tutuila, American Samoa 96920.

#### § 114-43.102-53 Documentation of transfers.

Property disposed of by transfer to another accountable officer within the holding bureau, to other bureaus of the Department of the Interior, and to other Federal agencies shall be recorded on Transfer of Property, Form DI-104, or a modification thereof, to provide a document of entry to property records and accounts. Sufficient copies of the transfer document should be prepared, signed, and distributed to satisfy the property and accounting requirements of both the transferor and the transferee offices.

#### § 114-43.104 Definitions.

##### § 114-43.104-50 Available personal property.

Available personal property is defined as property which has been determined by the Accountable Officer to be no longer needed by his office and which properly may be determined to be excess if no further need exists for such property within the Department.

##### § 114-43.104-51 Reportable property.

Reportable personal property is available property which must be reported to the General Services Administration when determined to be excess as provided in FPMR 101-43.311.

##### § 114-43.104-52 Nonreportable property.

Nonreportable personal property is available and excess property which is not required to be reported to the General Services Administration, for a finding of surplus, as provided in FPMR 101-43.312. (Surplus nonreportable property shall, however, be reported to the General Services Administration for sale purposes as provided in IPMR 114-43.306.)

##### § 114-43.104-53 Foreign excess property.

Foreign excess property is any excess property located outside the States of the Union, the District of Columbia, Puerto Rico, and the Virgin Islands.

**Subpart 114-43.3—Utilization of Excess**

**§ 114-43.301 Federal Government procedure.**

It is the policy of the Department of the Interior to consider excess property as the first source of supply. In no case, however, will excess property be acquired unless a present or foreseeable program need exists for the property. In carrying out this policy, the objective of which is to obtain maximum effective and economical utilization of property already owned by the Federal Government, consideration should be given to such factors as:

(a) Nature and cost of any repairs required to restore excess equipment to a safe, dependable, and economical operating condition.

(b) Duration of the job on which the equipment will be used.

(c) Economic feasibility of ownership vs. loan or rental of the equipment. Frequency of use, particularly where the equipment will be needed only infrequently, is one of the factors which must be considered in determining the most economical method of acquisition.

(d) Handling and transportation costs involved in acquisition of excess property.

**§ 114-43.302 Agency responsibility.**

(a) A cost-reimbursement type contractor (see FPR 1-3.4 for description of a cost-reimbursement type contract) is eligible to receive excess personal property with the approval of the contracting Bureau or Office. Since transfers of excess property to cost-reimbursement type contractors may be made only by the agency administering the contract, actual transfer of excess property from the holding agency is made to the Bureau or Office administering the contract. Title to excess property transferred to the custody of a cost-reimbursement type contractor remains vested in the Government. Thus, the Bureau or Office administering the contract is responsible for ensuring that appropriate accounting and property accountability records are established and maintained and for proper disposition of the property when no longer needed for performance of work under the contract.

**§ 114-43.306 Property not required to be reported.**

Nonreportable personal property, while not reportable to GSA as excess on Standard Form 120, shall be reported to the appropriate regional office of that agency for sale purposes, on GSA Forms 126 and 126A, once a finding of surplus is made (see IPMR 114-43.102-51(b)) and the Department of Health, Education, and Welfare, has been afforded an opportunity to screen the property as provided in FPMP 101-44.3.

**§ 114-43.311 Reporting requirements.**

**§ 114-43.311-1 Reporting.**

The authority to report excess personal property to the General Services Administration has been delegated to

the head of each Bureau and Office in 205 DM 9.

**§ 114-43.313-5 Electronic data processing equipment.**

(a) (1) Chapter 306 DM 1 prescribes procedures and establishes responsibilities for coordinating the Department's ADP programs. These procedures contemplate that clearance will be obtained from the Director of Survey and Review prior to offering available owned or leased EDP equipment for transfer to other Bureaus and Offices of the Department and, acquiring excess Government-owned or leased EDP equipment from other agencies.

(2) The approval of the Director of Survey and Review shall be obtained prior to acquisition of excess Government-owned or leased EDP equipment from other agencies. However, a freeze order may be placed against excess EDP equipment pending Departmental approval, if desired.

(b) (1) Available EDP equipment should be circularized within the holding bureau as provided in IPMR 114-43.102-50. One copy of each intra-bureau "availability notice" shall be furnished the Bureau ADP coordinator and one copy to the Director of Survey and Review. This procedure provides an opportunity for the Bureau coordinator to intercede with respect to intra-bureau transfers and for the Office of Survey and Review to advise of any special coordination, utilization, or disposal procedures to be followed. If no special handling instructions are received from the Department within 30 days from the issue date of the "availability notice", the holding bureau should presume Departmental approval to offer the equipment for transfer to other Interior Bureaus and Offices and declaration to GSA if determined to be excess. The Report of Excess Personal Property, Standard Form 120, shall be transmitted to the General Services Administration, Utilization and Disposal Service, Office of Personal Property, Utilization Division, Washington, D.C. 20405, with one copy to the Director of Survey and Review.

(2) It is the policy of the Department of the Interior to screen available EDP equipment against Departmental needs rather than call on GSA to perform this service as suggested in FPMP 101-43.313-5(b) (3). Internal screening of other Bureaus and Offices should be conducted in accordance with IPMR 114-43.102.

**§ 114-43.315 Transfers of excess property.**

The authority to transfer excess personal property to and from other Federal agencies has been delegated to the Heads of Bureaus and Offices in 205 DM 9.

**§ 114-43.315-2 Information of availability.**

Bureaus and Offices are encouraged to make their needs for property, particularly needs for major or large equipment items, known to GSA through the use of GSA Form 1539, Request for Excess Personal Property. Consideration of the use

of excess property should not be limited to that which has been circularized by GSA as available for transfer. Rather, equipment needs should, whenever possible, be determined well in advance of the date actually required and made known to GSA to provide the greatest opportunity to locate equipment which (a) is currently available from excess sources or (b) may be available, but has not been declared excess or circularized as available for utilization.

**§ 114-43.315-3 Fair value reimbursement.**

Transfers of available property within the Department of the Interior shall be made without exchange of funds, except that:

(a) The disposing Bureau or Office may elect to receive reimbursement at the GSA fair value where the property involved is reimbursable by law, unless such requirement for reimbursement can be satisfied or equitably avoided through appropriate accounting procedures.

(b) The receiving Bureau or Office shall pay the GSA fair value in all instances where the property being acquired will be carried in accounts, disposals from which are reimbursable.

**§ 114-43.315-5 Procedure for effecting transfers.**

(a) (1) Reportable personal property may be transferred to other Federal agencies, without GSA approval, as provided in FPMP 101-43.315-5(a) (1), when the screening requirements of IPMR 114-43.102-52 have been met and no other Interior activity has indicated a need for the property.

(2) Nonreportable personal property may be transferred to other Federal agencies, without GSA approval, as provided in FPMP 101-43.315-5(a) (2), provided that no other Interior office in the area of where the property is located indicates an interest in acquiring the property.

**§ 114-43.316 Contractor inventory.**

(a) Contractor inventory may be retained or disposed of by a contractor or subcontractor provided the following conditions are met:

(1) The property is first determined to be excess to Department of the Interior needs in accordance with IPMR 114-43.102, and provided further, that the types of property covered by FPMP 101-43.316-1(a) (1) through (8) are determined to be surplus to all Federal agency needs.

(2) An equitable settlement is made for property retained by a contractor.

(3) In any case where a contractor is authorized to dispose of contractor inventory by sale with the proceeds to be credited to the United States, the sale shall be by the competitive bid method. The bid price shall be approved by the contracting officer or his representative prior to the award.

**§ 114-43.316-50 Reimbursement for available contractor inventory.**

Transfers of contractor inventory within the Department shall be without

exchange of funds in all instances where any proceeds would be for deposit in miscellaneous receipts. Where the proceeds would be deposited otherwise, the extent of reimbursement will be determined by the disposing office, but in no case will it exceed the estimated market value of the property.

§ 114-43.317 Costs and proceeds.

§ 114-43.317-1 Costs of care and handling.

Costs of care and handling, including packing and shipping, incident to transfer of available personal property within the Department of the Interior, may be charged to the acquiring office, except that where the cost is less than \$15.00, and the transaction is otherwise without reimbursement, the disposing office should not seek reimbursement unless its regional or higher office determines that special conditions so require.

§ 114-43.319 Performance reports.

The Quarterly Report—Utilization and Disposal of Excess and Surplus Personal Property, Standard Form 121 shall be prepared and submitted in accordance with FPMR 101-43.4907 and the following supplemental instructions:

(a) *Preparation.* (1) All data called for on Standard Form 121 are to be reported without regard to the instruction found on the reverse of the form, which provides that data for Lines 1, 2, 3, 5, 11, 12, 13, 15, and 28 need not be reported unless otherwise directed by GSA.

(2) On Line 1 report only transfers of available property to other Department of the Interior Bureaus and Offices whether with or without reimbursement.

(3) On Line 9 report only excess property transferred to Federal agencies outside the Department of the Interior with or without reimbursement.

(4) On Lines 10 and 14 report all property determined to be surplus during the quarter whether such determination was made by the General Services Administration or by the holding Bureau or Office.

(5) Since no property may be disposed of as surplus until it has first been found to be excess, the original cost of property reported under section III must first have been reported under section II of the report.

(6) The following data shall be entered in the space reserved for "Remarks" on Standard Form 121, or in an attachment thereto:

(i) The value of available property transferred in from other Interior Bureaus and Offices with or without reimbursement, in terms of original acquisition costs,

(ii) The value of excess property acquired from Federal agencies outside of Interior, whether with or without reimbursement, in terms of original acquisition cost (estimated if not known),

(iii) A certification to the effect that the requirements of FPMR 101-45.5 have been complied with in any instances where excess or surplus property is disposed of by abandonment or destruction,

NOTE: This certification is required only when an entry is made on Line 6, 7, 16, or 26, of Standard Form 121.

and

(iv) Appropriate explanations, when entries made require an explanation, as in the case of Lines 3, 13, 22, and 27.

(b) *Property excepted from reporting.* The following transactions should not be included in the Standard Form 121 report:

(1) Transfers and sales of personal property made pursuant to the Exchange/Sale authority in section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended.

(2) Destruction, abandonment, or reduction to scrap of property as a result of board of survey action if such property was not, in fact, first determined to be excess or surplus. However, the proceeds from sales of all scrap should be reported on Line 30.

(c) *Submission and due date.* Separate Standard Form 121 reports, consolidated for the Bureau, shall be submitted for Job Corps property (see 755 DM 554) and for other Bureau property. Reports should be submitted, in original only, to the Director of Management Operations by the 25th of the month following the close of the reporting period.

[F.R. Doc. 69-853; Filed, Jan. 22, 1969; 8:48 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

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

#### APPENDIX—PUBLIC LAND ORDERS.

[Public Land Order 4563]

#### NEBRASKA

### Addition of Lands to Nebraska National Forest; Revocation of Executive Order of November 4, 1879

By virtue of the authority vested in the President by section 24 of the act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), and section 1 of the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby added to and made a part of the Nebraska National Forest, and hereafter shall be subject to all laws and regulations applicable thereto:

#### SIXTH PRINCIPAL MERIDIAN

T. 31 N., R. 53 W.,  
Tract 38.  
T. 31 N., R. 54 W.,  
Tract 37.  
T. 32 N., R. 53 W.,  
Tract 37.  
T. 32 N., R. 54 W.,  
Tract 37.

The areas described aggregate 9,641.86 acres in Sioux County.

2. The Executive order of November 4, 1879, withdrawing the lands as a wood and timber reserve for use of the military post of Fort Robinson, is hereby revoked.

3. The regulations in 43 CFR 2311.1-1 to 2311.1-3, concerning the filing of applications for the withdrawal or reservation of lands, and the publicity to be given to such applications, are hereby waived so far as they apply to the withdrawal made by paragraph 1 of this order.

HARRY R. ANDERSON,  
Assistant Secretary of the Interior.

JANUARY 16, 1969.

[F.R. Doc. 69-849; Filed, Jan. 22, 1969; 8:48 a.m.]

[Public Land Order 4564]

[Anchorage 031764, 379]

#### ALASKA

### Withdrawal for Coast Guard Facility; Partial Revocation of Public Land Order No. 1949 of August 19, 1959

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

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, and reserved as an aid to navigation facility of the U.S. Coast Guard:

ATTU ISLAND  
(Unsurveyed)

Beginning at a point on the mean high waterline of Massacre Bay approximately 5.03 chains southwesterly of Signal Point, at approximate latitude 52°50'39.898" N., longitude 173°12'15.560" E., thence west approximately 184.848 chains to a point; thence south approximately 121.212 chains to a point; thence east approximately 41,515 chains to a point on the mean high waterline of Casco Bay; thence easterly and southerly along mean high waterline of Casco Bay to the southernmost tip of Casco Point; thence northerly along mean high waterline of Massacre Bay, including Loaf Island, to the point of beginning, containing approximately 1,800 acres.

2. Public Land Order No. 1949 of August 19, 1959, which withdrew lands for use of the Department of the Navy for military purposes, is hereby revoked so far as it affects the following described lands:

a. Attu Island: That land lying south of latitude 52°52'00" N., between longitude 173°04'00" E. and longitude 173°14'00" E.

The area described contains approximately 11,670 acres.

The lands described in paragraphs 1 and 2 are a part of the Aleutian Islands National Wildlife Refuge as established by Executive Order No. 1733 of March 3, 1913.

3. The withdrawal made by paragraph 1 of this order shall take precedence over

but not otherwise affect the existing withdrawal for wildlife purposes.

HARRY R. ANDERSON,  
Assistant Secretary of the Interior.

JANUARY 16, 1969.

[F.R. Doc. 69-850; Filed, Jan. 22, 1969;  
8:48 a.m.]

[Public Land Order 4565]

[Arizona 2183]

**ARIZONA**

**Withdrawal for National Forest  
Recreation Areas**

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

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

KAIBAB NATIONAL FOREST

GILA AND SALT RIVER MERIDIAN

*Kaibab Lake Campground*

T. 22 N., R. 2 E.,  
Sec. 14, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$   
SE $\frac{1}{4}$ ;  
Sec. 15, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ .

*Parks Campground*

T. 22 N., R. 4 E.,  
Sec. 22, lots 1, 2, 7, and 8;  
Sec. 27, lots 1, 2, 5, 6, and 13.

*Ten X Campground*

T. 29 N., R. 2 E.,  
Sec. 1, lots 1 and 2.  
T. 30 N., R. 2 E.,  
Sec. 36, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ .  
T. 30 N., R. 3 E.,  
Sec. 31, lot 4.

The areas described aggregate 1,392.63 acres in Coconino County.

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

HARRY R. ANDERSON,  
Assistant Secretary of the Interior.

JANUARY 16, 1969.

[F.R. Doc. 69-851; Filed, Jan. 22, 1969;  
8:48 a.m.]

[Public Land Order 4566]

[Anchorage 024880]

**ALASKA**

**Partial Revocation of Public Land  
Order No. 4341**

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

1. Public Land Order No. 4341 of December 21, 1967, withdrawing lands for

use of the Department of the Air Force, is hereby revoked so far as it affects the following described lands:

KENAI

U.S. SURVEY NO. 4563

That portion of lot 1 beginning at meander Corner No. 1, thence N. 44°00' E., 0.74 chain to a point on line 1-2, lot 1, which is S. 44°00' W., 50 feet from the approximate centerline of the Beaver Loop Road; thence S. 44°09' E., 4.69 chains to a point on line 3-4, lot 1, which is S. 48°00' W., 50 feet from the approximate centerline of the Beaver Loop Road; thence S. 48°00' W. 0.20 chain along line 3-4, lot 1, to meander Corner No. 4 of lot 1; thence N. 50°45' W., 4.69 chains along line 4-1 of lot 1 to meander Corner No. 1 of lot 1, the point of beginning.

Containing 0.23 acre.

2. The tract has been determined to be "property" within the meaning of the Federal Property and Administrative Services Act of 1949 as amended, and shall be subject to administration or disposal under that act and regulations of the General Services Administration.

HARRY R. ANDERSON,  
Assistant Secretary of the Interior.

JANUARY 16, 1969.

[F.R. Doc. 69-852; Filed, Jan. 22, 1969;  
8:48 a.m.]

[Public Land Order 4582]

**ALASKA**

**Withdrawal of Unreserved Lands**

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 347, 43 U.S.C. 141), as amended, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, and subject to the conditions hereinafter set forth, all public lands in Alaska which are unreserved or which would otherwise become unreserved prior to the expiration of this order, are hereby withdrawn from all forms of appropriation and disposition under the public land laws (except locations for metalliferous minerals), including selection by the State of Alaska pursuant to the Alaska Statehood Act (72 Stat. 339), and from leasing under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181, et seq.), as amended, and reserved under the jurisdiction of the Secretary of the Interior for the determination and protection of the rights of the native Aleuts, Eskimos, and Indians of Alaska. The withdrawal and reservation created by this order shall expire at 12 (midnight), A.s.t., December 31, 1970.

2. Unless otherwise required by law, all applications for leases, licenses, permits, or land title transfers which were pending before the Department of the Interior on the effective date of this order, will be given the same status and consideration beginning at 12 (noon) A.s.t., on April 2, 1971, as though there had been no intervening period, unless previously recalled by the applicant.

3. From January 1, 1971, until 12 (noon) A.s.t., on April 2, 1971, the State

of Alaska shall, subject to the provisions of paragraph 2 of this order, have a preferred right of selection as provided by section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 341). Any public lands not selected by the State and not otherwise reserved shall at 12 (noon) A.s.t., on April 2, 1971, become subject to appropriation under the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

4. Applications filed by the State of Alaska before January 4, 1969, to select unreserved public lands under the Statehood Act, which at the time of such filings were embraced in leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 supra, or the Alaska Coal Leasing Act of 1914 (38 Stat. 741, as amended, 48 U.S.C. 432), and applications filed by the State of Alaska before December 13, 1968, to select other unreserved lands under the Statehood Act, shall be processed in accordance with the policies and procedures of this Department designed to protect the rights of the native Aleuts, Eskimos, and Indians of Alaska, which were in effect on the date of this order.

5. This order may be modified or amended by the Secretary of the Interior or his delegate upon the filing of an application which demonstrates that such modification or amendment is required for the construction of public or economic facilities in the public interest. Applications for such modification or amendment should be filed in the land office of the Bureau of Land Management, Anchorage, Alaska.

STEWART L. UDALL,  
Secretary of the Interior.

JANUARY 17, 1969.

[F.R. Doc. 69-873; Filed, Jan. 22, 1969;  
8:50 a.m.]

**Title 47—TELECOMMUNICATION**

**Chapter I—Federal Communications  
Commission**

[Docket No. 17790; RM-1186]

**PART 73—RADIO BROADCAST  
SERVICES**

**Table of Assignments; Lynchburg, Va.;  
Correction**

In the matter of amendment of § 73.606(b) of the Commission's rules, television table of assignments (Lynchburg, Va.).

The report and order in the above-entitled matter, FCC 69-19, released January 10, 1969, and published in the FEDERAL REGISTER on January 15, 1969, 34 F.R. 559, is corrected by deleting "Commissioner Wadsworth absent" after the phrase "By the Commission."

Released: January 17, 1969.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 69-841; Filed, Jan. 22, 1969;  
8:47 a.m.]

[RM-1348; FCC 69-38]

PART 87—AVIATION SERVICES

Order Regarding Exchange of Communications Between CAP and Air Force Radio Stations

In the matter of amendment of Part 87 of the rules to permit Civil Air Patrol (CAP) radio stations to exchange communications with certain U.S. Air Force stations.

1. The Commission has been requested by the Civil Air Patrol (CAP) a civilian auxiliary of the U.S. Air Force, and the Chief, Frequency Management Group, Directorate of Command Control and Communications, Headquarters U.S. Air Force, to amend its rules to permit CAP stations to communicate with Air Force stations participating, or involved, in CAP activities, on CAP frequencies. Presently, the CAP, pursuant to § 87.515 of the rules, may communicate only with other CAP stations.

2. In support of this request the Air Force asserts that the authority for CAP to communicate with these Air Force stations is needed to improve the CAP capability when engaged in training and when conducting search and rescue and mercy type missions. CAP's reasons for requesting the rule changes are essentially the same.

3. The rule changes requested by the CAP and the Air Force appear to be reasonable and in the public interest. The frequencies used by the CAP and listed in Subpart 0 of our rules are now used only by the CAP. To grant the requested changes, therefore, would not affect any users of radio other than the parties to this proceeding.

4. This matter has been discussed with and concurred in by the Interdepartmental Radio Advisory Committee (IRAC).

5. The amendment adopted herein pertains to frequencies used only by the U.S. Air Force and the CAP, both parties to this proceeding, hence, compliance with the prior notice, procedure, and effective date provisions of 5 U.S.C. 553 would serve no useful purpose and therefore is unnecessary.

6. In view of the foregoing, It is ordered, That pursuant to the authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 87 of the Commission's rules is amended, effective January 28, 1969, as set forth below.

7. It is further ordered, That this proceeding it terminated.

(Secs. 4, 308, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Adopted: January 15, 1969.

Released: January 17, 1969.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, Secretary.

In § 87.515 a new paragraph (c) is added to read as follows:

§ 87.515 Scope of service.

(c) When engaged in training or on an actual mission in support of the U.S. Air Force, Civil Air Patrol stations may communicate with U.S. Air Force stations for CAP purposes on frequencies specified in this subpart.

[F.R. Doc. 69-842; Filed, Jan. 22, 1969; 8:47 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1, Amdt. 1-25]

PART 1—FUNCTIONS, POWERS, AND DUTIES IN THE DEPARTMENT OF TRANSPORTATION

Limitation of Reservation of Authority; Federal Highway Administrator

The purpose of this amendment is to further limit the reservation imposed in § 1.5(i) (1) of Part 1 on the authority delegated to the Federal Highway Administrator to perform the rule-making functions of the Secretary of Transportation with respect to Federal-aid highway projects.

The original reservation of authority in § 1.5(i) (1) extended to all of the authority with respect to Federal-aid highway projects (23 U.S.C. 109, 131, 315) to issue, modify, or revoke proposed or final rules. That reservation was amended on October 17, 1968 (33 F.R. 15659) to authorize the Federal Highway Administrator to issue notices of proposed rule making and final rules with respect to public hearings and location and design approval concerning Federal-aid highway projects. The purpose of this amendment is to authorize the Federal Highway Administrator to issue an amendment to Chapter I, Title 23 of the Code of Federal Regulations to add the following new parts: Part 21—National Standards for Directional and Other Official Signs, and Part 22—National Standards and Criteria for Official Highway Signs Within Interstate Rights-of-Way Giving Specific Service Information for the Traveling Public.

In consideration of the foregoing, effective January 15, 1969, 49 CFR 1.5(i) (1) is amended to read as follows:

§ 1.5 Reservations of authority.

(i) Federal-aid Highways (23 U.S.C. 109, 131, 315) except—

(i) Notices of proposed rule making and final rules relating to public hearings and location and design approval; and

(ii) Amendments to 23 CFR adding new Part 21 "National Standards for Directional and Other Official Signs" and Part 22 "National Standards and Criteria for Official Highway Signs within Interstate Rights-of-Way Giving Specific Service Information for the Traveling Public."

This action is taken under the authority of section 9 of the Department of Transportation Act (49 U.S.C. 1657). Since this amendment involves a delegation of authority and relates to the internal management of the Department, notice and public procedure thereon are not required and the amendment may be made effective immediately.

Issued in Washington, D.C., on January 15, 1969.

ALAN S. BOYD, Secretary of Transportation.

[F.R. Doc. 69-840; Filed, Jan. 22, 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 Wildlife Refuges

The following special regulations are issued and are effective upon publication in the FEDERAL REGISTER.

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

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Ga., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 680 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1969 through October 25, 1969.

(2) Fishing is permitted in daylight hours only.

(3) Boats with motors prohibited.

(4) Use of live minnows as bait prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 25, 1969.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Sport fishing on the Noxubee National Wildlife Refuge, Brooksville, Miss., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 1,892 acres, are delineated on a map available at the refuge headquarters and from the office of the

Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season extends from March 1 through October 31, 1969, on Ross Branch Reservoir, Bluff and Loakfoma Lakes, Keaton Tower Pond, Parker and Pete Sloughs, Cypress, Jones, and Octoc Creeks, and Noxubee River. Road borrow pits and Betts Ponds are open year-round.

(2) A daily permit (50 cents) is required by the Mississippi State Game and Fish Commission to fish in Bluff and Loakfoma Lakes, and tailwaters of the spillways.

(3) Fishing permitted during daylight hours only.

(4) Snag lines prohibited.

The provisions of this special regulation supplement the regulations which govern fishing and wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1969.

**NORTH CAROLINA**

**MATTAMUSKEET NATIONAL WILDLIFE REFUGE**

Sport fishing on the Mattamuskeet National Wildlife Refuge, New Holland, N.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 40,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from January 15, 1969, through the day before the opening of the waterfowl hunting season.

(2) Certain areas will be posted as closed to motor boats to prevent disturbance in prime spawning zones.

(3) Certain areas will be posted as closed both prior to and after the waterfowl hunting season to permit banding of migratory waterfowl.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

**SOUTH CAROLINA**

**SAVANNAH NATIONAL WILDLIFE REFUGE**

Sport fishing on the Savannah National Wildlife Refuge, Jasper County, Hardeeville, S.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising

3,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1969, through October 25, 1969.

(2) Fishing is permitted during daylight hours only.

(3) Boats powered with electric outboard motors are permitted in the impoundments. Boats powered with gasoline outboard motors are prohibited in the impoundments.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 25, 1969.

**CAPE ROMAIN NATIONAL WILDLIFE REFUGE**

Sport fishing on the Bulls Island Unit of the Cape Romain National Wildlife Refuge, McClellanville, S.C., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 580 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 15, 1969, through September 30, 1969, on Jacks Creek Pond.

(2) Fishing permitted during daylight hours only.

(3) Boats with electric motors permitted; gasoline powered engines prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1969.

**TENNESSEE**

**CROSS CREEKS NATIONAL WILDLIFE REFUGE**

Sport fishing on the Cross Creeks National Wildlife Refuge, Dover, Tennessee, is permitted only on areas designated by signs as open to fishing. These open areas, comprising 2,500 acres delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fish-

ing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season is open year-round on Barkley Lake. The open season on Elk Creek and South Cross Creek Reservoirs extends from May 1, through September 15, 1969, and is restricted to daylight hours only.

(2) Methods of fishing on Elk Creek and South Cross Creek Reservoirs are limited to attended rod and reel and/or pole and line. Electric trolling motors are the only outboard motors permitted on these two reservoirs.

(3) Fishermen must follow designated routes of travel while on the refuge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1969.

**HATCHIE NATIONAL WILDLIFE REFUGE**

Sport fishing on the Hatchie National Wildlife Refuge, Brownsville, Tenn., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 100 acres, are delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from April 1, 1969, through October 15, 1969.

(2) Fishing permitted during daylight hours only.

(3) Outboard motors prohibited.

(4) Methods of fishing are limited to pole and line, or rod and reel, using natural or artificial baits.

(5) Vehicles may be used on refuge roads and trails to reach fishing area.

(6) Footpaths may be used to reach all lakes from Hatchie River.

(7) Firearms prohibited.

(8) Boats must be removed from refuge no later than October 22, 1969.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 15, 1969.

W. L. TOWNS,

*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

JANUARY 10, 1969.

[F.R. Doc. 69-848; Filed, Jan. 22, 1969; 8:48 a.m.]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[ 26 CFR Part 1 ]

INCOME TAX

### Voluntary Employees' Beneficiary Associations

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 written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in the subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to provide regulations under section 501(c)(9) of the Internal Revenue Code of 1954, and to amend the regulations under sections 801 and 6041 of the Code, the Income Tax Regulations (26 CFR Part 1) are amended to read as follows:

PARAGRAPH 1. The following new section is inserted immediately after § 1.501(c)(9).

#### § 1.501(c)(9)-1 Voluntary employees' beneficiary associations.

(a) *In general.* The exemption provided by section 501(a) for an organization described in section 501(c)(9) applies if all of the following requirements are met—

- (1) The organization is an association of employees,
- (2) The membership of the employees in the association is "voluntary",
- (3) The organization is operated only for the purpose of providing for the pay-

ment of life, sick, accident, or other benefits to its members or their dependents,

(4) No part of the net earnings of the organization inures, other than by payment of the benefits described in subparagraph (3) of this paragraph, to the benefit of any private shareholder or individual, and

(5) As least 85 percent of the income of the organization consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments of benefits and meeting expenses.

(b) *Explanation of requirements necessary to constitute an organization described in section 501(c)(9).* For purposes of section 501(c)(9) and paragraph (a) of this section—

(1) *Association of employees—(i) In general.* An organization described in section 501(c)(9) must be composed of individuals who are entitled to participate in the association by reason of their status as employees who are members of a common working unit. The members of a common working unit include, for example, the employees of a single employer, the employees of one industry, or the members of one labor union. Although membership in such an association need not be offered to all of the employees of a common working unit, membership must be offered to all of the employees of one or more classes of the common working unit and such class or classes must be selected on the basis of criteria which do not limit membership to shareholders, highly compensated employees, or other like individuals. The criteria for defining a class may be restricted by conditions reasonably related to employment, such as, a limitation based on a reasonable minimum period of service, a limitation based on a maximum compensation, or a requirement that a member be employed on a full-time basis. The criteria for defining a class may also be restricted by conditions relating to the type and amount of benefits offered, such as, a requirement that a member meet a reasonable minimum health standard in order to be eligible for life, sick, or accident benefits, or, a requirement which excludes, or has the effect of excluding, employees who are members of another organization offering similar benefits to the extent such employees are eligible for such benefits. Whether a group of employees constitutes an acceptable class is a question to be determined with regard to all the facts and circumstances, taking into account the guidelines set forth in this subdivision. Furthermore, exemption will not be barred merely because the membership of the association includes some individuals who are not employees (within the meaning of subdivision (ii) of

this subparagraph) or who are not members of the common working unit, provided that these individuals constitute no more than 10 percent of the total membership of the association.

(ii) *Meaning of employee.* (a) The term "employee" has reference to the legal and bona fide relationship of employer and employee. For rules applicable to the determination of whether the employer-employee relationship exists, see section 3401(c) and the regulations thereunder.

(b) The term "employee" also includes—

(1) An individual who would otherwise qualify for membership under (a) of this subdivision, but for the fact that he is retired or on leave of absence;

(2) An individual who would otherwise qualify under (a) of this subdivision but subsequent to the time he qualifies for membership he becomes temporarily unemployed. The term "temporary unemployment" means involuntary or seasonal unemployment, which can reasonably be expected to be of limited duration. An individual will still qualify as an employee under (a) of this subdivision if during a period of temporary unemployment, he performs services as an independent contractor or for another employer.

(3) An individual who qualifies as an employee under the State or Federal unemployment compensation law covering his employment, whether or not such an individual could qualify as an employee under the usual common law rules applicable in determining the employer-employee relationship.

(2) *Explanation of voluntary association.* An association is not a voluntary association if the employer unilaterally imposes membership in the association on the employee as a condition of his employment and the employee incurs a detriment (for example, in the form of deductions from his pay) because of his membership in the association. An employer will not be deemed to have unilaterally imposed membership on the employee if such employer requires membership as the result of a collective bargaining agreement which validly requires membership in the association.

(3) *Life, sick, accident, or other benefits—(i) In general.* A voluntary employees' beneficiary association must provide solely (and not merely primarily) for the payment of life, sick, accident, or other benefits to its members or their dependents. Such benefits may take the form of cash or noncash benefits.

(ii) *Benefits includible in gross income.* Except to the extent otherwise provided in the Code and the regulations thereunder, any cash or noncash benefit received within the meaning of subdivision (iii), (iv), or (v) of this subparagraph, as a life, sick, accident, or other benefit, by a member of a voluntary

employees' beneficiary association, is includible in the gross income of such member. In the case of a noncash benefit, the amount to be included in the gross income of the member is the fair market value of the benefit on the date of receipt by the member.

(iii) *Life benefits.* The term "life benefits" includes life insurance benefits, or similar benefits payable on the death of the member, made available to members for current protection only. Thus, term life insurance is an acceptable benefit. However, life insurance protection made available under an endowment insurance plan or a plan providing cash surrender values to the member is not included. "Life benefits" may be payable to any designated beneficiary of a member.

(iv) *Sick and accident benefits.* A sick and accident benefit is, in general, an amount furnished in the event of illness or personal injury to or on behalf of a member, his spouse or an individual specified in section 152(a) (even if more than 50 percent support is not furnished). For example, a sick and accident benefit includes an amount provided under a plan to reimburse a member for amounts he expends because of illness or injury, or for premiums which he pays to a medical benefit program such as, Medicare. Sick and accident benefits may also be furnished in noncash form such as, for example, benefits in the nature of clinical care, services by visiting nurses, and transportation furnished for medical care.

(v) *Other benefits.* The term "other benefits" includes only benefits furnished to a member, his spouse or an individual specified in section 152(a) (even if more than 50 percent support is not furnished) which are similar to life, sick, and accident benefits. A benefit is similar to a life, sick, or accident benefit if it is intended to safeguard or improve the health of the employee or to protect against a contingency which interrupts earning power. Thus, paying vacation benefits, subsidizing recreational activities such as athletic leagues, and providing vacation facilities are considered "other benefits" since such benefits protect against physical or mental fatigue and accidents or illness which may result therefrom. Severance payments or supplemental unemployment compensation benefits paid because of a reduction in force or temporary layoff are "other benefits" since they protect the employee in the event of interruption of earning power. However, severance payments at a time of mandatory or voluntary retirement and benefits of the type provided by pension, annuity, profit-sharing, or stock bonus plans are not "other benefits" since their purpose is not to protect in the event of an interruption of earning power. See section 401 and the regulations thereunder for the rules relating to the qualification of such plans for exemption; see also section 801(b) (2) (B) and the regulations thereunder for the rules relating to life insurance reserves of certain voluntary employees' beneficiary associations which do not meet the requirements of section 501(c)

(9). Furthermore, the term "other benefits" does not include the furnishing of automobile or fire insurance, or the furnishing of scholarships to the member's dependents.

(4) *Inurement to the benefit of any private shareholder or individual.* No part of the net earnings of the organization may inure to the benefit of any private shareholder or individual other than through the payment of benefits described in subparagraph (3) of this paragraph. The disposition of property to, or the performance of services for, any person for less than its cost (including the indirect costs) to the association, other than for the purpose of providing such a benefit, will constitute inurement. Further, the payment to any member of disproportionate benefits will not be considered a benefit within the meaning of subparagraph (3) of this paragraph even though the benefit is of the type described in such subparagraph. For example, the payment to highly compensated personnel of benefits which are disproportionate in relation to benefits received by other members of the association will constitute inurement. However, the payment to similarly situated employees of benefits which differ in kind or amount will not constitute inurement if such benefits are paid pursuant to objective and reasonable standards. For example, two employees who are similarly situated while employed receive unemployment benefits which differ in kind and amount. These unemployment benefits will not constitute inurement if the reason for the larger payment to the one employee is to provide training for that employee to qualify him for reemployment and the other employee has already received such training. Furthermore, the rebate of excess insurance premiums based on experience to the payor of the premium, or a distribution to member-employees upon the dissolution of the association, will not constitute inurement. However, the return of contributions to an employer upon the dissolution of the association will constitute inurement.

(5) *The income test—(i) Meaning of the term "income".* The requirement of section 501(c) (9) that 85 percent of the income of a voluntary employees' beneficiary association consists of amounts collected from members and amounts contributed by the employer for the sole purpose of making payment of the benefits described in subparagraph (3) of this paragraph (including meeting the expenses of the association) assures that not more than a limited amount (15 percent) of an association's income is from sources, such as investments, selling goods and performing services, which are foreign to what must be the principal sources of the association's income, i.e., the employees and the employer. Therefore, the term "income" as used in section 501(c) (9) means the gross receipts of the organization for the taxable year, including income from tax exempt investments (but exclusive of gifts and donations) and computed without regard to losses and expenses paid or incurred for the taxable year. The term in-

come does not include the return to the association of an amount previously expended. Thus, for example, rebates of insurance premiums paid in excess of actual insurance costs do not constitute income for this purpose. In order to be an amount collected from a member, it must be collected as a payment, such as dues, qualifying the member to receive an allowable benefit, or as a payment for an allowable benefit actually received. For example, if the association furnishes medical care in a hospital operated by it for its members, an amount received from the member as payment of a portion of the hospital costs is an amount collected from such member. However, an amount paid by an employee as interest on a loan made by the association is not an amount collected from a member since the interest is not an amount collected as payment for an allowable benefit received. For the same reason, gross receipts collected by the association as a result of employee purchases of work clothing from an association-owned store, or employee purchases of food from an association-owned vending machine, are not amounts collected from members. Amounts collected from members or amounts contributed to the association by the employer of the members are not considered gifts or donations.

(ii) *Example.* The provisions of subdivision (i) of this subparagraph are illustrated by the following example:

*Example.* The books of P, a voluntary employees' beneficiary association, reflect the following information for the taxable year:

Amounts collected from members.....	\$6,000
Contributions by the employer.....	30,000
Sales from vending machine owned by P.....	300
Tax-exempt interest.....	4,000
Interest on loans made by P.....	700
Long-term capital gains.....	1,000
Insurance rebates.....	500
Gifts and donations.....	2,000
Long-term capital losses.....	5,000
Administrative expenses.....	3,000

For purposes of the 85 percent requirement of section 501(c) (9), the "income" of P is \$42,000, computed as follows:

Amounts collected from members.....	\$6,000
Contributions by the employer.....	30,000
Sales from vending machine owned by P.....	300
Tax-exempt interest.....	4,000
Interest on loans made by P.....	700
Long-term capital gains.....	1,000
<b>Total income of P.....</b>	<b>42,000</b>

The total of the amounts collected from members and contributed by the employer is \$36,000 (\$6,000 member collections plus \$30,000 employer contributions). Since this amount (\$36,000) constitutes at least 85 percent of the "income" of P (85 percent of the \$42,000 is \$35,700), P meets the 85 percent requirement of section 501(c) (9) for the taxable year.

(c) *Record keeping requirements.* In addition to such other records which may be required, every organization described in section 501(c) (9) must maintain records indicating the amount of benefits paid by such organization to each member. If the organization is financed, in whole or in part, by amounts

collected from members, the organization must maintain records indicating the amounts of each member's contributions. Further, every organization described in section 501(c) (9) which makes one or more payments totaling \$600 or more in 1 year to an individual must file an annual information return in the manner described in paragraph (a) of § 1.6041-2.

PAR. 2. Section 1.801-4(b) (2) is amended to read as follows:

§ 1.801-4 Life insurance reserves.

(b) *Certain reserves which need not be required by law.* \* \* \*

(2) In the case of policies issued by an organization which meets the requirements of section 501(c) (9) other than the requirement of subparagraph (B) thereof, for purposes of this subparagraph, an organization which otherwise meets the requirements of section 501(c) (9) other than the requirement of subparagraph (B), and which has been ruled exempt from Federal income tax prior to June 25, 1959, the date of enactment of section 801(b) (2) (B), will be deemed to meet such requirements even though it pays benefits of the type provided by pension, annuity, profit-sharing, or stock bonus plans.

PAR. 3. Paragraph (a) of § 1.6041-2 is amended to read as follows:

§ 1.6041-2 Return of information as to payments to employees.

(a) *In general.* Wages, as defined in section 3401, paid to an employee are required to be reported on Form W-2. All other payments of compensation, including the cash value of payments made in any medium other than cash, to an employee by his employer in the course of the trade or business of the employer must be reported on Form 1099 if the total of such payments and the amount of the employee's wages, if any, required to be reported on Form W-2 equals \$600 or more in a calendar year. For example, if a payment of \$700 was made to an employee and \$400 thereof represents wages subject to withholding under section 3402 and the remaining \$300 represents compensation not subject to withholding, the \$400 must be reported on Form W-2 and the \$300 must be reported on Form 1099. In addition, every organization described in section 501(c) (9) which makes one or more payments totaling \$600 or more in 1 year to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or by another organization should not be considered in determining whether the \$600 amount has been paid by the organization.

[F.R. Doc. 69-830; Filed, Jan. 17, 1969; 1:07 p.m.]

[ 26 CFR Part 1 ]

INCOME TAX

Determination of Income Effectively Connected With United States Business of Nonresident Aliens or Foreign Corporations

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 written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 864(c) of the Internal Revenue Code of 1954, relating to rules for determining income effectively connected with the United States business of nonresident alien individuals or foreign corporations, as added by section 102(d) of the Foreign Investors Tax Act of 1966 (80 Stat. 1544), such regulations are amended as follows:

PARAGRAPH 1. Section 1.864 is amended by adding a subsection (c) to section 864 as follows and by leaving the historical note unchanged:

§ 1.864 Statutory provisions; definitions.

Sec. 864. *Definitions.* \* \* \*

(c) *Effectively connected income, etc.—*

(1) *General rule.* For purposes of this title—

(A) In the case of a nonresident alien individual or a foreign corporation engaged in trade or business within the United States during the taxable year, the rules set forth in paragraphs (2), (3), and (4) shall apply in determining the income, gain, or loss which shall be treated as effectively connected with the conduct of a trade or business within the United States.

(B) Except as provided in section 871(d) or sections 882 (d) and (e), in the case of a nonresident alien individual or a foreign corporation not engaged in trade or business

within the United States during the taxable year, no income, gain, or loss shall be treated as effectively connected with the conduct of a trade or business within the United States.

(2) *Periodical, etc., income from sources within United States—Factors.* In determining whether income from sources within the United States of the types described in section 871(a) (1) or section 881(a), or whether gain or loss from sources within the United States from the sale or exchange of capital assets, is effectively connected with the conduct of a trade or business within the United States, the factors taken into account shall include whether—

(A) The income, gain, or loss is derived from assets used in or held for use in the conduct of such trade or business, or

(B) The activities of such trade or business were a material factor in the realization of the income, gain, or loss.

In determining whether an asset is used in or held for use in the conduct of such trade or business or whether the activities of such trade or business were a material factor in realizing an item of income, gain, or loss, due regard shall be given to whether or not such asset or such income, gain, or loss was accounted for through such trade or business. In applying this paragraph and paragraph (4), interest referred to in section 861(a) (1) (A) shall be considered income from sources within the United States.

(3) *Other income from sources within United States.* All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

(4) *Income from sources without United States.—*

(A) Except as provided in subparagraphs (B) and (C), no income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States.

(B) Income, gain, or loss from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States by a nonresident alien individual or a foreign corporation if such person has an office or other fixed place of business within the United States to which such income, gain, or loss is attributable and such income, gain, or loss—

(i) Consists of rents or royalties for the use of or for the privilege of using intangible property described in section 862(a) (4) (including any gain or loss realized on the sale of such property) derived in the active conduct of such trade or business;

(ii) Consists of dividends or interest, or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness, and either is derived in the active conduct of a banking, financing, or similar business within the United States or is received by a corporation the principal business of which is trading in stocks or securities for its own account; or

(iii) Is derived from the sale (without the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer outside the United States participated materially in such sale.

(C) In the case of a foreign corporation taxable under part I of subchapter L, any income from sources without the United

States which is attributable to its U.S. business shall be treated as effectively connected with the conduct of a trade or business within the United States.

(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it either—

(1) Consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or

(ii) Is subpart F income within the meaning of section 952(a).

(5) *Rules for application of paragraph (4) (B).* For purposes of subparagraph (B) of paragraph (4)—

(A) In determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, an office or other fixed place of business of an agent shall be disregarded unless such agent (i) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign corporation and regularly exercises that authority or has a stock of merchandise from which he regularly fills orders on behalf of such individual or foreign corporation, and (ii) is not a general commission agent, broker, or other agent of independent status acting in the ordinary course of his business,

(B) Income, gain, or loss shall not be considered as attributable to an office or other fixed place of business within the United States unless such office or fixed place of business is a material factor in the production of such income, gain, or loss and such office or fixed place of business regularly carries on activities of the type from which such income, gain, or loss is derived, and

(C) The income, gain, or loss which shall be attributable to an office or other fixed place of business within the United States shall be the income, gain, or loss property allocable thereto, but, in the case of a sale described in clause (iii) of such subparagraph, the income which shall be treated as attributable to an office or other fixed place of business within the United States shall not exceed the income which would be derived from sources within the United States if the sale were made in the United States.

PAR. 2. The following new sections are added immediately after § 1.864-2:

**§ 1.864-3 Rules for determining income effectively connected with U.S. business of nonresident aliens or foreign corporations.**

(a) *In general.* For purposes of the Internal Revenue Code, in the case of a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at any time during the taxable year, the rules set forth in §§ 1.864-4 through 1.864-7 and this section shall apply in determining whether income, gain, or loss shall be treated as effectively connected for a taxable year beginning after December 31, 1966, with the conduct of a trade or business in the United States. Except as provided in sections 871 (c) and (d) and 882 (d) and (e), and the regulations thereunder, in the case of a nonresident alien individual or a foreign corporation that is at no time during the taxable year engaged in a trade or business in the United States, no income, gain, or loss

shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States. The general rule prescribed by the preceding sentence shall apply even though the income, gain, or loss would have been treated as effectively connected with the conduct of a trade or business in the United States if such income or gain had been received or accrued, or such loss had been sustained, in an earlier taxable year when the taxpayer was engaged in a trade or business in the United States. In applying §§ 1.864-4 through 1.864-7 and this section, the determination whether an item of income, gain, or loss is effectively connected with the conduct of a trade or business in the United States shall not be controlled by any administrative, judicial, or other interpretation made under the laws of any foreign country.

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

*Example (1).* During 1967 foreign corporation N, which uses the calendar year as the taxable year, is engaged in the business of purchasing and selling household equipment on the installment plan. During 1967 N is engaged in business in the United States by reason of the sales activities it carries on in the United States for the purpose of selling therein some of the equipment which it has purchased. During 1967 N receives installment payments of \$800,000 on sales it makes that year in the United States, and the income from sources within the United States for 1967 attributable to such payments is \$200,000. By reason of section 864(c) (3) and paragraph (b) of § 1.864-4 this income of \$200,000 is effectively connected for 1967 with the conduct of a trade or business in the United States by N. In December of 1967, N discontinues its efforts to make any further sales of household equipment in the United States, and at no time during 1968 is N engaged in a trade or business in the United States. During 1968 N receives installment payments of \$500,000 on the sales it made in the United States during 1967, and the income from sources within the United States for 1968 attributable to such payments is \$125,000. By reason of section 864(c) (1) (B) and this section, this income of \$125,000 is not effectively connected for 1968 with the conduct of a trade or business in the United States by N, even though such amount, if it had been received by N during 1967, would have been effectively connected for 1967 with the conduct of a trade or business in the United States by that corporation.

*Example (2).* R, a foreign holding company, owns all of the voting stock in five corporations, two of which are domestic corporations. All of the subsidiary corporations are engaged in the active conduct of a trade or business. R has an office in the United States where its chief executive officer, who is also the chief executive officer of one of the domestic corporations, spends a substantial portion of the taxable year supervising R's investment in its operating subsidiaries and performing his function as chief executive officer of the domestic operating subsidiary. R is not considered to be engaged in a trade or business in the United States during the taxable year by reason of the activities carried on in the United States by its chief executive officer in the management of its holdings in its operating subsidiary corporations. Accordingly, the dividends from sources within the United States received by R during the taxable year from its domestic subsidiary cor-

porations are not effectively connected for that year with the conduct of a trade or business in the United States by R.

**§ 1.864-4 U.S. source income effectively connected with U.S. business.**

(a) *In general.* This section applies only to a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, and to the income, gain, or loss of such person from sources within the United States. If the income, gain, or loss of such person for the taxable year from sources within the United States consists of (1) gain or loss from the sale or exchange of capital assets or (2) fixed or determinable annual or periodical gains, profits, and income or certain other gains described in section 871(a) (1) or 881(a), certain factors must be taken into account, as prescribed by section 864(c) (2) and paragraph (c) of this section, in order to determine whether the income, gain, or loss is effectively connected for the taxable year with the conduct of a trade or business in the United States by that person. All other income, gain, or loss of such person for the taxable year from sources within the United States shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that person, as prescribed by section 864(c) (3) and paragraph (b) of this section.

(b) *Income other than fixed or determinable income and capital gains.* All income, gain, or loss for the taxable year derived by a nonresident alien individual or foreign corporation engaged in a trade or business in the United States from sources within the United States which does not consist of income, gain, or loss described in section 871(a) (1) or 881(a), or of gain or loss from the sale or exchange of capital assets, shall, for purposes of paragraph (a) of this section, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States. This income, gain, or loss shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States, whether or not the income, gain, or loss is derived from the trade or business being carried on in the United States during the taxable year. The application of this paragraph may be illustrated by the following examples:

*Example (1).* M, a foreign corporation which uses the calendar year as the taxable year, is engaged in the business of manufacturing machine tools in a foreign country. It establishes a branch office in the United States during 1968 which solicits orders from customers in the United States for the machine tools manufactured by that corporation. All negotiations with respect to such sales are carried on in the United States. By reason of its activity in the United States M is engaged in business in the United States during 1968. The income or loss from sources within the United States from such sales during 1968 is treated, as effectively connected for that year with the conduct of a business in the United States by M. Occasionally, during 1968 the customers in the United States write directly to the home

office of M, and the home office makes sales directly to such customers without routing the transactions through its branch office in the United States. The income or loss from sources within the United States for 1968 from these occasional direct sales by the home office is also treated as effectively connected for that year with the conduct of a business in the United States by M.

*Example (2).* The facts are the same as in example (1) except that during 1967 M was also engaged in the business of purchasing and selling office machines and that it used the installment method of accounting for the sales made in this separate business. During 1967 M was engaged in business in the United States by reason of the sales activities it carried on in the United States for the purpose of selling therein a number of the office machines which it had purchased. Although M discontinued this business activity in the United States in December of 1967, it received in 1968 some installment payments on the sales which it had made in the United States during 1967. The income of M for 1968 from sources within the United States which is attributable to such installment payments is effectively connected for 1968 with the conduct of a business in the United States, even though such income is not connected with the business carried on in the United States during 1968 through its sales office located in the United States for the solicitation of orders for the machine tools it manufactures.

*Example (3).* Foreign corporation S, which uses the calendar year as the taxable year, is engaged in the business of purchasing and selling electronic equipment. The home office of such corporation is also engaged in the business of purchasing and selling vintage wines. During 1968, S establishes a branch office in the United States to sell electronic equipment to customers, some of whom are located in the United States and the balance, in foreign countries. This branch office is not equipped to sell, and does not participate in sales of, wine purchased by the home office. Negotiations for the sales of the electronic equipment take place in the United States. By reason of the activity of its branch office in the United States, S is engaged in business in the United States during 1968. As a result of advertisements which the home office of S places in periodicals sold in the United States, customers in the United States frequently place orders for the purchase of wines with the home office in the foreign country, and the home office makes sales of wine in 1968 directly to such customers without routing the transactions through its branch office in the United States. The income or loss from sources within the United States for 1968 from sales of electronic equipment by the branch office, together with the income or loss from sources within the United States for that year from sales of wine by the home office, is treated as effectively connected for that year with the conduct of a business in the United States by S.

(c) *Fixed or determinable income and capital gains—(1) Principal factors to be taken into account—(i) In general.* In determining for purposes of paragraph (a) of this section whether any income for the taxable year from sources within the United States which is described in section 871(a)(1) or 881(a), relating to fixed or determinable annual or periodical gains, profits, and income and certain other gains, or whether gain or loss from sources within the United States for the taxable year from the sale or exchange of capital assets, is effectively connected for the taxable year with the

conduct of a trade or business in the United States, the principal tests to be applied are (a) the asset-use test, that is, whether the income, gain, or loss is derived from assets used in, or held for use in, the conduct of the trade or business in the United States, and (b) the business-activities test, that is, whether the activities of the trade or business conducted in the United States were a material factor in the realization of the income, gain, or loss.

(ii) *Special rule relating to interest on certain deposits.* For purposes of determining under section 861(a)(1)(A) (relating to interest on deposits with banks, savings and loan associations, and insurance companies paid or credited before Jan. 1, 1973) whether the interest described therein is effectively connected for the taxable year with the conduct of a trade or business in the United States, such interest shall be treated as income from sources within the United States for purposes of applying this paragraph and § 1.864-5. If by reason of the application of this paragraph such interest is determined to be income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States, it shall then be treated as interest from sources without the United States which is not subject to the application of § 1.864-5.

(2) *Application of the asset-use test—(i) In general.* For purposes of subparagraph (1) of this paragraph, the asset-use test ordinarily shall apply in making a determination with respect to income, gain, or loss of a passive type where the trade or business activities as such do not give rise directly to the realization of the income, gain, or loss. However, even in the case of such income, gain, or loss, any activities of the trade or business which materially contribute to the realization of such income, gain, or loss shall also be taken into account as a factor in determining whether the income, gain, or loss is effectively connected with the conduct of a trade or business in the United States. The asset-use test is of primary significance where, for example, interest or dividend income is derived from sources within the United States by a nonresident alien individual or foreign corporation that is engaged in the business of manufacturing or selling goods in the United States.

(ii) *Cases where applicable.* Ordinarily, an asset shall be treated as used in, or held for use in, the conduct of a trade or business in the United States if the asset is—

(a) Held for the principal purpose of promoting the present conduct of the trade or business in the United States, as, for example, in the case of stock acquired and held to assure a constant source of supply for the trade or business, or

(b) Acquired and held in the ordinary course of the trade or business conducted in the United States, as, for example, in the case of an account or note receivable arising from that trade or business, or

(c) Otherwise held in a direct relationship to the trade or business con-

ducted in the United States, as determined under subdivision (iii) of this subparagraph.

(iii) *Direct relationship between holding of asset and trade or business—(a) In general.* In determining whether an asset is held in a direct relationship to the trade or business conducted in the United States, principal consideration shall be given to whether the asset is needed in that trade or business. An asset shall be considered needed in a trade or business, for this purpose, only if the asset is held to meet the present needs of that trade or business and not its anticipated future needs. An asset shall be considered as needed in the trade or business conducted in the United States if, for example, the asset is held to meet the operating expenses of that trade or business. Conversely, an asset shall be considered as not needed in the trade or business conducted in the United States if, for example, the asset is held for the purpose of providing for (1) future diversification into a new trade or business, (2) expansion of trade or business activities conducted outside of the United States, (3) future plant replacement, or (4) future business contingencies.

(b) *Presumption of direct relationship.* In the absence of a clear showing that an asset is not held to meet the present needs of the trade or business conducted in the United States, such asset shall be treated as held in a direct relationship to the trade or business if (1) the asset was acquired with funds generated by that trade or business, (2) the income from the asset is retained or reinvested in that trade or business, and (3) the asset is managed and controlled by personnel who are present in the United States and actively involved in the conduct of that trade or business. However, even if the conditions provided in (2) and (3) of this (b) are not satisfied, the asset may be treated as held in a direct relationship to the trade or business conducted in the United States, depending upon the facts and circumstances of the particular case. Thus, the weight to be given to (2) of this (b) shall depend upon the amount of income derived from the asset and its size in relation to the income directly arising from the trade or business activities conducted in the United States. Item (3) of this (b) shall be taken into account only if the management activity is significant in relation to the total investment and involves regular and constant supervision and direction which is necessary to the realization of profit from the asset.

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

*Example (1).* M, a foreign corporation which uses the calendar year as the taxable year, is engaged in industrial manufacturing in a foreign country. M maintains a branch in the United States which acts as importer and distributor of the merchandise it manufactures abroad; by reason of these branch activities, M is engaged in business in the United States during 1968. The branch in the United States is required to hold a large current cash balance for business purposes,

but the amount of the cash balance so required varies because of the fluctuating seasonal nature of the branch's business. During 1968 at a time when large cash balances are not required the branch invests the surplus amount in U.S. Treasury bills. Since these Treasury bills are held to meet the present needs of the business conducted in the United States they are held in a direct relationship to that business, and the interest for 1968 on these bills is effectively connected for that year with the conduct of the business in the United States by M.

*Example (2)* R, a foreign corporation engaged in the manufacture of goods, maintains a factory at its branch in the United States and by reason of its activities therein is engaged in business in the United States during the taxable year 1968. R engages a stock brokerage firm in the United States to manage its securities which were purchased with funds from R's general surplus reserves. The brokerage firm is engaged by the U.S. branch and is instructed to deposit all income and gains derived from the securities in the New York bank account of the U.S. branch. The funds invested in these securities are not necessary to provide for the present needs of the U.S. branch. Accordingly, the securities are not held in a direct relationship to the business conducted in the United States by R, and all such income and gains for 1968 from sources within the United States are not effectively connected for that year with the conduct of the business in the United States.

*Example (3)* S, a foreign corporation which uses the calendar year as the taxable year, is engaged in the manufacture of goods in a foreign country. S maintains a branch in the United States and by reason of the activities of that branch is engaged in business in the United States during 1968. S invests excess cash, which is generated by the U.S. branch but not currently needed in the business of the branch, in securities issued by domestic corporations. The securities are held in the name of S in a brokerage office in the United States, which receives and remits all income from the securities to S's home office abroad. The officers of the U.S. branch have authority to manage the securities held in the brokerage account of S. Any dividends and interest on the securities for 1968, and any gain or loss for that year resulting from the sale or exchange of the securities, are not effectively connected for 1968 with the conduct of the business in the United States by S, because the securities are not held to meet the present needs of that business and thus are not held in a direct relationship to that business.

*Example (4)* F, a foreign corporation which uses the calendar year as the taxable year, is engaged in business in the United States during 1968 through its manufacturing branch in the United States. The branch holds on its books stock in domestic corporation D, a wholly owned subsidiary of F. There is no relationship between the business of D and the business of F's branch in the United States, and the officers of D report to the home office of F and not to its U.S. branch. Dividends paid on the stock in D are paid to F's branch in the United States and are mingled with its general funds, but the U.S. branch has no present need in its business operations for the cash so received. Since the stock in D is not held in a direct relationship to the business conducted in the United States by F, any dividends received by F during 1968 on such stock are not effectively connected for that year with the conduct of that business.

*Example (5)* Foreign corporation M, which uses the calendar year as the taxable year, has a branch office in the United States where it sells to customers located in the United States various products which are manufac-

ured by that corporation in a foreign country. By reason of this activity M is engaged in business in the United States during 1968. The U.S. branch establishes in 1968 a fund to which are periodically credited various amounts which are derived from the business carried on at such branch. The amounts in this fund are invested in various securities issued by domestic corporations by the managing officers of the U.S. branch, who have the responsibility for maintaining proper investment diversification and investment of the fund. During 1968, the branch office derives from sources within the United States dividends on these securities, and gains and losses resulting from the sale or exchange of such securities. Since the securities were acquired with amounts generated by the business conducted in the United States, the dividends are retained in that business, and the portfolio is managed by personnel actively involved in the conduct of that business, the securities are presumed under subdivision (iii) (b) of this subparagraph to be held in a direct relationship to that business. However, M is able to rebut this presumption by demonstrating that the fund was established to carry out a program of future expansion and not to meet the present needs of the business conducted in the United States. Consequently, the income, gains, and losses from the securities for 1968 are not effectively connected for that year with the conduct of a trade or business in the United States by M.

(3) *Application of the business-activities test*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the business-activities test shall ordinarily apply in making a determination with respect to income, gain, or loss which, even though generally of the passive type, arises directly from the active conduct of the taxpayer's trade or business in the United States. The business-activities test is of primary significance where, for example, dividends, interest, or gain or loss are derived in the active conduct of a banking, financing, or similar business or royalties are derived in the active conduct of a business consisting of the licensing of patents or similar intangible property. In applying the business-activities test, activities relating to the management of investment portfolios shall not be treated as activities of the trade or business conducted in the United States unless the maintenance of the investments constitutes the taxpayer's principal trade or business activity.

(ii) *Illustrations.* The application of this subparagraph may be illustrated by the following examples:

*Example (1).* Foreign corporation S is a foreign investment company organized for the purpose of investing in stocks and securities. S is not a personal holding company or a corporation which would be a personal holding company but for section 542(c) (7) or 543(b) (1) (C). Its investment portfolios consist of common stocks issued by both foreign and domestic corporations and a substantial amount of high grade bonds. The business activity of S consists of the management of its portfolios for the purpose of investing, reinvesting, or trading in stocks and securities. During the taxable year 1968, S has its principal office in the United States within the meaning of paragraph (c) (2) (iii) of § 1.864-2 and, by reason of its trading in the United States in stocks and securities, is engaged in business in the United States. The dividends and interest

derived by S during 1968 from sources within the United States, and the gains and losses from sources within the United States for such year from the sale of stocks and securities from its investment portfolios, are effectively connected for 1968 with the conduct of the business in the United States by that corporation, since its activities in connection with the management of its investment portfolios are activities of that business and such activities are a material factor in the realization of such income, gains, and losses.

*Example (2).* N, a foreign corporation which uses the calendar year as the taxable year, has a branch in the United States which acts as an importer and distributor of merchandise; by reason of the activities of that branch, N is engaged in business in the United States during 1968. N also carries on a business in which it licenses patents to unrelated persons in the United States for use in the United States. The businesses of the licensees in which these patents are used have no direct relationship to the business carried on in N's branch in the United States, although the merchandise marketed by the branch is similar in type to that manufactured under the patents. The negotiations and other activities leading up to the consummation of these licenses are conducted by employees of N who are not connected with the U.S. branch of that corporation, and the U.S. branch does not otherwise participate in arranging for the licenses. Royalties received by N during 1968 from these licensees are not effectively connected for that year with the conduct of its business in the United States because the activities of that business are not a material factor in the realization of such income.

(4) *Method of accounting as a factor.* In applying the asset-use test or the business-activities test described in subparagraph (1) of this paragraph, due regard shall be given to whether or not the asset, or the income, gain, or loss, is accounted for through the trade or business conducted in the United States, that is, whether or not the asset, or the income, gain, or loss, is carried on books of account separately kept for that trade or business, but this accounting test shall not by itself be controlling. In applying this subparagraph, consideration shall be given to whether the accounting treatment of an item reflects the consistent application of generally accepted accounting principles in a particular trade or business in accordance with accepted conditions or practices in that trade or business and whether there is a consistent accounting treatment of that item from year to year by the taxpayer.

(5) *Special rules relating to banking, financing, or similar business activity*—(i) *Definition of banking, financing, or similar business.* A nonresident alien individual or a foreign corporation shall be considered for purposes of this section and paragraph (b) (2) of § 1.864-5 to be engaged in the active conduct of a banking, financing, or similar business in the United States if at some time during the taxable year the taxpayer is engaged in business in the United States and the activities of such business consist of any one or more of the following activities carried on, in whole or in part, in the United States in transactions with persons situated within or without the United States:

(a) Receiving deposits of funds from the public,

- (b) Making loans to the public.
- (c) Issuing letters of credit, or
- (d) Purchasing, selling, discounting, or negotiating notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness.

Although the fact that the taxpayer is subjected to the banking and credit laws of a foreign country shall be taken into account in determining whether he is engaged in the active conduct of a banking, financing, or similar business, the character of the business actually carried on during the taxable year in the United States shall determine whether the taxpayer is actively conducting a banking, financing, or similar business in the United States.

(i) *Effective connection of income from stocks or securities with active conduct of a banking, financing, or similar business.* Notwithstanding the rules in subparagraphs (2) and (3) of this paragraph with respect to the asset-use and business-activities tests, any dividends or interest from, or gain or loss from the sale or exchange of, stocks or securities, which is derived from sources within the United States by a nonresident alien individual or a foreign corporation engaged in the active conduct of a banking, financing, or similar business in the United States shall be treated as not effectively connected for the taxable year with the conduct of such business unless (a) the stocks or securities giving rise to such income, gain, or loss were acquired (1) as a result of, or in the course of, making loans to the public, (2) in the course of distributing them to the public, or (3) for the purpose of meeting the reserve requirements established by a duly constituted banking authority in the United States and (b) all of the activity described in (a) of this subdivision is carried on in the ordinary course of such business. Stocks or securities shall be considered for purposes of this subdivision to have been acquired in the course of making a loan to the public where, for example, such stocks or securities were acquired as additional consideration for the making of the loan. Stocks or securities shall be considered for purposes of this subdivision to have been acquired as a result of making a loan to the public if, for example, such stocks or securities are acquired by foreclosure upon a bona fide default of the loan and are held as an ordinary and necessary incident to the active conduct of the banking, financing, or similar business. In general, stocks or securities acquired on a stock exchange or organized over-the-counter market shall be considered for purposes of this subdivision not to have been acquired as a result of, or in the course of, making loans to the public. As used in this subdivision, the term "securities" means any note, bond, debenture, or other evidence of indebtedness or any evidence of an interest in or right to subscribe to or purchase any of the foregoing, but such term shall not include indebtedness payable on demand or at a fixed maturity date not exceeding 1 year from the date of issue. For rules relating to other income, gain, or loss derived

from sources within the United States in a banking, financing, or similar business, see subparagraphs (2) and (3) of this paragraph.

(iii) *Limitation on application of subparagraph.* If, in addition to actively conducting a banking, financing, or similar business in the United States, a nonresident alien individual or foreign corporation carries on other business activities in the United States, for example, the business of selling, or manufacturing, goods or merchandise, from which it realizes income, gain, or loss from sources within the United States, only the income, gains, or losses from sources within the United States which are realized in the active conduct of the banking, financing, or similar business carried on in the United States shall be taken into account under this subparagraph. Thus, any dividends, interest, gain, or loss, from sources within the United States which by reason of the application of subdivision (ii) of this subparagraph is not effectively connected with the active conduct by the taxpayer of a banking, financing, or similar business in the United States may be effectively connected with the conduct by the taxpayer of another trade or business in the United States.

(6) *Income related to personal services of an individual.*—(i) *Income, gain, or loss from assets.* Income or gains from sources within the United States described in section 871(a)(1) and derived from an asset, and gain or loss from sources within the United States from the sale or exchange of capital assets, realized by a nonresident alien individual engaged in a trade or business in the United States during the taxable year solely by reason of his performing personal services in the United States shall not be treated as income, gain, or loss which is effectively connected for the taxable year with the conduct of a trade or business in the United States, unless there is a direct economic relationship between his holding of the asset from which the income, gain, or loss results and his trade or business of performing the personal services. This direct economic relationship exists, for example, where the individual purchases stock in a domestic corporation to assure the opportunity of performing personal services in the United States for that corporation.

(ii) *Wages, salaries, and pensions.* Wages, salaries, fees, compensations, emoluments, or other remunerations, including bonuses, received by a nonresident alien individual for performing personal services in the United States which, under paragraph (a) of § 1.864-2, constitute engaging in a trade or business in the United States, and pensions and retirement pay attributable to such personal services, constitute income which is effectively connected for the taxable year with the conduct of a trade or business in the United States at some individual if he is engaged in a trade or business in the United States at some time during the taxable year in which such income is received.

§ 1.864-5 Foreign source income effectively connected with U.S. business.

(a) *In general.* This section applies only to a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, and to the income, gain, or loss of such person from sources without the United States. The income, gain, or loss of such person for the taxable year from sources without the United States which is specified in paragraph (b) of this section shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States, only if he also maintains in the United States at some time during the taxable year, but not necessarily at the time the income, gain, or loss is realized, an office or other fixed place of business, as defined in § 1.864-7, to which such income, gain, or loss is attributable in accordance with § 1.864-6. The income of such person for the taxable year from sources without the United States which is specified in paragraph (c) of this section shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States when derived by a foreign corporation carrying on a life insurance business in the United States. Except as provided in paragraphs (b) and (c) of this section, no income, gain, or loss of a nonresident alien individual or a foreign corporation for the taxable year from sources without the United States shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that person. Any income, gain, or loss described in paragraph (b) or (c) of this section which, if it were derived by the taxpayer from sources within the United States for the taxable year, would not be treated under § 1.864-4 as effectively connected for the taxable year with the conduct of a trade or business in the United States shall not be treated under this section as effectively connected for the taxable year with the conduct of a trade or business in the United States.

(b) *Income other than income attributable to U.S. life insurance business.* Income, gain, or loss from sources without the United States other than income described in paragraph (c) of this section shall be taken into account pursuant to paragraph (a) of this section in applying §§ 1.864-6 and 1.864-7 only if it consists of—

(1) *Rents, royalties, or gains on sales of intangible property.* (i) Rents or royalties for the use of, or for the privilege of using, intangible personal property located outside the United States or from any interest in such property, including rents or royalties for the use, or for the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties, if such rents or royalties are derived in the active conduct of the trade or business in the United States.

(ii) Gains or losses on the sale or exchange of intangible personal property located outside the United States or from any interest in such property, including gains or losses on the sale or exchange of the privilege of using, outside the United States, patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like properties, if such gains or losses are derived in the active conduct of the trade or business in the United States.

(iii) Whether or not such an item of income, gain, or loss is derived in the active conduct of a trade or business in the United States shall be determined from the facts and circumstances of each case. The frequency with which a non-resident alien individual or a foreign corporation enters into transactions of the type from which the income, gain, or loss is derived shall not of itself determine that the income, gain, or loss is derived in the active conduct of a trade or business.

(iv) This subparagraph shall not apply to rents or royalties for the use of, or for the privilege of using, real property or tangible personal property, or to gain or loss from the sale or exchange of such property.

(2) *Dividends, interest, or gains on sales of securities*—(i) *In general.* Dividends or interest, or gain or loss on the sale or exchange of stocks or securities, realized by (a) a nonresident alien individual or a foreign corporation in the active conduct of a banking, financing, or similar business in the United States or (b) a foreign corporation engaged in business in the United States whose principal business is trading in stocks or securities for its own account. In applying this subparagraph, the principles of paragraph (c) (5) (i) and (ii) of § 1.864-4 shall apply for purposes of determining whether any dividends or interest, or gain or loss from the sale or exchange of stocks or securities, which is derived from sources without the United States by a nonresident alien individual or a foreign corporation is derived in the active conduct of a banking, financing, or similar business in the United States.

(ii) *Incidental investment activity.* This subparagraph shall not apply to income, gain, or loss realized by a nonresident alien individual or foreign corporation on stocks or securities held, sold, or exchanged in connection with incidental investment activities carried on by that person. Thus, a foreign corporation which is primarily a holding company owning significant percentages of the stocks or securities issued by other corporations shall not be treated under this subparagraph as a corporation the principal business of which is trading in stocks or securities for its own account, solely because it engages in sporadic purchases or sales of stocks or securities to adjust its portfolio. The application of this subdivision may be illustrated by the following example:

*Example.* F, a foreign corporation, owns voting stock in foreign corporations M, N,

and P, its holdings in such corporations constituting 15, 20, and 100 percent, respectively, of all classes of their outstanding voting stock. Each of such stock holdings by F represents approximately 20 percent of its total assets. The remaining 40 percent of F's assets consist of other investments, 20 percent being invested in securities issued by foreign governments and in stocks and bonds issued by other corporations in which F does not own a significant percentage of their outstanding voting stock, and 20 percent being invested in bonds issued by N. None of the assets of F are held primarily for sale; but, if the officers of that corporation were to decide that other investments would be preferable to its holding of such assets, F would sell the stocks and securities and reinvest the proceeds therefrom in other holdings. Any income, gain, or loss which F may derive from this investment activity is not considered to be realized by a foreign corporation described in subdivision (1) (a) or (b) of this subparagraph.

(3) *Sale of goods or merchandise through U.S. office.* (i) Income, gain, or loss from the sale of inventory items or of property held primarily for sale to customers in the ordinary course of business, as described in section 1221(1), where the sale is outside the United States but through the office or other fixed place of business maintained in the United States by the nonresident alien or foreign corporation, irrespective of the destination to which such property is sent for use, consumption, or disposition.

(ii) This subparagraph shall not apply to income, gain, or loss resulting from a sales contract entered into on or before February 24, 1966. See section 102(e) (1) of the Foreign Investors Tax Act of 1966 (80 Stat. 1547). Thus, for example, the sales office in the United States of a foreign corporation enters into negotiations for the sale of 500,000 industrial bearings which the corporation produces in a foreign country for consumption in the Western Hemisphere. These negotiations culminate in a binding agreement entered into on January 1, 1966. By its terms delivery under the contract is to be made over a period of 3 years beginning in March of 1966. Payment is due upon delivery. The income from sources without the United States resulting from this sale negotiated by the U.S. sales office of the foreign corporation shall not be taken into account under this subparagraph for any taxable year.

(c) *Income attributable to U.S. life insurance business.* (1) All of the income for the taxable year of a foreign corporation described in subparagraph (2) of this paragraph from sources without the United States, which is attributable to its U.S. life insurance business, shall be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation. Thus, in determining its life insurance company taxable income from its U.S. business for purposes of section 802, the foreign corporation shall include all of its items of income from sources without the United States which would appropriately be taken into account in determining the life insurance company taxable income of a domestic corporation. The in-

come to which this subparagraph applies shall be taken into account for purposes of paragraph (a) of this section without reference to §§ 1.864-6 and 1.864-7.

(2) A foreign corporation to which subparagraph (1) of this paragraph applies is a foreign corporation carrying on an insurance business in the United States during the taxable year which—

(i) Without taking into account its income not effectively connected for that year with the conduct of any trade or business in the United States, would qualify as a life insurance company under part I (section 801 and following) of subchapter L, chapter 1 of the Code, if it were a domestic corporation, and

(ii) By reason of section 842 is taxable under that part on its income which is effectively connected for that year with its conduct of any trade or business in the United States.

(d) *Excluded foreign source income.* Notwithstanding paragraphs (b) and (c) of this section, no income from sources without the United States shall be treated as effectively connected for any taxable year with the conduct of a trade or business in the United States by a nonresident alien individual or a foreign corporation if the income consists of—

(1) *Dividends, interest, or royalties paid by a related foreign corporation.* Dividends, interest, or royalties paid by a foreign corporation in which the nonresident alien individual or the foreign corporation described in paragraph (a) of this section owns, within the meaning of section 958(a), or is considered as owning, by applying the ownership rules of section 958(b), at the time such items are paid more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(2) *Subpart F income of a controlled foreign corporation.* Any income of the foreign corporation described in paragraph (a) of this section which is subpart F income for the taxable year, as determined under section 952(a), even though part of the income is attributable to amounts which, if distributed by the foreign corporation, would be distributed with respect to its stock which is owned by shareholders who are not U.S. shareholders within the meaning of section 951(b). This subparagraph shall not apply to any income of the foreign corporation which is excluded in determining its subpart F income for the taxable year for purposes of section 952(a). Thus, for example, this subparagraph shall not apply to—

(i) Any income derived in the active conduct of a trade or business which is excluded under section 954(c) (3),

(ii) Any income received from related persons which is excluded under section 954(c) (4),

(iii) Any dividends, interest, or gains from qualified investments in less developed countries which are excluded under section 954(b) (1),

(iv) Foreign base company income amounting to less than 30 percent of gross income which by reason of section 954(b) (3) (A) does not become subpart F income for the taxable year, or

(v) Any income excluded from foreign base company income under section 954 (b) (4), relating to exception for foreign corporations not availed of to reduce taxes.

This subparagraph shall apply to the foreign corporation's entire subpart F income for the taxable year determined under section 952(a), even though no amount is included in the gross income of a U.S. shareholder under section 951 (a) with respect to that subpart F income because of the minimum distribution provisions of section 963(a) or because of the reduction under section 970 (a) with respect to an export trade corporation. This subparagraph shall apply only to a foreign corporation which is a controlled foreign corporation within the meaning of section 957 and the regulations thereunder. The application of this subparagraph may be illustrated by the following examples:

*Example (1).* Controlled foreign corporation M, incorporated under the laws of foreign country X, is engaged in the business of purchasing and selling merchandise manufactured in foreign country Y by an unrelated person. M negotiates sales, through its sales office in the United States, of its merchandise for use outside of country X. These sales are made outside the United States, and the merchandise is sold for use outside the United States. No office maintained by M outside the United States participates materially in the sales made through its U.S. sales office. These activities constitute the only activities of M. During the taxable year M derives \$100,000 income from these sales made through its U.S. sales office, and all of such income is foreign base company sales income by reason of section 954(d) (2) and paragraph (b) of § 1.954-3. The entire \$100,000 is also subpart F income, determined under section 952(a). In addition, all of this income would, without reference to section 864(c) (4) (D) (ii) and this subparagraph, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by M. Through its entire taxable year 60 percent of the one class of stock of M is owned within the meaning of section 958(a) by U.S. shareholders, as defined in section 951(b), and 40 percent of its one class of stock is owned within the meaning of section 958(a) by persons who are not U.S. shareholders, as defined in section 951(b). Although only \$60,000 of the subpart F income of M for the taxable year is includible in the income of the U.S. shareholders under section 951(a), the entire subpart F income of \$100,000 constitutes income which, by reason of section 864(c) (4) (D) (ii) and this subparagraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by M.

*Example (2).* The facts are the same as in example (1) except that the foreign base company sales income amounts to \$150,000 determined in accordance with paragraph (d) (3) (i) of § 1.954-1, and that M also has gross income from sources without the United States of \$50,000 from sales, through its sales office in the United States, of merchandise for use in country X. These sales are made outside the United States. All of this income would, without reference to section 864(c) (4) (D) (ii) and this subparagraph, be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by M. Since the foreign base company income of \$150,000

amounts to 75 percent of the entire gross income of \$200,000, determined as provided in paragraph (d) (3) (ii) of § 1.954-1, the entire \$200,000 constitutes foreign base company income under section 954(b) (3) (B). Assuming that M has no amounts to be taken into account under paragraphs (1), (2), (4), and (5) of section 954(b), the \$200,000 is also subpart F income, determined under section 952(a). This subpart F income of \$200,000 constitutes income which, by reason of section 864(c) (4) (D) (ii) and this subparagraph, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by M.

(3) *Interest on certain deposits.* Interest which, by reason of section 861 (a) (1) (A) (relating to interest on deposits with banks, savings and loan associations, and insurance companies paid or credited before January 1, 1973) and paragraph (c) of § 1.864-4, is determined to be income from sources without the United States because it is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual or foreign corporation.

**§ 1.864-6 Income, gain, or loss attributable to an office or other fixed place of business in the United States.**

(a) *In general.* Income, gain, or loss from sources without the United States which is specified in paragraph (b) of § 1.864-5 and received by a nonresident alien individual or a foreign corporation engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, shall not be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States unless the income, gain, or loss is attributable under paragraphs (b) and (c) of this section to an office or other fixed place of business, as defined in § 1.864-7, maintained by the taxpayer in the United States at some time during the taxable year.

(b) *Material factor test—(1) In general.* For purposes of paragraph (a) of this section, income, gain, or loss is attributable to an office or other fixed place of business maintained in the United States by a nonresident alien individual or a foreign corporation only if such office or other fixed place of business is a material factor in the realization of the income, gain, or loss, and if the income, gain, or loss is realized in the ordinary course of the trade or business carried on through that office or other fixed place of business. For this purpose, the activities of the office or other fixed place of business shall not be considered to be a material factor in the realization of the income, gain, or loss unless they provide a significant contribution to, by being an essential economic element in, the realization of the income, gain, or loss. Thus, for example, meetings in the United States of the board of directors of a foreign corporation do not of themselves constitute a material factor in the realization of income, gain, or loss. It is

not necessary that the activities of the office or other fixed place of business in the United States be a major factor in the realization of the income, gain, or loss. An office or other fixed place of business maintained in the United States at some time during a taxable year may be a material factor in the realization of an item of income, gain, or loss for that year even though the office or other fixed place of business is not present in the United States when the income, gain, or loss is realized.

(2) *Application of material factor test to specific classes of income.* For purposes of paragraph (a) of this section, an office or other fixed place of business maintained in the United States by a nonresident alien individual or a foreign corporation engaged in a trade or business in the United States at some time during the taxable year shall be considered a material factor in the realization of income, gain, or loss consisting of—

(i) *Rents, royalties, or gains on sales of intangible property.* Rents, royalties, or gains or losses, from intangible personal property specified in paragraph (b) (1) of § 1.864-5, if the office or other fixed place of business either actively participates in soliciting, negotiating, or performing other activities required to arrange, the lease, license, sale, or exchange from which such income, gain, or loss is derived or performs significant services incident to such lease, license, sale, or exchange. An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because the office or other fixed place of business (a) develops, creates, produces, or acquires and adds substantial value to, the property which is leased, licensed, sold, or exchanged; (b) collects or accounts for the rents, royalties, gains, or losses, (c) exercises general supervision over the activities of the persons directly responsible for carrying on the activities or services described in the immediately preceding sentence, (d) performs merely clerical functions incident to the lease, license, sale, or exchange, or (e) exercises final approval over the execution of the lease, license, sale, or exchange. The application of this subdivision may be illustrated by the following example:

*Example.* F, a foreign corporation, is engaged in the active conduct of the business of licensing patents which it has either purchased or developed in the United States. F has a business office in the United States. Licenses for the use of such patents outside the United States are negotiated by offices of F maintained outside the United States, subject to approval by an officer of such corporation located in the office maintained in the United States. All services which are rendered to F's foreign licensees are performed by employees of F's offices maintained outside the United States. None of the income, gain, or loss resulting from the foreign licenses so negotiated by F is attributable to its business office in the United States.

(ii) *Dividends, interest, or gains on sales of securities.* Dividends or interest, or gains or losses on the sale or exchange

of stocks or securities, specified in paragraph (b) (2) of § 1.864-5, if the office or other fixed place of business either actively participates in soliciting, negotiating, or performing other activities required to arrange, the issue, acquisition, or disposition, of the asset from which such income, gain, or loss is derived or performs significant services incident to such issue, acquisition, or disposition. An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because the office or other fixed place of business (a) collects or accounts for the dividends, interest, gains, or losses; (b) exercises general supervision over the activities of the persons directly responsible for carrying on the activities or services described in the immediately preceding sentence, (c) performs merely clerical functions incident to the issue, acquisition, or disposition, or (d) exercises final approval over the execution of the issue, acquisition, or disposition. Dividends, interest, gain, or loss of a taxpayer from sources without the United States which are treated as not effectively connected with the conduct of a banking, financing, or similar business in the United States may be effectively connected for the taxable year with the conduct of a business of trading in stocks or securities for the taxpayer's own account.

(iii) *Sale of goods or merchandise through U.S. office.* Income, gain, or loss from sales of goods or merchandise specified in paragraph (b) (3) of § 1.864-5, if the office or other fixed place of business actively participates in soliciting the order, negotiating the contract of sale, or performing other significant services necessary for the consummation of the sale which are not the subject of a separate agreement between the seller and the buyer. The office or other fixed place of business in the United States shall be considered a material factor in the realization of income, gain, or loss from a sale made as a result of a sales order received in such office or other fixed place of business except where the sales order is received unsolicited and that office or other fixed place of business is not held out to potential customers as the place to which such sales orders should be sent. The income, gain, or loss must be realized in the ordinary course of the trade or business carried on through the office or other fixed place of business in the United States. Thus, if a foreign corporation is engaged solely in a manufacturing business in the United States, the income derived by its office in the United States as a result of an occasional sale outside the United States is not attributable to the U.S. office if the sales office of the manufacturing business is located outside the United States. On the other hand, if a foreign corporation establishes a sales office in the United States to sell for consumption in the Western Hemisphere merchandise which the corporation produces in Africa, the income derived by the sales office in the United States as a result of an occasional sale

made by it in Europe shall be attributable to the U.S. sales office. An office or other fixed place of business in the United States shall not be considered to be a material factor in the realization of income, gain, or loss for purposes of this subdivision merely because (a) the sale is made subject to the final approval of such office or other fixed place of business, (b) the property sold is held in, and distributed from, such office or other fixed place of business, or (c) such office or other fixed place of business performs merely clerical functions incident to the sale.

(3) *Limitation where foreign office is a material factor in realization of income—*(i) *Goods or merchandise destined for foreign use, consumption, or disposition.* Notwithstanding subparagraphs (1) and (2) of this paragraph, an office or other fixed place of business maintained in the United States by a nonresident alien individual or a foreign corporation shall not be considered, for purposes of paragraph (a) of this section, to be a material factor in the realization of income, gain, or loss from sales of goods or merchandise specified in paragraph (b) (3) of § 1.864-5 if the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business, as defined in § 1.864-7, maintained by such nonresident alien individual or foreign corporation outside the United States participates materially in the sale. For this purpose an office or other fixed place of business maintained by the taxpayer outside the United States shall be considered to have participated materially in a sale made through the office or other fixed place of business in the United States if the office or other fixed place of business outside the United States actively participates in soliciting the order resulting in the sale, negotiating the contract of sale, or performing other significant services necessary for the consummation of the sale which are not the subject of a separate agreement between the seller and buyer. An office or other fixed place of business maintained by the taxpayer outside the United States shall not be considered to have participated materially in a sale merely because (a) the sale is made subject to the final approval of such office or other fixed place of business, (b) the property sold is held in, and distributed from, such office or other fixed place of business; (c) such office or other fixed place of business is used for purposes of having title to the property pass outside the United States, or (d) such office or other fixed place of business performs merely clerical functions incident to the sale.

(ii) *Rules for determining country of use, consumption, or disposition—*(a) *In general.* As a general rule, personal property which is sold to an unrelated person shall be presumed for purposes of this subparagraph to have been sold for use, consumption, or disposition in the country of destination of the property sold for such purpose; the occurrence in a country of a temporary interruption in

shipment of property shall not cause that country to be considered the country of destination. However, if at the time of a sale of personal property to an unrelated person the taxpayer knew, or should have known from the facts and circumstances surrounding the transaction, that the property probably would not be used, consumed, or disposed of in the country of destination, the taxpayer must determine the country of ultimate use, consumption, or disposition of the property or the property shall be presumed to have been sold for use, consumption, or disposition in the United States. A taxpayer who sells personal property to a related person shall be presumed to have sold the property for use, consumption, or disposition in the United States unless the taxpayer establishes the use made of the property by the related person; once he has established that the related person has disposed of the property, the rules in the two immediately preceding sentences relating to sales to an unrelated person shall apply at the first stage in the chain of distribution at which a sale is made by a related person to an unrelated person. Notwithstanding the preceding provisions of this subdivision (a), a taxpayer who sells personal property to any person whose principal business consists of selling from inventory to retail customers at retail outlets outside the United States may assume at the time of the sale to that person that the property will be used, consumed, or disposed of outside the United States. For purposes of this (a), a person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable. For illustrations of the principles of this subdivision, see paragraph (a) (3) (iv) of § 1.954-3.

(b) *Fungible goods.* For purposes of this subparagraph, a taxpayer who sells to a purchaser personal property which because of its fungible nature cannot reasonably be specifically traced to other purchasers and to the countries of ultimate use, consumption, or disposition shall, unless the taxpayer establishes a different disposition as being proper, treat that property as being sold, for ultimate use, consumption, or disposition in those countries; and to those other purchasers, in the same proportions in which property from the fungible mass of the first purchaser is sold in the ordinary course of business by such first purchaser. No apportionment is required to be made, however, on the basis of sporadic sales by the first purchaser. This (b) shall apply only in a case where the taxpayer knew, or should have known from the facts and circumstances surrounding the transaction, the manner in which the first purchaser disposes of property from the fungible mass.

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

*Example.* Foreign corporation M has a sales office in the United States during the taxable year through which it sells outside the United States for use in foreign countries industrial electrical generators which such corporation manufactures in a foreign country. M is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, and, by reason of its activities in the United States, is engaged in business in the United States during the taxable year. The generators require specialized installation and continuous adjustment and maintenance services. M has an office in foreign country X which is the only organization qualified to perform these installation, adjustment, and maintenance services. During the taxable year M sells several generators through its U.S. office for use in foreign country Y under sales contracts which also provide for installation, adjustment, and maintenance by its office in country X. The generators are installed in country Y by employees of M's office in country X, who also are responsible for the servicing of the equipment. Since the office of M in country X performs significant services incident to these sales which are necessary for their consummation and are not the subject of a separate agreement between M and the purchaser, the U.S. office of M is not considered to be a material factor in the realization of the income from the sales and, for purposes of paragraph (a) of this section, such income is not attributable to the U.S. office of that corporation.

(c) *Amount of income, gain, or loss allocable to U.S. office*—(1) *In general.* If, in accordance with paragraph (b) of this section, an office or other fixed place of business maintained in the United States at some time during the taxable year by a nonresident alien individual or a foreign corporation is a material factor in the realization for that year of an item of income, gain, or loss specified in paragraph (b) of § 1.864-5, such item of income, gain, or loss shall be considered to be allocable in its entirety to that office or other fixed place of business. In no case may any income, gain, or loss for the taxable year from sources without the United States, or part thereof, be allocable under this paragraph to an office or other fixed place of business maintained in the United States by a nonresident alien individual or a foreign corporation if the taxpayer is at no time during the taxable year engaged in a trade or business in the United States.

(2) *Special limitation in case of sales of goods or merchandise through U.S. office.* Notwithstanding subparagraph (1) of this paragraph, in the case of a sale of goods or merchandise specified in paragraph (b) (3) of § 1.864-5, which is not a sale to which paragraph (b) (3) (i) of this section applies, the amount of income, gain, or loss which shall be considered to be allocable to the office or other fixed place of business maintained in the United States by the nonresident alien individual or foreign corporation shall not exceed the amount which would be treated as income from sources within the United States if the taxpayer had sold the goods or merchandise in the United States. See, for example, section 863(b) (2) and paragraph (b) of § 1.863-3.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* Foreign corporation M, which is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, manufactures machinery in a foreign country and sells the machinery outside the United States through its sales office in the United States for use in foreign countries. Title to the property which is sold is transferred to the foreign purchaser outside the United States, but no office or other fixed place of business maintained in a foreign country by M participates materially in the sale made through its U.S. office. During the taxable year M derives a total taxable income (determined as though M were a domestic corporation) of \$250,000 from these sales. If the sales made through the U.S. office for the taxable year had been made in the United States and the property had been sold for use in the United States, the taxable income from sources within the United States from such sales would have been \$100,000, determined as provided in section 863 and 882(c) and the regulations thereunder. The taxable income which is allocable to M's U.S. sales office pursuant to this paragraph and which is effectively connected for the taxable year with the conduct of a trade or business within the United States by that corporation is \$100,000.

*Example (2).* Foreign corporation N, which is not a controlled foreign corporation within the meaning of section 957 and the regulations thereunder, has an office in a foreign country which purchases merchandise and sells it through its sales office in the United States for use in various foreign countries, such sales being made outside the United States and title to the property passing outside the United States. No other office of N participates materially in these sales made through its U.S. office. By reason of its sales activities in the United States, N is engaged in business in the United States during the taxable year. During the taxable year N derives taxable income (determined as though N were a domestic corporation) of \$300,000 from these sales made through its U.S. sales office. If the sales made through the U.S. office for the taxable year had been made in the United States and the property had been sold for use in the United States, the taxable income from sources within the United States from such sales would also have been \$300,000, determined as provided in sections 861 and 882(c) and the regulations thereunder. The taxable income which is allocable to N's U.S. sales office pursuant to this paragraph and which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation is \$300,000.

*Example (3).* The facts are the same as in example (2), except that N has an office in a foreign country which participates materially in the sales which are made through its U.S. office. The taxable income which is allocable to N's U.S. sales office is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that corporation.

#### § 1.864-7 Definition of office or other fixed place of business.

(a) *In general.* (1) This section applies for purposes of determining whether a nonresident alien individual or a foreign corporation that is engaged in a trade or business in the United States at some time during a taxable year beginning after December 31, 1966, has an office or other fixed place of business in the United States for purposes of applying section 864(c) (4) (B) and § 1.864-6 to income, gain, or loss specified in paragraph (b) of § 1.864-5 from sources

or other fixed place of business outside the United States for purposes of applying section 864(c) (4) (B) (iii) and paragraph (b) (3) (i) of § 1.864-6 to sales of goods or merchandise for use, consumption, or disposition outside the United States.

(2) In making a determination under this section due regard shall be given to the facts and circumstances of each case, particularly to the nature of the taxpayer's trade or business and the physical facilities actually required by the taxpayer in the ordinary course of the conduct of his trade or business.

(3) The law of a foreign country shall not be controlling in determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business.

(b) *Fixed facilities*—(1) *In general.* As a general rule, an office or other fixed place of business is a fixed facility, that is, a place, site, structure, or other similar facility, through which a nonresident alien individual or a foreign corporation engages in a trade or business. For this purpose an office or other fixed place of business shall include, but shall not be limited to, a factory; a store or other sales outlet; a workshop; or a mine, quarry, or other place of extraction of natural resources. A fixed facility may be considered an office or other fixed place of business whether or not the facility is continuously used by a nonresident alien individual or foreign corporation.

(2) *Use of another person's office or other fixed place of business.* A nonresident alien individual or a foreign corporation shall not be considered to have an office or other fixed place of business merely because such alien individual or foreign corporation uses another person's office or other fixed place of business, whether or not the office or place of business of a related person, through which to transact a trade or business, if the trade or business activities of the alien individual or foreign corporation in that office or other fixed place of business are relatively sporadic or infrequent, taking into account the overall needs and conduct of that trade or business.

(c) *Management activity.* A foreign corporation shall not be considered to have an office or other fixed place of business merely because a person controlling that corporation has an office or other fixed place of business from which general supervision and control over the policies of the foreign corporation are exercised. The fact that top management decisions affecting the foreign corporation are made in a country shall not of itself mean that the foreign corporation has an office or other fixed place of business in that country. For example, a foreign sales corporation which is a wholly owned subsidiary of a domestic corporation shall not be considered to have an office or other fixed place of business in the United States merely because of the presence in the United States of officers of the domestic parent corporation who are generally responsible only for the policy decisions affecting the foreign sales corporation, provided that the foreign corporation has a

managing director, whether or not he is also an officer of the domestic parent corporation, who conducts the day-to-day trade or business of the foreign corporation from a foreign office. The result in this example would be the same even if the managing director should (1) regularly confer with the officers of the domestic parent corporation, (2) occasionally visit the U.S. office of the domestic parent corporation, and (3) during such visits to the United States temporarily conduct the business of the foreign subsidiary corporation out of the domestic parent corporation's office in the United States.

(d) *Agent activity*—(1) *Dependent agents*—(i) *In general*. In determining whether a nonresident alien individual or a foreign corporation has an office or other fixed place of business, the office or other fixed place of business of an agent who is not an independent agent, as defined in subparagraph (3) of this paragraph, shall be disregarded unless such agent (a) has the authority to negotiate and conclude contracts in the name of the nonresident alien individual or foreign corporation, and regularly exercises that authority, or (b) has a stock of merchandise belonging to the nonresident alien individual or foreign corporation from which orders he obtains are regularly filled on behalf of such alien individual or foreign corporation. A person who purchases goods from a nonresident alien individual or a foreign corporation shall not be considered to be an agent for such alien individual or foreign corporation for purposes of this paragraph where such person is carrying on such purchasing activities in the ordinary course of its own business, even though such person is related in some manner to the nonresident alien individual or foreign corporation. For example, a wholly owned domestic subsidiary corporation of a foreign corporation shall not be treated as an agent of the foreign parent corporation merely because the subsidiary corporation purchases goods from the foreign parent corporation and resells them in its own name. However, if the domestic subsidiary corporation regularly negotiates and concludes contracts for its foreign parent corporation or maintains a stock of merchandise from which it regularly fills orders which it has obtained on behalf of the foreign parent corporation, the office or other fixed place of business of the domestic subsidiary corporation shall be treated as the office or other fixed place of business of the foreign parent corporation, unless the domestic subsidiary corporation is an independent agent within the meaning of subparagraph (3) of this paragraph.

(ii) *Authority to conclude contracts or fill orders*. For purposes of subdivision (i) of this subparagraph, an agent shall be considered regularly to exercise authority to negotiate and conclude contracts or regularly to fill orders if he has obtained on behalf of his foreign principal only if the authority is exercised, or the orders are filled, with some frequency over a continuous period of time. This

determination shall be made on the basis of the facts and circumstances in each case, taking into account the nature of the business of the principal; but, in all cases, the frequency and continuity tests are to be applied conjunctively. Regularity shall not be evidenced by occasional or incidental activity. An agent shall not be considered regularly to negotiate and conclude contracts on behalf of his foreign principal if the agent's authority to negotiate and conclude contracts is limited only to unusual cases, or such authority must be separately secured by the agent from his principal with respect to each transaction effected.

(2) *Independent agents*. The office or other fixed place of business of an independent agent, as defined in subparagraph (3) of this paragraph, shall not be treated as the office or other fixed place of business of his principal who is a nonresident alien individual or a foreign corporation, irrespective of whether such agent has authority to negotiate and conclude contracts in the name of his principal, and regularly exercises that authority, or maintains a stock of goods from which he regularly fills orders he has obtained on behalf of his principal.

(3) *Definition of independent agent*—(i) *In general*. For purposes of this paragraph, the term "independent agent" means a general commission agent, broker, or other agent of an independent status acting in the ordinary course of his business in that capacity, and shall be considered to include an agent who, in pursuance of his usual trade or business, and for compensation, sells, customarily in his own name, goods or merchandise consigned or entrusted to his possession, management, and control for that purpose by or for the owner of such goods or merchandise.

(ii) *Related persons*. The determination of whether an agent is an independent agent for purposes of this paragraph shall be made without regard to facts indicating that either the agent or the principal owns or controls directly or indirectly the other or that a third person or persons own or control directly or indirectly both. For example, a wholly owned domestic subsidiary corporation of a foreign corporation which acts as an agent for the foreign parent corporation may be treated as acting in the capacity of independent agent for the foreign parent corporation. The facts and circumstances of a specific case shall determine whether the agent, while acting for his principal, is acting in pursuance of his usual trade or business and with that degree of independence as to constitute him an independent agent in his relations with the nonresident alien individual or foreign corporation.

(iii) *Exclusive agents*. Where an agent who is otherwise an independent agent within the meaning of subdivision (i) of this subparagraph acts in such capacity exclusively, or almost exclusively, for one principal who is a nonresident alien individual or a foreign corporation, the facts and circumstances of a particular case shall be taken into

account in determining whether the agent, while acting in that capacity, may be classified as an independent agent.

(e) *Employee activity*. Where an employee, in the ordinary course of his duties, actually carries on the trade or business in the United States of his employer who is a nonresident alien individual or a foreign corporation, an office or other fixed place of business regularly used by the employee in the course of carrying out his duties shall be considered the office or other fixed place of business of the employer, irrespective of who is responsible for the payment of expenses necessary to the maintenance of such office or other fixed place of business or whether the employee is also acting as an employee of another employer.

(f) *Office or other fixed place of business of a related person*. The fact that a nonresident alien individual or a foreign corporation is related in some manner to another person who has an office or other fixed place of business shall not of itself mean that such office or other fixed place of business of the other person is the office or other fixed place of business of the nonresident alien individual or foreign corporation. Thus, for example, the office maintained in the United States during the taxable year by foreign corporation M, a wholly owned subsidiary corporation of foreign corporation N, shall not be considered the office or other fixed place of business of N unless the facts and circumstances show that N is engaged in trade or business in the United States through that office or other fixed place of business. However, see paragraph (b) (2) of this section.

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

*Example (1)*. S, a foreign corporation, is engaged in the business of buying and selling tangible personal property. S is a wholly owned subsidiary of P, a domestic corporation engaged in the business of buying and selling similar property, which has an office in the United States. Officers of P are generally responsible for the policies followed by S and are directors of S, but S has an independent group of officers, none of whom are regularly employed in the United States. In addition to this group of officers, S has a managing director, D, who is also an officer of P but who is permanently stationed outside the United States. The day-to-day conduct of S's business is handled by D and the other officers of such corporation, but they regularly confer with the officers of P and on occasion temporarily visit P's offices in the United States, at which time they continue to conduct the business of S. S does not have an office or other fixed place of business in the United States for purposes of this section.

*Example (2)*. The facts are the same as in example (1) except that, on rare occasions, an employee of P receives an order which he, after consultation with officials of S and because P cannot fill the order, accepts on behalf of S rather than on behalf of P. P does not hold itself out as a person which those wishing to do business with S should contact. Assuming that orders for S are seldom handled in this manner and that they do not constitute a significant part of that corporation's business, S shall not be considered to

have an office or other fixed place of business in the United States because of these activities of an employee of P.

*Example (3).* The facts are the same as in example (1) except that all orders received by S are subject to review by an officer of P before acceptance. S has a business office in the United States.

[F.R. Doc. 69-831; Filed, Jan. 17, 1969; 1:07 p.m.]

## [ 27 CFR Part 5 ]

### LABELING AND ADVERTISING OF DISTILLED SPIRITS

#### Notice of Hearing for Miscellaneous Changes in and Reissuance of Regulations

Notice is hereby given, pursuant to the provisions of section 5 of the Federal Alcohol Administration Act (49 Stat. 981 as amended; 27 U.S.C. 205), of a public hearing to begin at 9:30 a.m. (e.s.t.) on Tuesday, April 1, 1969, in Room 3313 Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C. 20224, at which time and place all interested parties will be afforded opportunity to be heard, in person or by authorized representative, concerning regulatory changes in 27 CFR Part 5.

A comprehensive study of 27 CFR Part 5 showed that a complete revision of the regulations was desirable in order to fulfill the purposes and objectives of the Federal Alcohol Administration Act in terms of present day production and trade practices and consumer understanding. Industry members, State control authorities, other Federal and State agencies, consumer organizations, and others concerned were invited to submit suggestions for the improvement of the regulations. In order to consider the numerous suggested changes in an orderly manner, the Treasury Department announced in April 1967 that a series of three public hearings would be held on proposed amendments to 27 CFR Part 5.

A notice of public hearing, beginning on September 18, 1967, with respect to certain industry petitions to amend the regulations relating to the labeling of domestic whiskies, particularly as affected by cooperation, was published in the FEDERAL REGISTER on July 11, 1967 (32 F.R. 10208). Treasury Decision 6945, published in the FEDERAL REGISTER on January 26, 1968 (33 F.R. 983), contained the amendments resulting from that hearing.

A second notice of public hearing, beginning on April 1, 1968, with respect to 12 proposals relating to substantive changes in other areas of the regulations, was published in the FEDERAL REGISTER on January 26, 1968 (33 F.R. 1017). Treasury Decision 6973, published in the FEDERAL REGISTER on September 26, 1968 (33 F.R. 14459), contained the amendments resulting from the second hearing.

This notice of the third and concluding hearing in the series is published in the form of a complete new regulation. The regulations incorporate the matters covered by Treasury Decisions 6945 and

6973 mentioned above. This third hearing will afford interested parties an opportunity to comment on editorial, conforming, and clarifying changes, as well as several proposed substantive changes not previously considered, as enumerated below. Although the amendments to the regulations prescribed by Treasury Decisions 6945 and 6973 are of necessity incorporated in this proposed new regulation for the sake of completeness and continuity of thought, they should not be regarded as subject to reconsideration at this time. Thus any testimony and evidence which may be offered at this hearing relative to matters which were decided pursuant to the September 1967 and April 1968 hearings will not be regarded as germane and will not again be considered.

In the interest of orderly procedure the subjects to be considered at this hearing will be heard separately and in the numerical order set forth below:

1. *Definition of "produced at"*. Historically, degrees of proof were used as a regulatory control to describe manufacturing processes distinguishing various classes of distilled spirits, and types of spirits within the classes; for example, an alcoholic distillate from a fermented mash of grain distilled at or above 190° proof has been held to be a neutral spirit, and if distilled at less than 190° proof it has been classed as "whisky". It has long been recognized that during the course of a distilling process the vapors or liquids within a closed system may occasionally reach or actually exceed a prescribed limit of distillation proof. Thus, the implied limits on distillation proof were not realistic as a line of demarcation between classes and types. In practice, the classification of the finished product has not been held to be affected as long as the completed distillate in the closed system before any treatment, including the addition of water, was within the prescribed maximums and minimums of proof. To conform to recognized practice, and in order to permit the mixing of streams of distillates within the closed system as part of the production process prior to withdrawal of the spirits, it is proposed to define the term "produced at", as used in the standards of identity, so as to specifically recognize that the proof of the product resulting from such mixing of streams of distillates will govern.

Distilled spirits are required to be labeled to show the class and type thereof if the class and type is specifically defined in the regulations. Also, the regulations have long required new distillates, before storage or further processing, to possess the taste, aroma, and characteristics generally attributed to the product.

In other words, the regulation did not take into account the changes brought about by storage in wood; this was done by administrative interpretation. To give effect to this administrative interpretation, and to make it clear that the taste, aroma, and characteristics of a product stored in wood are attributable, in part, to such storage in wood, it is proposed to specify, in § 5.35(a) (pres-

ent § 5.34(a)), that a product shall be entitled to, and shall be described in accordance with, the applicable designation if the bottled product conforms to the prescribed standard and if it possesses the taste, aroma, and characteristics generally attributed to products made in accordance with such standard.

2. *Rum*. Puerto Rico Rum Producers Association, Inc., San Juan, Puerto Rico, has petitioned that the class "rum" be revised to require all rum to be stored at least 1 year in oak containers. The Association holds that a marked difference exists between the finished product offered to the consumer and the newly produced distillate, and that the taste, aroma, and characteristics generally attributed to rum can be achieved only through the maturing of the new distillate in oak containers.

3. *Tequila*. The National Association of Alcoholic Beverage Importers, Inc., Washington, D.C., due to the increasing popularity of "tequila" in the United States, has petitioned that a standard of identity for this product be included in the regulations recognizing "tequila" as a distinctive product of Mexico.

The proposed standard of identity, substantially in the form for other distinctive products recognized elsewhere in the regulations, is set forth in § 5.22(g).

4. *Information on labels*. In order to achieve some degree of conformity with the Model State Packaging and Labeling Regulations, adopted by the National Conference on Weights and Measures, notwithstanding the fact that products subject to, or labeled in accordance with, the Federal Alcohol Administration Act are exempt from such regulations; to afford proprietors additional freedom in label design, arrangement, and presentation of information (provided there is no conflict with, or qualification of, mandatory information), it is proposed:

A—To eliminate the requirement that certain mandatory information be grouped in a particular place on a "Government label" and to permit such information to appear on any label provided it is separated from related descriptive or explanatory matter.

B—To permit the use of any trade name the distiller or rectifier has been authorized to use, at the time of bottling of the product, in lieu of limiting the use of trade names to those which were authorized at the time the spirits were distilled or rectified.

C—To require the address or addresses of the proprietor to include the ZIP Code.

D—To make optional the age and percentage statement for whiskies in a blend containing neutral spirits when all of the whiskies are 4 years or more old. Currently, statements of age are optional for domestic or foreign whiskies, whether or not mixed or blended (but containing no neutral spirits), all of which are 4 years or more old. If age statements are shown, the proposed regulations would require age and percentage statements for products containing more than one straight whisky to be shown in either of two ways; for example, "35 percent straight whiskies 4 years or more old", or

"20 percent straight whisky 4 years old and 15 percent straight whisky 5 years old".

E—To redefine the term "brand label" to include all labels appearing on the same side of the container as the "principal display panel."

F—To delete the requirement for showing the State of distillation on labels of domestic whiskies. Presently statements of State of distillation are not required for blends of whiskies, including blends of straight whiskies, and they are prohibited with respect to light whiskies produced in a State found by the Director to be associated by consumers with an American type whisky. Under the proposed amendment it would still be permissible to show the State of distillation whenever it is desired to do so, except in certain instances in the case of light whisky.

G—To provide, with respect to all distilled spirits products that the use of the word "old", as part of the brand name, shall not be deemed to be an age representation.

The above proposals, if adopted, will apply only to labels developed or revised after the effective date of the regulatory changes.

5. *Standards of fill.* Schenley Industries, Inc., has petitioned to have the regulations amended to include a 2/3 gallon (51.2 oz.) size container as a standard of fill for distilled spirits in order to offer the consumer a size package between one quart (32 oz.) and 1/2 gallon (64 oz.).

6. *Amendment of regulations to apply "headspace", "actual capacity", and "tolerance" requirements of containers to cordials, liqueurs, and specialties.* Cordials, liqueurs, and specialties are now exempt from all of the requirements of Subpart H of the regulations relating to standards of fill (see 27 CFR 5.74(b)). In the interest of preventing consumer deception, it is proposed that the existing provisions of this subpart relating to shapes or designs likely to mislead the consumer as to actual capacity, as well as the headspace and tolerance requirements, be made applicable to containers for these products. Cordials and liqueurs, and specialties would continue to be exempt from the standards of fill requirements.

7. *Statement of manufacturing process for distilled gin.* Treasury Decision 6973 adopted a single standard of identity for gin, whether produced by distillation or compounding. However, gins made solely by distillation may continue to be labeled as "distilled."

Since all domestic gins are produced pursuant to approved statements of process, a determination can readily be made as to whether it is entitled to be described as "distilled." In order to make such determinations for imported gins, it is proposed to amend the regulations to require applications for certificates of approval covering labels bearing the word "distilled" to be accompanied by a statement, prepared by the manufacturer, setting forth a description of the manufacturing process.

8. *Editorial and clarifying changes.* All other proposed changes in the regulations are believed to be of an editorial, clarifying, conforming nature and include revisions made pursuant to earlier hearings, as well as the deletion of obsolete material.

27 CFR Part 5 is proposed for reissuance as follows:

**PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS**

Subpart A—Scope

Sec. 5.1 General.

Subpart B—Definitions

5.11 Meaning of terms.

Subpart C—Standards of Identity for Distilled Spirits

5.21 Application of standards.  
5.22 The standards of identity.  
5.23 Alteration of class and type.

Subpart D—Labeling Requirements for Distilled Spirits

5.31 General.  
5.32 Mandatory label information.  
5.33 Additional requirements.  
5.34 Brand names.  
5.35 Class and type.  
5.36 Name and address.  
5.37 Alcoholic content.  
5.38 Net contents.  
5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.  
5.40 Statements of age and percentage.  
5.41 Bottle cartons, booklets and leaflets.  
5.42 Prohibited practices.

Subpart E—Standards of Fill for Bottled Distilled Spirits

5.45 Application.  
5.46 Standard liquor bottles.  
5.47 Standards of fill.  
5.48 Cordials and Liqueurs, and specialties.

Subpart F—Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits

5.51 Label approval and release.  
5.52 Certificates of age and origin.

Subpart G—Requirements for Approval of Labels of Domestically Bottled Distilled Spirits

5.55 Certificates of label approval.  
5.56 Certificates of age and origin.

Subpart H—Advertising of Distilled Spirits

5.61 Application.  
5.62 Definition.  
5.63 Mandatory statements.  
5.64 Lettering.  
5.65 Prohibited statements.

**AUTHORITY:**The provisions of this Part 5 issued under 49 Stat. 981, as amended; 27 U.S.C. 205.

**CROSS REFERENCES:**Other regulations relating to this part are as follows:

- 27 CFR, Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
- 27 CFR, Part 2—Nonindustrial Use of Distilled Spirits and Wine.
- 27 CFR, Part 3—Bulk Sales and Bottling of Distilled Spirits.
- 27 CFR, Part 4—Labeling and Advertising of Wine.
- 27 CFR, Part 7—Labeling and Advertising of Malt Beverages.
- 26 CFR, Part 173—Returns of Substances, Articles or Containers.

26 CFR, Part 200—Rules of Practice in Permit Proceedings.

26 CFR, Part 201—Distilled Spirits Plants.

26 CFR, Part 250—Liquors and Articles From Puerto Rico and the Virgin Islands.

26 CFR, Part 251—Importation of Distilled Spirits, Wines and Beer.

26 CFR, Part 252—Exportation of Liquors.

**Subpart A—Scope**

**§ 5.1 General.**

The regulations in this part relate to the labeling and advertising of distilled spirits. This part applies to the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, but does not apply to distilled spirits for export.

**Subpart B—Definitions**

**§ 5.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such Act.

*Age.* The period during which, after distillation and before bottling, distilled spirits have been stored in oak containers. "Age" for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, means the period the whisky has been stored in charred new oak containers.

*Assistant regional commissioner.* An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, the regional commissioner.

*Bottle.* Any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

*Brand label.* The principal display panel that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale, and any other label appearing on the same side of the bottle as the principal display panel. The principal display panel appearing on a cylindrical surface is that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

*Director.* The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224.

*Distilled spirits.* Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use, except that this term shall not include mixtures containing wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

**CAUTION:** The exception clause above becomes effective July 1, 1972.

**Gallon.** United States gallon of 231 cubic inches of alcoholic beverage at 60° F. All other liquid measures used are subdivisions of the gallon as so defined.

**In bulk.** In containers having a capacity in excess of one wine gallon.

**Interstate or foreign commerce.** Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

**Permittee.** Any person holding a basic permit under the Federal Alcohol Administration Act.

**Person.** Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

**Produced at.** As used in §§ 5.22 and 5.52 in conjunction with specific degrees of proof to describe the standards of identity, means the composite proof of the spirits after completion of distillation and before reduction in proof.

**Proof gallon.** A gallon of liquid at 60° F. which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60° F. referred to water at 60° F. as unity, or the alcoholic equivalent thereof.

**United States.** The several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means the Commonwealth of Puerto Rico.

### Subpart C—Standards of Identity for Distilled Spirits

#### § 5.21 Application of standards.

The standards of identity for the several classes and types of distilled spirits set forth in this part shall be applicable only to distilled spirits for beverage or other nonindustrial purposes.

#### § 5.22 The standards of identity.

Standards of identity for the several classes and types of distilled spirits set forth in this section shall be as follows (see also § 5.35, class and type):

(a) **Class 1; neutral spirits or alcohol.** "Neutral spirits" or "alcohol" are distilled spirits produced from any material at or above 190° proof, and, if bottled, bottled at not less 80° proof.

(1) "Vodka" is neutral spirits so distilled, or so treated after distillation with charcoal or other materials, as to be without distinctive character, aroma, taste, or color.

(2) "Grain spirits" are neutral spirits distilled from a fermented mash of grain and stored in oak containers.

**CAUTION:** Section 5.22(a)(2) becomes effective July 1, 1972.

(b) **Class 2; whisky.** "Whisky" is an alcoholic distillate from a fermented mash of grain produced at less than 190° proof, reduced to not more than 125° proof before storage in oak containers

(except that "corn whisky" need not be so stored), and bottled at not less than 80° proof; and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

**CAUTION:** Section 5022(b) below becomes effective July 1, 1972, and replaces paragraph (b) above.

(b) **Class 2; whisky.** "Whisky" is an alcoholic distillate from a fermented mash of grain produced at less than 190° proof, stored in oak containers (except that "corn whisky" need not be so stored), and bottled at not less than 80° proof; and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

(1) (i) "Bourbon whisky", "rye whisky", "wheat whisky", "malt whisky", or "rye malt whisky" is whisky produced at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored at not more than 125° proof in charred new oak containers; and also includes mixtures of such whiskies of the same type.

(ii) "Corn whisky" is whisky produced at not exceeding 160° proof from a fermented mash of not less than 80 percent corn grain, and if stored in oak containers stored at not more than 125° proof in used or uncharred new oak containers and not subjected in any manner to treatment with charred wood; and also includes mixtures of such whisky.

(iii) Whiskies conforming to the standards prescribed in subdivisions (i) and (ii) of this subparagraph, which have been stored in the type of oak containers prescribed, for a period of 2 years or more shall be further designated as "straight"; for example, "straight bourbon whisky", "straight corn whisky", and whisky conforming to the standards prescribed in subdivision (i) of this subparagraph, except that it was produced from a fermented mash of less than 51 percent of any one type of grain, and stored for a period of 2 years or more in charred new oak containers shall be designated merely as "straight whisky". No other whiskies may be designated "straight". "Straight whisky" includes mixtures of straight whiskies which are homogeneous under section 5025(e)(5), Internal Revenue Code (26 U.S.C. 5025(e)(5)), and implementing regulations in 26 CFR Part 201, and also mixtures of straight whiskies of the same type produced by the same proprietor at the same distillery all of which are not less than 4 years old.

(2) "Whisky distilled from bourbon (rye, wheat, malt, or rye malt) mash" is whisky produced in the United States at not exceeding 160° proof from a fermented mash of not less than 51 percent corn, rye, wheat, malted barley, or malted rye grain, respectively, and stored in used oak containers; and also includes mixtures of such whiskies of the same type. Whisky conforming to the standard of identity for corn whisky must be designated corn whisky.

(3) "Light Whisky" is whisky produced in the United States at more than 160° proof, on and after January 26, 1968, and stored in used or uncharred new oak containers; and also includes mixtures of such whiskies. If "light whisky" is mixed with less than 20 percent of straight whisky on a proof gallon basis, the mixture shall be designated "blended light whisky" (light whisky—a blend).

**CAUTION:** Section 5.22(b)(3) becomes effective July 1, 1972.

(4) "Blended whisky" (whisky—a blend) is a mixture which contains at least 20 percent of straight whisky on a proof gallon basis and, separately or in combination, whisky or neutral spirits. A blended whisky containing not less than 51 percent on a proof gallon basis of one of the types of straight whisky shall be further designated by that specific type of straight whisky; for example, "blended rye whisky" (rye whisky—a blend).

(5) "A blend of straight whiskies" (blended straight whiskies) is a mixture of straight whiskies. A blend of straight whiskies consisting entirely of one of the types of straight whisky, and not conforming to the standard for "straight whisky", shall be further designated by that specific type of straight whisky; for example, "a blend of straight rye whiskies" (blended straight rye whiskies).

(6) "Spirit whisky" is a mixture of neutral spirits and not less than 5 percent on a proof gallon basis of whisky, or straight whisky, or straight whisky and whisky, if the straight whisky component is less than 20 percent on a proof gallon basis.

(7) "Scotch whisky" is whisky which is a distinctive product of Scotland, manufactured in Scotland in compliance with the laws of the United Kingdom regulating the manufacture of Scotch whisky for consumption in the United Kingdom: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Scotch whisky" (Scotch whisky—a blend).

(8) "Irish whisky" is whisky which is a distinctive product of Ireland, manufactured either in the Republic of Ireland or in Northern Ireland, in compliance with their laws regulating the manufacture of Irish whisky for home consumption: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Irish whisky" (Irish whisky—a blend).

(9) "Canadian whisky" is whisky which is a distinctive product of Canada, manufactured in Canada in compliance with the laws of Canada regulating the manufacture of Canadian whisky for consumption in Canada: *Provided*, That if such product is a mixture of whiskies, such mixture is "blended Canadian whisky" (Canadian whisky—a blend).

(c) **Class 3; gin.** "Gin" is a product obtained by original distillation from mash, or by redistillation of distilled spirits, or by mixing neutral spirits, with or over juniper berries and other aromatics, or with or over extracts derived from infusions, percolations, or maceration of

such materials, and includes mixtures of gin and neutral spirits. It shall derive its main characteristic flavor from juniper berries and be bottled at not less than 80° proof. Gin produced exclusively by original distillation or by redistillation may be further designated as "distilled". "Dry gin" (London dry gin), "Geneva gin" (Hollands gin), and "Old Tom gin" (Tom gin) are types of gin known under such designations.

(d) *Class 4; brandy.* "Brandy" is an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than 190° proof, and bottled at not less than 80° proof. Brandy, or mixtures thereof, not conforming to any of the standards in subparagraphs (1)-(8) of this paragraph shall be designated as "brandy", and such designation shall be immediately followed by a truthful and adequate statement of composition.

(1) "Fruit brandy" is brandy distilled solely from the fermented juice or mash of whole, sound, ripe fruit, or from standard grape, citrus, or other fruit wine, with or without the addition of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation or distillation). Fruit brandy shall include mixtures of such brandy with not more than 30 percent (calculated on a proof gallon basis) of lees brandy. Fruit brandy, derived from grapes, shall be designated as "grape brandy" or "brandy", except that in the case of brandy (other than neutral brandy, pomace brandy, marc brandy or grappa brandy) distilled from the fermented juice, mash, or wine of grapes, or the residue thereof, which has been stored in oak containers for less than two years, the statement of class and type shall be immediately preceded, in the same size and kind of type, by the word "immature". Fruit brandy, other than grape brandy, derived from one variety of fruit, shall be designated by the word "brandy" qualified by the name of such fruit (for example, "peach brandy"), except that "apple brandy" may be designated "applejack". Fruit brandy derived from more than one variety of fruit shall be designated as "fruit brandy" qualified by a truthful and adequate statement of composition.

(2) "Cognac", or "Cognac (grape) brandy", is grape brandy distilled in the Cognac region of France, which is entitled to be so designated by the laws and regulations of the French government.

(3) "Dried fruit brandy" is brandy that conforms to the standard for fruit brandy except that it has been derived from sound, dried fruit, or from the standard wine of such fruit. Brandy derived from raisins, or from raisin wine, shall be designated as "raisin brandy". Other brandies shall be designated in the same manner as fruit brandy from the corresponding variety or varieties of fruit except that the name of the fruit shall be qualified by the word "dried".

(4) "Lees brandy" is brandy distilled from the lees of standard grape, citrus, or other fruit wine, and shall be designated as "lees brandy", qualified by the name of the fruit from which such lees are derived.

(5) "Pomace brandy", or "marc brandy", is brandy distilled from the skin and pulp of sound, ripe grapes, citrus or other fruit, after the withdrawal of the juice or wine therefrom, and shall be designated as "pomace brandy", or "marc brandy", qualified by the name of the fruit from which derived. Grape pomace brandy may be designated as "grappa" or "grappa brandy".

(6) "Residue brandy" is brandy distilled wholly or in part from the fermented residue of fruit or wine, and shall be designated as "residue brandy" qualified by the name of the fruit from which derived. Brandy distilled wholly or in part from residue materials which conforms to any of the standards set forth in subparagraphs (1), (3), (4), and (5) of this paragraph may, regardless of such fact, be designated "residue brandy", but the use of such designation shall be conclusive, precluding any later change of designation.

(7) "Neutral brandy" is brandy produced at more than 170° proof and shall be designated in accordance with the standards in this paragraph, except that the designation shall be qualified by the word "neutral"; for example, "neutral citrus residue brandy".

(8) "Substandard brandy" shall bear as a part of its designation the word "substandard", and shall include:

(i) Any brandy distilled from fermented juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.20 gram per 100 cubic centimeters (20° C.); measurements of volatile acidity shall be calculated exclusive of water added to facilitate distillation.

(ii) Any brandy which has been distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace, or residue, or which shows in the finished product any taste, aroma, or characteristic associated with products distilled from such material.

(e) *Class 5; blended applejack.* "Blended applejack" (applejack—a blend) is a mixture which contains at least 20 percent of apple brandy (applejack) on a proof gallon basis, stored in oak containers for not less than 2 years, and not more than 80 percent of neutral spirits on a proof gallon basis if such mixture at the time of bottling is not less than 80° proof.

(f) *Class 6; rum.* "Rum" is an alcoholic distillate from the fermented juice of sugarcane, sugarcane syrup, sugarcane molasses, or other sugarcane byproducts produced at less than 190° proof, stored in oak containers for a minimum of 1 year, and bottled at not less than 80° proof; and also includes mixtures solely of such distillates.

(g) *Class 7; tequila.* "Tequila" is an alcoholic distillate from the fermented mash of the Maguey plant produced at less than 190° proof which is a distinc-

tive product of Mexico, manufactured in Mexico in compliance with the laws of Mexico regulating the manufacture of tequila for consumption in Mexico, and bottled at not less than 80° proof; and also includes mixtures solely of such distillates.

(h) *Class 8; cordials and liqueurs.* Cordials and liqueurs are products obtained by mixing or redistilling distilled spirits with or over fruits, flowers, plants, or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolation, or maceration of such materials, and containing sugar, dextrose, or levulose, or a combination thereof, in an amount not less than 2½ percent by weight of the finished product.

(1) "Sloe gin" is a cordial or liqueur with the main characteristic flavor derived from sloe berries.

(2) "Rye liqueur", "bourbon liqueur" (rye, bourbon cordial) are liqueurs, bottled at not less than 60° proof, in which not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and which possess a predominant characteristic rye or bourbon flavor derived from such whisky. Wine, if used, must be within the 2½ percent limitation provided in § 5.23 for coloring, flavoring, and blending materials.

(3) "Rock and rye," "rock and bourbon," "rock and brandy," "rock and rum," are liqueurs, bottled at not less than 48° proof, in which, in the case of rock and rye and rock and bourbon, not less than 51 percent, on a proof gallon basis, of the distilled spirits used are, respectively, rye or bourbon whisky, straight rye or straight bourbon whisky, or whisky distilled from a rye or bourbon mash, and, in the case of rock and brandy and rock and rum, the distilled spirits used are all grape brandy or rum respectively; containing rock candy or sugar syrup, with or without the addition of fruit, fruit juices, or other natural flavoring materials, and possessing, respectively, a predominant characteristic rye, bourbon, brandy, or rum flavor derived from the distilled spirits used. Wine, if used, must be within the 2½ percent limitation provided in § 5.23 for harmless coloring, flavoring, and blending materials.

(4) The designation of a cordial or liqueur may include the word "dry" if the sugar, dextrose, or levulose, or a combination thereof, are less than 10 percent by weight of the finished product.

(5) Cordials and liqueurs shall not be designated as "distilled" or "compound".

(i) *Class 9; flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky.* "Flavored brandy," "flavored gin," "flavored rum," "flavored vodka," and "flavored whisky," are brandy, gin, rum, vodka, and whisky, respectively, to which have been added natural flavoring materials, with or without the addition of sugar, and bottled at not less than 70° proof. The name of the predominant flavor shall appear as a

part of the designation. If the finished product contains more than 2½ percent by volume of wine, the kinds and percentages by volume of wine must be stated as a part of the designation, except that a flavored brandy may contain an additional 12½ percent by volume of wine, without label disclosure, if the additional wine is derived from the particular fruit corresponding to the labeled flavor of the product.

(3) *Class 10; imitations.* Imitations shall bear, as a part of the designation thereof, the word "imitation" and shall include the following:

(1) Any class or type of distilled spirits to which has been added coloring or flavoring material of such nature as to cause the resultant product to simulate any other class or type of distilled spirits;

(2) Any class or type of distilled spirits (other than distilled spirits required under § 5.35 to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has been added artificial or imitation flavors;

(3) Any class or type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate or imply, that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whisky essence, brandy essence, rum essence, or similar essence or extract which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

(4) Any type of whisky to which head- ing oil has been added;

(5) Any rum or tequila, to which neutral spirits or distilled spirits other than rum or tequila, respectively, have been added;

(6) Any brandy made from distilling material to which has been added any amount of sugar other than the kind and amount of sugar expressly authorized in the production of standard wine; and

(7) Any brandy to which neutral spirits or distilled spirits other than brandy has been added, except that this provision shall not apply to any product conforming to the standard of identity for blended applejack.

(k) *Class 11; Geographical designations.* (1) Geographical names for distinctive types of distilled spirits (other than names found by the Director under subparagraph (2) of this paragraph to have become generic) shall not be applied to distilled spirits produced in any other place than the particular region indicated by the name, unless (i) in direct conjunction with the name there appears the word "type" or the word "American" or some other adjective indicating the true place of production, in lettering substantially as conspicuous as such name, and (ii) the distilled spirits to which the name is applied conform to the distilled spirits of that particular region. The following are examples of distinctive types of distilled spirits with geographical names that have not become generic: Eau de Vie de Dantzig (Danziger Goldwasser), Ojen, Swedish punch. Geographical names for distinc-

tive types of distilled spirits shall be used to designate only distilled spirits conforming to the standard of identity, if any, for such type specified in this section, or if no such standard is so specified, then in accordance with the trade understanding of that distinctive type.

(2) Only such geographical names for distilled spirits as the Director finds have by usage and common knowledge lost their geographical significance to such extent that they have become generic shall be deemed to have become generic. Examples are London dry gin, Geneva (Hollands) gin.

(3) Geographical names that are not names for distinctive types of distilled spirits, and that have not become generic, shall not be applied to distilled spirits produced in any other place than the particular place or region indicated in the name. Examples are Cognac, Armagnac, Greek brandy, Pisco brandy, Jamaica rum, Puerto Rico rum, Demerara rum.

(4) The words "Scotch", "Scots", "Highland" or "Highlands" and similar words connoting, indicating, or commonly associated with Scotland, shall not be used to designate any product not wholly produced in Scotland.

(5) The name of any State which the Director finds is associated by consumers with any type of domestically produced whisky shall not appear in any manner on any label for light whisky, as defined in paragraph (b) (3) of this section, except as a part of the name and address requirements set forth in § 5.36.

(1) *Class 12; products without geographical designations but distinctive of a particular place.* (1) The whiskies of the types specified in paragraph (b) (1), (4), (5), and (6) of this section are distinctive products of the United States, and if produced in a foreign country, shall be designated by the applicable designation prescribed in such paragraphs, together with the words "American type" or the words "produced (distilled, blended) in \_\_\_\_\_", the blank to be filled in with the name of the foreign country: *Provided*, That the word "bourbon" shall not be used to describe any whisky or whisky-based distilled spirits not produced in the United States. If whisky of any of these types is composed in part of whisky or whiskies produced in a foreign country there shall be stated, on the brand label, the percentage of such whisky and the country of origin thereof.

(2) The name for other distilled spirits which are distinctive products of a particular place or country, an example is Habanero, shall not be given to the product of any other place or country unless the designation for such product includes the word "type" or an adjective such as "American", or the like, clearly indicating the true place of production. The provision for place of production shall not apply to designations which by usage and common knowledge have lost their geographical significance to such an extent that the Director finds they have become generic. Examples are Slivovitz, Zubrovka, Aquavit, Arrack, and Kirschwasser.

## § 5.23 Alteration of class and type.

(a) *Additions.* (1) The addition of any coloring, flavoring, or blending materials to any class and type of distilled spirits, except as otherwise provided in this section, alters the class and type thereof and the product shall be appropriately redesignated.

(2) There may be added to any class or type of distilled spirits, without changing the class or type thereof, (i) such harmless coloring, flavoring, or blending materials as are an essential component part of the particular class or type of distilled spirits to which added, and (ii) harmless coloring, flavoring, or blending materials such as caramel, straight malt or straight rye malt whiskies, fruit juices, sugar, or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring, or blending materials do not total more than 2½ percent by volume of the finished product.

(3) "Harmless coloring, flavoring, and blending materials" shall not include (i) any material which would render the product to which it is added an imitation, or (ii) any material whatsoever in the case of neutral spirits or straight whisky, or (iii) any material, other than caramel and sugar, in the case of cognac brandy.

(b) *Extractions.* The removal from any distilled spirits of any constituents to such an extent that the product does not possess the taste, aroma, and characteristics generally attributed to that class or type of distilled spirits alters the class and type thereof, and the product shall be appropriately redesignated. In addition, in the case of straight whisky the removal of more than 15 percent of the fixed acids, or volatile acids, or esters, or soluble solids, or higher alcohols, or more than 25 percent of the soluble color, shall be deemed to alter the class or type thereof.

(c) *Exceptions.* This section shall not be construed as in any manner modifying the standards of identity for cordials and liqueurs, flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky or as authorizing any product which is defined in § 5.22(j), Class 10, as an imitation to be otherwise designated.

## Subpart D—Labeling Requirements for Distilled Spirits

### § 5.31 General.

(a) *Application.* No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any distilled spirits in bottles, unless such bottles are marked, branded, labeled, or packaged, in conformity with §§ 5.31-5.42.

(b) *Alteration of labels.* It shall be unlawful for any person to alter, mutilate,

destroy, obliterate, or remove any mark, brand, or label on distilled spirits held for sale in interstate or foreign commerce or after shipment therein, except

- (1) As authorized by Federal law,
- (2) That the assistant regional commissioner or the internal revenue officer, if any, assigned to the distilled spirits plant premises may, on oral or written application, permit additional labeling or relabeling of bottled distilled spirits with labels covered by certificates of label approval which comply with the requirements of this part and with State law,
- (3) That there may be added to the bottle, after removal from customs custody, or prior to or after removal from the bottling premises, without application for permission to relabel, a label identifying the wholesale or retail distributor thereof or identifying the purchaser or consumer, and containing no references whatever to the characteristics of the product.

**§ 5.32 Mandatory label information.**

There shall be stated:

- (a) On the brand label:
  - (1) Brand name,
  - (2) Class and type, in accordance with § 5.35.
  - (3) Alcoholic content, in accordance with § 5.37.
  - (4) In the case of distilled spirits packaged in containers for which no standard of fill is prescribed in § 5.47, net contents in accordance with § 5.38(b).
- (b) On the brand label or on a back label:
  - (1) Name and address, in accordance with § 5.36.
  - (2) In the case of imported spirits, the country of origin, in accordance with § 5.36.
  - (3) In the case of distilled spirits packaged in containers conforming to the standards of fill prescribed in § 5.47, net contents in accordance with § 5.38 (a).
  - (4) Coloring or flavoring, in accordance with § 5.39.
  - (5) Percentage of neutral spirits and name of commodity from which distilled, or in the case of continuously distilled neutral spirits or gin the name of the commodity only, in accordance with § 5.39.
  - (6) A statement of age or age and percentage, when required, in accordance with § 5.40.

**§ 5.33 Additional requirements.**

- (a) *Contrasting background.* Labels shall be so designed that the statements required by §§ 5.31-5.42 are readily legible under ordinary conditions, and such statements shall be on a contrasting background.
- (b) *Size of type.* Statements required by §§ 5.31-5.42 (except brand names) shall appear generally parallel to the base on which the container rests as it is designed to be displayed, or shall be otherwise equally conspicuous, and shall be in script, type, or printing not smaller than 8-point Gothic caps and shall be separate and apart from any other descriptive or explanatory matter, except

that, in the case of labels on bottles of less than one-half pint capacity, such script, type, or printing may be smaller than 8-point Gothic caps if readily legible under ordinary conditions. Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(c) *English language.* The requirements of §§ 5.31-5.42 shall be stated in the English language, except that the brand name need not be in English, and for products bottled for consumption within Puerto Rico the required information may be stated in the Spanish language if the net contents and, if the product is an imitation, the word "imitation" are also stated in the English language.

(d) *Location of label.* Labels shall not obscure government stamps or be obscured thereby. Labels shall not obscure any markings or information required to be permanently marked in the bottle by other U.S. Treasury Department regulations.

(e) *Labels firmly affixed.* Labels which are not an integral part of the bottle shall be affixed to bottles in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by §§ 5.31-5.42 provided such information does not conflict with, nor in any manner qualify, statements required by regulations promulgated under the Act.

(g) *Contents of bottles.* A complete and accurate statement of the contents of the bottles to which labels are to be or have been affixed shall be submitted, on request, to the Director or the assistant regional commissioner.

**§ 5.34 Brand names.**

(a) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the Director finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(b) *Trade name of foreign origin.* Paragraph (a) of this section does not prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the United States Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided*, That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

**§ 5.35 Class and type.**

(a) *Designation of product.* The class and type of distilled spirits shall be stated in conformity with § 5.22 if defined therein, unless the application of such designation will result in consumer deception because the product does not possess the taste, aroma, and characteristics generally attributed to such class and type. In all other instances the product shall be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (except as provided in paragraph (b) (2) of this section) followed by a truthful and adequate statement of composition. The word "cordial" or "liqueur" need not be stated in the case of cordials and liqueurs unless the Director finds such word is necessary to clearly indicate that the product is a cordial or liqueur.

(b) *Products designed in accordance with trade and consumer understanding.* In the case of products designated in accordance with trade and consumer understanding—

(1) A statement of the classes and types of distilled spirits used in the manufacture thereof shall be deemed a sufficient statement of composition in the case of highballs, cocktails, and similar prepared specialties when the designation adequately indicates to the consumer the general character of the product.

(2) No statement of composition is required if the designation through general and established usage adequately indicates to the consumer the composition of the product.

A product shall not bear a designation which indicates it contains a class or type of distilled spirits unless the distilled spirits therein conform to such class and type.

(c) *Origin of whiskies in mixtures.* In the case of any of the types of whiskey defined in § 5.22(b), Class 2, which contains any whiskey or whiskies produced in a country other than that indicated by the type designation, there shall be stated on the brand label the percentage of such whiskey and the country of origin thereof. In the case of mixtures of whiskey, not conforming to any type designation in § 5.22(b), Class 2, the components of which were distilled in more than one country, there shall be stated in direct conjunction with the class designation "whisky" a truthful and adequate statement of the composition of the product.

(d) *Cordials and liqueurs.* The alcoholic components of cordials and liqueurs may, but need not, be stated on labels.

**§ 5.36 Name and address.**

(a) *"Bottled by".* (1) On labels of domestic distilled spirits there shall be stated the phrase "bottled by", immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled. If the bottler is the actual bona fide operator of more than one distilled spirits plant engaged in bottling operations, there

may, in addition, be stated immediately following the name (or trade name) of such bottler the addresses of such other plants.

(2) Where distilled spirits are bottled by or for the distiller thereof, there may be stated, in lieu of the phrase "bottled by", followed by the bottler's name (or trade name) and address, the phrase "distilled by", followed by the name, or the trade name under which the particular spirits were distilled, or (except in the case of distilled spirits bottled in bond under section 5233, Internal Revenue Code (26 U.S.C. 5233)) any trade name shown on the distiller's permit (covering the premises where the particular spirits were distilled), and the address (or addresses) of the distiller.

(3) Where distilled spirits are bottled by or for the rectifier thereof, there may be stated, in lieu of the phrase "bottled by", followed by the bottler's name (or trade name) and address, the phrases "blended by", "made by", "prepared by", "manufactured by", or "produced by" (whichever may be appropriate to the act of rectification involved) followed by the name (or trade name), and the address (or addresses) of the rectifier.

(b) "Imported by". (1) On labels of imported distilled spirits, bottled prior to importation, there shall be stated the words "imported by," "imported exclusively by," or a similar appropriate phrase, and immediately thereafter the name of the importer, or exclusive agent, or sole distributor, or other person responsible for the importation, together with the principal place of business in the United States of such person.

(2) On labels of imported distilled spirits bottled after importation by a person other than the person responsible for the importation there shall be stated:

(i) The name of the bottler and place where bottled, immediately preceded by the words "bottled by"; or

(ii) The name of the bottler and place where bottled, immediately preceded by the words "bottled by" and in conjunction therewith the name and address of the person responsible for the importation, in the manner prescribed in subparagraph (1) of this paragraph; or

(iii) The name and principal place of business in the United States of the person responsible for the importation, if the spirits are bottled for such person, immediately preceded by the phrase "imported by and bottled in the United States for" (or a similar appropriate phrase).

(3) On labels of imported distilled spirits bottled after importation by the person responsible for the importation, there shall be stated the words "imported and bottled by," "imported and bottled exclusively by," or a similar appropriate phrase, and immediately thereafter the name of such person and the address of the place where bottled or the address of such person's principal place of business.

(c) *Post office address.* The "place" stated shall be the post office address, including ZIP Code, except that the street address may be omitted. No additional

places or addresses shall be stated for the same person, firm or corporation, unless (1) such person or retailer is actively engaged in the conduct of an additional bona fide and actual alcoholic beverage business at such additional place or address, and (2) the label also contains in direct conjunction therewith, appropriate descriptive material indicating the function occurring at such additional place or address.

(d) *Country of origin.* On labels of imported distilled spirits there shall be stated the country of origin in substantially the following form "Product of \_\_\_\_\_" the blank to be filled in with the name of the country of origin.

(e) *Trade names.* The trade name of any permittee appearing on any label shall be identical with the name in which his basic permit is issued by the assistant regional commissioner.

#### § 5.37 Alcoholic content.

The alcoholic content shall be stated by proof for distilled spirits except that it may be stated in percentage by volume for cordials and liqueurs, cocktails, highballs, bitters, and such other specialties as may be specified by the Director.

#### § 5.38 Net contents.

(a) *Bottles conforming to standards of fill.* The net contents of distilled spirits for which a standard of fill is prescribed in § 5.47 shall be stated in the same manner and form in which such standard of fill is set forth. Such net contents need not be stated on the label if they are legibly blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, on the side, front, or back of the container in an unobscured location. Containers of one-half pint or greater capacity must bear letters and figures of not less than one-quarter inch height.

(b) *Bottles not conforming to standards of fill.* The net contents of distilled spirits for which no standard of fill is prescribed in § 5.47 shall be stated as follows:

(1) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(2) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(3) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(4) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

All fractions shall be expressed in their lowest denomination.

(c) *Qualifying statements.* Words or phrases qualifying statements of net contents are prohibited.

#### § 5.39 Presence of neutral spirits and coloring, flavoring, and blending materials.

(a) *Neutral spirits and name of commodity.* (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or recti-

fication, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: "-----% neutral spirits distilled from ----- (insert grain, cane products, or fruit, as appropriate)"; or "-----% neutral spirits (vodka) distilled from ----- (insert grain, cane products, or fruit, as appropriate)"; or "-----% grain (cane products), (fruit) neutral spirits"; or "-----% grain spirits."

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin have been distilled. The statement of the name of the commodity shall be made in substantially the following form: "Distilled from grain," or "Distilled from cane products," or "Distilled from fruit."

(b) *Coloring materials.* The words "artificially colored" shall be stated on the label of any distilled spirits containing synthetic or natural materials which primarily contribute color, or when the label conveys the impression that the color is derived from a source other than the actual source, except that

(1) If no coloring material other than natural flavoring material has been added, there may be stated in lieu of the words "artificially colored" a truthful and adequate statement of the source of the color;

(2) If no coloring material other than those certified as suitable for use in foods by the Food and Drug Administration has been added, there may be stated in lieu of the words "artificially colored," the words "certified color added"; and

(3) If no coloring material other than caramel has been added, there may be stated in lieu of the words "artificially colored," the words "colored with caramel," or a substantially similar statement, but no such statement is required for the use of caramel in any brandy, rum, or tequila, or in any type of whisky other than straight whisky.

(c) *Treatment with wood.* The words "colored and flavored with wood (insert chips, slabs, etc., as appropriate)" shall be stated as a part of the class and type designation for whisky and brandy treated, in whole or in part, with wood through percolation, or otherwise, during distillation, rectification, or storage (other than through contact with the oak container).

#### § 5.40 Statements of age and percentage.

(a) *Statements of age and percentage for whisky.* In the case of straight whisky bottled under section 5233, Internal Revenue Code (26 U.S.C. 5233), and domestic or foreign whisky, whether or not mixed or blended, all of which is 4 years or more old, statements of age are optional. As to all other whiskies there shall be stated the following:

(1) In the case of whisky, whether or not mixed or blended but containing no

neutral spirits, the age of the youngest whisky. The age statement shall read substantially as follows: "----- years old."

(2) In the case of whisky containing neutral spirits, if any of the straight whisky and/or other whisky is less than 4 years old, the percentage by volume of straight whisky and/or other whisky, and the age of the straight whisky (the youngest if two or more) and the age of such other whisky (the youngest if 2 or more). If all the straight whisky and/or other whisky is 4 years or more old, the age and percentage statement for such whiskies is optional. The age and percentage statement for straight whiskies and/or other whisky, whether required or optional, shall be stated in immediate conjunction with the neutral spirits statement required by § 5.39, and shall read substantially as follows:

(i) If only one straight whisky and no other whisky is contained in the blend: "----- percent straight whisky ----- years old."

(ii) If more than one straight whisky and no other whisky is contained in the blend: "----- percent straight whiskies ----- years or more old." The age blank shall be filled in with the age of the youngest straight whisky. In lieu of the foregoing, a statement may be made of the ages and percentages of each of the straight whiskies contained in the blend: "----- percent straight whisky ----- years old, ----- percent straight whisky ----- years old, and ----- percent straight whisky ----- years old."

(iii) If only one straight whisky and one other whisky is contained in the blend: "----- percent straight whisky ----- years old, ----- percent whisky ----- years old."

(iv) If more than one straight whisky and more than one other whisky is contained in the blend: "----- percent straight whiskies ----- years or more old, ----- percent whiskies ----- years or more old." The age blanks shall be filled in with the ages of the youngest straight whisky and the youngest other whisky. In lieu of the foregoing, a statement may be made of the ages and percentages of each of the straight whiskies and other whiskies contained in the blend: "----- percent straight whisky ----- years old, ----- percent straight whisky ----- years old, ----- percent whisky ----- years old, and ----- percent whisky ----- years old."

(3) In the case of imported whiskies described in § 5.22(1), Class 12, the labels shall state the ages and percentages in the same manner and form as is required for the same type of whisky produced in the United States.

(4) Notwithstanding the foregoing provisions of this paragraph, in the case of whisky produced in the United States and stored in reused oak containers, except for corn whisky, and for light whisky produced on or after January 26, 1968, there shall be stated in lieu of the words "----- years old" the period of storage in reused oak containers as follows: " \* \* \* stored ----- years in reused cooperage."

(5) Optional age statements shall appear in the same form as required age statements.

(b) *Statements of age for rum, brandy, and tequila.* Age may, but need not, be stated on labels of rums, brandies, and tequila, except that an appropriate statement with respect to age shall appear on the brand label in case of brandy (other than immature brandies and fruit brandies which are not customarily stored in oak containers) not stored in oak containers for a period of at least 2 years. If age is stated, it shall be substantially as follows: "----- years old"; the blank to be filled in with the age of the youngest distilled spirits in the product.

(c) *Statement of storage for grain spirits.* In the case of grain spirits, the period of storage in oak containers may be stated in immediate conjunction with the required percentage statement; for example, "----- % grain spirits stored ----- years in oak containers."

(d) *Other distilled spirits.* Age, maturity, or similar statements or representations as to neutral spirits (except for grain spirits as stated in paragraph (c) of this section), gin, liqueurs, cordials, cocktails, highballs, bitters, flavored brandy, flavored gin, flavored rum, flavored vodka, flavored whisky, and specialties are misleading and are prohibited from being stated on any label.

(e) *Miscellaneous age representations.*  
(1) Age may be understated but shall not be overstated.

(2) If any age, maturity, or similar representation is made relative to any distilled spirits (such representations for products enumerated in paragraph (d) of this section are prohibited), the age shall also be stated on all labels where such representation appears, and in a manner substantially as conspicuous as such representation: *Provided*, That the use of the word "old" or other word denoting age, as part of the brand name, shall not be deemed to be an age representation: *And provided further*, That the labels of whiskies and brandies (except immature brandies) not required to bear a statement of age, and rum and tequila aged for not less than four years, may contain general inconspicuous age, maturity or similar representations without the label bearing an age statement.

#### § 5.41 Bottle cartons, hooklets and leaflets.

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 5.31-5.42 on labels.

(b) *Sealed opaque cartons.* If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than shipping containers), such coverings, cartons, or other containers must bear all mandatory label information.

(c) *Other cartons.* If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable and the covering carton or container is not sufficiently transparent to permit visibility of the mandatory label information on the bottle, and if it displays any written or printed material, other than the brand name and the name and address of the manufacturer, bottler, or importer (omitting any reference to the function performed by the permittee), such covering, carton, or other container must bear all mandatory label information.

#### § 5.42 Prohibited practices.

(a) *Statements on labels.* Bottles containing distilled spirits, or any labels on such bottles, or any individual covering, carton, or other container of such bottles used for sale at retail, or any written, printed, graphic, or other matter accompanying such bottles to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular or that, irrespective of falsity, directly or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's product.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Enforceable money-back guarantees are not prohibited.

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided*, That this subparagraph shall not apply to the use of the name of any person engaged in business as a distiller, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled spirits, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(b) *Miscellaneous.* (1) Labels shall not be of such design as to resemble or simulate a stamp of the U.S. Government or and State or foreign government. Labels, other than stamps authorized or required by this or any other Government, shall not state or indicate that the distilled spirits are distilled, blended, made, bottled, or sold under, or in accordance with, any municipal, State, Federal, or foreign authorization, law, or regulations, unless such statement is required or specifically authorized by Federal, State, municipal, or foreign law or regulations. The statements authorized by this part to appear on labels for domestic distilled spirits are "Distilled (produced, barreled, warehoused, blended, or bottled, or any combination thereof, as the case may be) under United States (U.S.) Government supervision", or in the case of distilled spirits bottled under section 5233, Internal Revenue Code (26 U.S.C. 5233), "Bottled in bond under United States (U.S.) Government supervision." If the municipal, State, or Federal government permit number is stated on a label, it shall not be accompanied by any additional statement relating thereto.

(2) If imported distilled spirits are covered by a certificate of origin or of age issued by a duly authorized official of the appropriate foreign government, the label, except where prohibited by the foreign government, may refer to such certificate or the fact of such certification, but shall not be accompanied by any additional statement relating thereto. The reference to such certificate or certification shall, in the case of Cognac, be substantially in the following form: "This product accompanied at the time of importation by an 'Acquit Regional Jaune d'Or' issued by the French Government, indicating that this grape brandy was distilled in the Cognac Region of France"; and in the case of other distilled spirits, substantially in the following form: "This product accompanied at time of importation by a certificate issued by the \_\_\_\_\_ government (name of government) indicating that the product is \_\_\_\_\_ (class and type as required to be stated on the label), and (if label claims age) that none of the distilled spirits are of an age less than stated on this label."

(3) The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of domestic distilled spirits unless such distilled spirits were in fact bottled in bond under section 5233, Internal Revenue Code (26 U.S.C. 5233).

(4) The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, shall not be used on any label or as part of the brand name of imported distilled spirits unless such distilled spirits meet in all respects the requirements applicable to distilled spirits bottled for domestic consumption under section 5233, Internal Revenue Code (26 U.S.C. 5233) and unless the laws and regulations of the country in which such

distilled spirits are produced authorize the bottling of distilled spirits in bond and require or specifically authorize such distilled spirits to be so labeled. All spirits labeled as "bonded," "bottled in bond," or "aged in bond" pursuant to the provisions of this subparagraph shall bear in direct conjunction with such statement and in script, type or printing substantially as conspicuous as that used on such statement, the name of the country under whose laws and regulations such distilled spirits were so bottled.

(5) The word "pure" shall not be stated in any manner on any label unless as part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled.

(6) Distilled spirits shall not be labeled as "double distilled" or "triple distilled," or any similar term.

(7) Labels shall not contain any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to, the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any label contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(8) Labels shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects if such statement is untrue in any particular or tends to create a misleading impression.

#### Subpart E—Standards of Fill for Bottled Distilled Spirits

##### § 5.45 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled in conformity with §§ 5.46–5.48.

##### § 5.46 Standard liquor bottles.

(a) *General.* A standard liquor bottle shall be one so made and formed, and so filled, as not to mislead the purchaser. An individual carton or other container of a bottle shall not be so designed as to mislead purchasers as to the size of the bottles.

(b) *Headspace.* A liquor bottle of a capacity of one-half pint or more shall be held to be so filled as to mislead the purchaser if it has a headspace in excess of 8 percent of the total capacity of the bottle after closure.

(c) *Design.* A liquor bottle shall be held (irrespective of the correctness of the stated net contents) to be so made and formed as to mislead the purchaser, if its actual capacity is substantially less than the capacity it appears to have upon visual examination under ordinary conditions of purchase or use.

##### § 5.47 Standards of fill.

(a) *Authorized standards of fill.* The standards of fill for all distilled spirits, whether domestically manufactured, domestically bottled, or imported, subject to the tolerances allowed in this section, shall be as follows:

1 gal.	1 pt.
½ gal.	½ pt.
⅓ gal.	⅓ pt.
1 qt.	⅓ pt.
⅔ qt.	⅓ pt.
¼ pt. (brandy only).	⅓ pt.

(b) *Tolerances.* The following tolerances shall be allowed:

(1) Discrepancies due to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due to differences in the capacity of bottles, resulting solely from unavoidable difficulties in manufacturing such bottles to a uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of bottles which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of bottles which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in bottles to evaporation. The reasonableness of discrepancies under this paragraph shall be determined on the facts in each case.

(c) *Unreasonable shortages.* Unreasonable shortages in certain of the bottles in any shipment shall not be compensated by overages in other bottles in the same shipment.

##### § 5.48 Cordials and liqueurs, and specialties.

Section 5.47(a) shall not apply to cordials and liqueurs, and cocktails, highballs, bitters, and such other specialties as are specified by the Director.

#### Subpart F—Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits

##### § 5.51 Label approval and release.

Bottled distilled spirits shall not be released from customs custody for consumption unless the original (or photograph or other facsimile thereof) of a certificate of label approval, Form 1649,<sup>1</sup> covering the labels on the bottle, issued by the Director pursuant to application on such form, shall have been deposited with the appropriate customs

<sup>1</sup> Copies of Form 1649 may be secured from the assistant regional commissioners.

officer at the port of entry. Applications for certificates of approval covering labels for gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement, prepared by the manufacturer, setting forth a step-by-step description of the manufacturing process.

#### § 5.52 Certificates of age and origin.

(a) *Scotch, Irish, and Canadian whiskies.* Scotch, Irish, and Canadian whiskies, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the British, Irish, or Canadian Government, certifying (1) that the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be, (2) that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of whisky for home consumption, and (3) that the product conforms to the requirements of the Immature Spirits Act of such foreign government for spirits intended for home consumption. In addition, a duly authorized official of the appropriate foreign government must certify to the age of the youngest distilled spirits in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers.

(b) *Rum, brandy, and cognac.* Rum, brandy (other than fruit brandies of a type not customarily stored in oak containers) or cognac, imported in bottles, shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign country certifying that the age of the youngest rum in the bottle is not less than 1 year or the age of the youngest brandy or cognac in the bottle is not less than 2 years, or if age is stated on the label that none of the distilled spirits are of an age less than that stated. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers. If the label of any fruit brandy, not stored in oak containers, bears any statement of storage in other type containers, the brandy must be accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying to such storage. Cognac, imported in bottles, shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate issued by a duly authorized official of the French Government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(c) *Tequila.* If the label of any tequila, imported in bottles, contains any statement of age, the tequila shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the Mexican Government certi-

fying to the age of the youngest tequila in the bottle. The age certified shall be the period during which, after distillation and before bottling, the tequila has been stored in oak containers.

(d) *Other whiskies.* Whisky, as defined in § 5.22(b) (1), (4), (5), and (6), imported in bottles, shall not be released from customs custody for consumption unless accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying:

(1) In the case of whisky, whether or not mixed or blended but containing no neutral spirits, (i) the class and type thereof, (ii) the American proof at which produced, (iii) that no neutral spirits (or other whisky in the case of straight whisky) has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (iv) the age of the whisky, and (v) the type of oak container in which such age was acquired (whether new or reused; also whether charred or uncharred);

(2) In the case of whisky containing neutral spirits, (i) the class and type thereof, (ii) the percentage of straight whisky, if any, used in the blend, (iii) the American proof at which the straight whisky was produced, (iv) the percentage of other whisky, if any, in the blend, (v) the percentage of neutral spirits in the blend, and the name of the commodity from which distilled; (vi) the age of the straight whisky and the age of the other whisky in the blend, and (vii) the type of oak containers in which such age or ages were acquired (whether new or reused; also whether charred or uncharred).

(e) *Miscellaneous.* Distilled spirits (other than Scotch, Irish and Canadian whiskies, and cognac) in bottles shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin issued by a duly authorized official of the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits has been authorized by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

#### Subpart G—Requirements for Approval of Labels of Domestically Bottled Distilled Spirits

##### § 5.55 Certificates of label approval.

(a) *Requirement.* Distilled spirits shall not be bottled or removed from a plant, except as provided in paragraph (b) of this section, unless the proprietor possesses a certificate of label approval, Form 1649, covering the labels on the bottle, issued by the Director pursuant to application on such form. Applications for certificates of approval covering labels for imported gin bearing the word "distilled" as a part of the designation shall be accompanied by a statement, prepared by the manufacturer, setting

forth a step-by-step description of the manufacturing process.

(b) *Exemption.* Any bottler of distilled spirits shall be exempt from the requirements of paragraph (a) of this section and § 5.56 if he possesses a certificate of exemption from label approval, Form 1650, issued by the Director pursuant to application on Form 1648<sup>2</sup> showing that the distilled spirits to be bottled are not to be sold, offered for sale, or shipped or delivered for shipment, or otherwise introduced in interstate or foreign commerce.

(c) *Miscellaneous.* Photoprints or other reproductions of certificates of label approval or certificates of exemption are not acceptable as substitutes for an original or duplicate original (issued, on request, by the Director) of a certificate. The original or duplicate original of such certificates shall, on demand, be exhibited to a duly authorized officer of the United States Government.

#### § 5.56 Certificates of age and origin.

Distilled spirits imported in bulk for bottling in the United States shall not be removed from the plant where bottled unless the bottler possesses certificates of age and certificates of origin applicable to such spirits which are similar to the certificates required by § 5.52 for like distilled spirits imported in bottles.

#### Subpart H—Advertising of Distilled Spirits

##### § 5.61 Application.

No person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical, or other publication, or by any sign or outdoor advertisement, or any other printed or graphic matter, any advertisement of distilled spirits if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 5.61-5.65: *Provided*, That such sections shall not apply to the publisher of any newspaper, periodical or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler of distilled spirits, directly or indirectly or through an affiliate.

##### § 5.62 Definition.

As used in §§ 5.61-5.65, the term "advertisement" includes any advertisement of distilled spirits through the medium of radio broadcast; or of newspapers, periodicals, or other publications; or of any sign or outdoor advertisement; or of any other printed or graphic matter, including trade booklets, menus, and wine cards, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated

<sup>2</sup> Copies of Form 1648 may be secured from the assistant regional commissioners.

by mail; except that such term shall not include:

(a) Any label affixed to any bottle of distilled spirits; or any individual covering, carton, or other container of the bottle, or any written, printed, graphic, or other matter accompanying the bottle, which constitutes a part of the labeling under §§ 5.31-5.42.

(b) Any editorial or other reading matter in any periodical, newspaper, or other publication for which no money or other valuable consideration is paid or promised, directly or indirectly, by any permittee.

#### § 5.63 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address, including ZIP code, of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class and type.* The advertisement shall contain a conspicuous statement of the class to which the product belongs and the type thereof corresponding with the statement of class and type which is required to appear on the label of the product.

(c) *Alcoholic content.* The alcoholic content shall be stated by proof for distilled spirits except that it may be stated in percentage by volume of cordials and liqueurs, cocktails, highballs, bitters, and such other specialties as may be specified by the Director.

(d) *Percentage of neutral spirits and name of commodity.* (1) In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled. The statement of percentage and the name of the commodity shall be made in substantially the following form: "-----% neutral spirits distilled from ----- (insert grain, cane products, or fruit, as appropriate)"; or "-----% neutral spirits (vodka) distilled from ----- (insert grain, cane product, or fruit, as appropriate)"; or "-----% grain (cane products), (fruit) neutral spirits"; or "-----% grain spirits".

(2) In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated the name of the commodity from which such neutral spirits or gin has been distilled. The statement of the name of the commodity shall be made in substantially the following form: "Distilled from grain," or "Distilled from cane products," or "Distilled from fruit."

#### § 5.64 Lettering.

Statements required under §§ 5.61-5.65 to appear in any written, printed, or graphic advertisement shall be in lettering or type of a size sufficient to render them both conspicuous and readily legible.

#### § 5.65 Prohibited statements.

(a) *Restrictions.* An advertisement of distilled spirits shall not contain:

(1) Any statement that is false or untrue in any particular or that, irrespective of falsity, directly or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's product.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards or tests, irrespective of falsity, which the Director finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which the Director finds to be likely to mislead the consumer. Enforceable money-back guarantees are not prohibited.

(6) Any statement that the distilled spirits are distilled, blended, made, bottled, or sold under or in accordance with any municipal, State, Federal, or foreign authorization, law, or regulation, unless such statement appears in the manner authorized by § 5.42 for labels of distilled spirits. If a municipal, State or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, unless such words or phrases appear, pursuant to § 5.42, on labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they are permitted to appear on the label.

(8) The word "pure" unless as part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled.

(9) The words "double distilled," "triple distilled," or any similar words.

(b) *Statements inconsistent with labeling.* The advertisement shall not contain any statement concerning a brand or lot of distilled spirits which is prohibited from appearing on the label or which is inconsistent with any statement on the label thereof.

(c) *Statement of age.* The advertisement shall not contain any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the label of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement, if any, concerning age and percentages required to be made on the label under the provisions of §§ 5.31-5.42. An advertisement for any whisky or brandy (except immature brandies) which is not required to bear

a statement of age on the label or an advertisement for any rum or tequila, which has been aged for not less than 4 years may, however, contain inconspicuous, general representation as to age, maturity or other similar representations even though a specific age statement does not appear on the label of the advertised product and in the advertisement itself.

(d) *Curative and therapeutic effects.* The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(e) *Place of origin.* The advertisement shall not represent that the distilled spirits were manufactured in or imported from a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(f) *Confusion of brands.* Two or more different brands or lots of distilled spirits shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or newspaper, or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provisions of this subpart or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia.* An advertisement shall not contain any statement, design, device, or pictorial representation which the Director finds relates to, or is capable of being construed as relating to the armed forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, design, device, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

*Requests to present oral testimony.* All persons who desire to present oral testimony should so advise the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224, not later than March 15, 1969. Requests shall be submitted in an original and three copies and must include (1) the name and address of the party submitting the request; (2) the name and address of the person or persons who will present oral testimony, (3) identification of the subject or subjects to which the testimony will be directed, and (4) the approximate length of time desired for the presentation of testimony on each subject.

*Submission of written material.* Any interested party may submit to the Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, in an original and nine copies, relevant and material written data, views or arguments for incorporation into the record of hearing. The subject to which the comments are directed must be specifically identified. Written material must be received not later than Saturday, March 15, 1969.

At the conclusion of the hearing a reasonable time will be afforded interested parties for examination of the record and submission of written arguments and briefs.

[SEAL] HAROLD A. SERR,  
*Director, Alcohol, Tobacco, and  
Firearms Division, Internal  
Revenue Service.*

[F.R. Doc. 69-814; Filed, Jan. 21, 1969;  
12:34 p.m.]

[ 27 CFR Part 6 ]

[Regs. No. 6]

WINES

**Inducements Furnished to Retailers;  
Notice of Hearing**

Notice is hereby given, pursuant to the provisions of section 5 of the Federal Alcohol Administration Act (49 Stat. 981 as amended; 27 U.S.C. 205), of a public hearing to begin at 9:30 a.m., e.s.t., on Wednesday, April 2, 1969, in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C. 20224, at which time and place all interested parties will be afforded opportunity to be heard, in person or by authorized representative, with reference to proposals, the substance of which are stated below, to amend 27 CFR Part 6, Inducements Furnished to Retailers.

Written data, views, or arguments relevant and material to these proposals may be submitted in duplicate for incorporation into the record of hearing (1) by mailing the same to the Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Washington, D.C. 20224, provided they are received prior to the termination of the hearing, or (2) by presenting the same at the said hearing. At the conclusion of the hearing a reasonable opportunity will be afforded interested parties for examination of the record and for the submission of briefs.

This hearing is called in response to a petition filed by the California Wine Institute and the Wine Conference of America. It is limited to wine since it is understood from representatives of the distilled spirits and malt beverage trade associations that the recognition given by the existing regulations to trade practices in the distilled spirits and malt beverages area is satisfactory and, therefore, the proposal to amend the regulations does not cover distilled spirits and malt beverages.

*Substance of proposal.* To amend § 6.-23 with respect to wines only, so as to in-

crease from \$10 to \$15 the limitation contained therein on the cost of advertising matter for use at any one time in the windows or elsewhere in the interior of a retail establishment. The increased amount would be exclusive of the cost of transportation and installation of such materials provided such costs do not exceed that which are usual and customary in the particular locality.

[SEAL] HAROLD A. SERR,  
*Director, Alcohol, Tobacco,  
and Firearms Division.*

[F.R. Doc. 69-829; Filed, Jan. 17, 1969;  
1:07 p.m.]

**DEPARTMENT OF LABOR**

**Office of Labor-Management and  
Welfare-Pension Reports**

[ 29 CFR Parts 464, 465 ]

**INVESTMENT ADVISERS AND BANKS  
AND TRUST COMPANIES**

**Proposed Exemptions**

Section 13(a) of the Welfare and Pension Plans Disclosure Act, hereinafter referred to as WPPDA, 29 U.S.C. 308d (a), requires that every administrator, officer, and employee of a benefit plan subject thereto who handles funds of a plan or other plan property be bonded as therein provided. Pursuant to authority in section 13(e), WPPDA, 29 U.S.C. 308d(e), the Secretary of Labor has promulgated regulations defining the terms "administrator, officer and employee" and "handles" (29 CFR 464.4 and 464.7). By the terms of these definitions, personnel of banks, trust companies and investment advisers are subject to the bonding requirement when they handle funds of a plan or other plan property. Section 13(e) also gives to the Secretary authority to exempt from the bonding requirement when, in his opinion, it is demonstrated that "financial responsibility"; or "other bonding arrangements" would adequately protect the beneficiaries and participants.

On June 26, 1968 and June 29, 1968 (33 F.R. 9346, 9556), notice was published in the FEDERAL REGISTER inviting communication of written and oral data, views, or argument on the following issues:

1. Whether banks and trust companies subject to Federal regulation should as a class retain their present exemption from the WPPDA bonding requirement in light of the criteria set forth in section 13(e), WPPDA, 29 U.S.C. 308d(e)?

2. Whether banks and trust companies subject to state regulation should as a class retain their present exemption from the WPPDA bonding requirement in light of the criteria in section 13(e), WPPDA, 29 U.S.C. 308d(e)?

3. Whether investment advisers registered with and regulated by the Securities and Exchange Commission pursuant to the Investment Advisers Act of 1940, 15 U.S.C. 80b and subject to 29 CFR Part 464 should as a class be

granted an exemption from the WPPDA bonding requirement in light of the criteria in section 13(e), WPPDA, 29 U.S.C. 308d(e)?

Pursuant to the same notice, hearings on this subject were held on August 12, 1968 and September 20, 1968 before John Mealy, a Hearing Examiner appointed pursuant to 5 U.S.C. 3105 (Supp. II, 1965-66), and the complete record of these proceedings was certified to me on October 15, 1968 for a determination of such amendments to the WPPDA bonding regulations as are appropriate.

On the basis of the complete record of these proceedings, as well as other data, views, or arguments that have been submitted, I have concluded the following:

1. Banks and trust companies subject to Federal regulation should as a class retain their present exemption from the WPPDA bonding requirement since all such institutions are required to maintain bonds the adequacy of which is closely supervised by Federal regulatory authority. By virtue of this supervision, it is concluded that such bonds are "other bonding arrangements" within the contemplation of section 13(e), WPPDA, which provide adequate protection of the beneficiaries and participants of employee benefit plans serviced by these institutions.

2. Banks and trust companies subject to only State regulation should not as a class retain their present exemption from the WPPDA bonding requirement since not all States require bonding or closely supervise the adequacy of bonding arrangements entered into, because the financial responsibility requirements of States vary too widely to permit a judgment as to their adequacy on a class basis, and because the effectiveness of some State banking supervision is in doubt by reason of a reported inadequacy in examining staffs. It is concluded that State regulated banks as a class do not, within the contemplation of section 13(e), WPPDA, offer adequate evidence of "financial responsibility" of the plans they service and do not have "other bonding arrangements" which provide adequate protection for the beneficiaries and participants of the plans they service. This conclusion shall not prejudice the right of any State regulated bank or trust company to petition for a bonding exemption on an individual basis.

3. Investment advisers registered with and regulated by the Securities and Exchange Commission pursuant to the Investment Advisers Act of 1940 and subject to 29 CFR Part 464 should not as a class be granted an exemption from the WPPDA bonding requirement since the Securities and Exchange Commission does not impose or supervise a bonding requirement with respect to investment advisers, because the Securities and Exchange Commission does not impose or supervise any requirement with respect to investment advisers, pertaining to the maintenance of a sound financial condition, and because the periodic inspections conducted by the Securities and Exchange Commission are not conducted

frequently enough to satisfactorily insure the implementation of the fiscal safeguards imposed on investment advisers by law. It is concluded that investment advisers registered with and regulated by the Securities and Exchange Commission as a class do not, within the contemplation of section 13(e), WPPDA, offer adequate evidence of "financial responsibility" of the plans they service and do not have "other bonding arrangements" which provide adequate protection for the beneficiaries and participants of the plans they service. This conclusion shall not prejudice the right of any investment adviser to petition for a bonding exemption on an individual basis.

The findings of fact upon which these conclusions are based are embodied in a decision which may be inspected at the Office of the Federal Register.<sup>1</sup> Copies of the decision are available upon request from the Office of the Director, Labor-Management and Welfare-Pension Reports, U.S. Department of Labor, Room 801, 8701 Georgia Avenue, Silver Spring, Md. 20910. The complete record of the Rule-Making Hearing is also available for inspection at the latter office.

In accordance with the aforementioned decision, and for technical reasons relating to the appropriate arrangement of the regulations, it is proposed that 29 CFR Parts 464, 465 be amended in the following respects:

1. In § 464.4 amend paragraph (d) to read as set forth below and delete paragraph (e) in its entirety.

§ 464.4 Plan administrators, officers, and employees for purposes of section 13.

(d) *Other persons covered.* For purposes of the bonding provisions, the terms "administrator, officer, or employee" shall include any persons performing functions for the plan normally performed by administrators, officers, or employees of a plan. As such, the terms shall include persons indirectly employed, or otherwise delegated, to perform such work for the plan, such as pension consultants and planners, and attorneys who perform "handling" functions within the meaning of § 464.7. On the other hand, the terms would not include those brokers or independent contractors who have contracted for the performance of functions which are not ordinarily carried out by the administrators, officers, or employees of a plan, such as securities brokers who purchase and sell securities or armored motor vehicle companies.

(e) [Deleted]

2. Amend § 465.19 to read as follows:

§ 465.19 Exemption.

An exemption from the bonding requirements of subsections 13 (a) and (b) of the Welfare and Pension Plans Disclosure Act is granted whereby banking institutions and trust companies specified in § 465.20 are not required to comply with subsections 13 (a) and (b) of the

<sup>1</sup> Filed as part of the original document.

Act, with respect to welfare and pension benefit plans covered by the Act.

3. New §§ 465.23 and 465.24 are added to read as follows:

**INSURANCE CARRIERS, SERVICE AND OTHER SIMILAR ORGANIZATIONS**

**§ 465.23 Exemption.**

An exemption from the bonding requirements of subsections 13 (a) and (b) of the Welfare and Pension Plans Disclosure Act is granted whereby any insurance carrier or service or other similar organization specified in § 465.24 is not required to comply with subsections 13 (a) and (b) of the Act with respect to any welfare or pension benefit plan covered by the Act which is established or maintained for the benefit of persons other than the employees of such insurance carrier or service or other similar organization.

**§ 465.24 Conditions of exemption.**

This exemption applies only to those insurance carriers, service or other similar organizations providing or underwriting welfare or pension plan benefits in accordance with State law.

Pursuant to § 465.6, interested persons are invited within 15 days from the date of publication of the proposed amendments in the FEDERAL REGISTER to file with the Assistant Secretary for Labor-Management Relations objections thereto. Such objections shall be in writing and addressed to the Assistant Secretary for Labor-Management Relations, U.S. Department of Labor, Washington, D.C. 20210, and shall show wherein the person will be adversely affected by the proposed amendments deemed objectionable and the grounds for the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in triplicate.

Signed at Washington, D.C., this 17th day of January 1969.

THOMAS R. DONAHUE,  
Assistant Secretary of Labor.

[F.R. Doc. 69-872; Filed, Jan. 22, 1969;  
8:50 a.m.]

**DEPARTMENT OF  
TRANSPORTATION**

**Federal Aviation Administration**

**I 14 CFR Part 71 I**

[Airspace Docket No. 69-SO-2]

**CONTROL ZONE AND TRANSITION  
AREA**

**Proposed Alteration**

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fort Myers, Fla., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Miami Area Office, Attention:

Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 2014, AMF Branch, Miami, Fla. 33159. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

The Fort Myers control zone described in § 71.171 (33 F.R. 2058) would be redesignated as:

Within a 5-mile radius of Page Field (lat. 26°35'10" N., long. 81°51'50" W.); within 2 miles each side of the 039° bearing from the Fort Myers RBN, extending from the 5-mile radius zone to the RBN; within 2 miles each side of the Fort Myers VORTAC 213° radial, extending from the 5-mile radius zone to 8 miles southwest of the VORTAC.

The Fort Myers 700-foot transition area described in § 71.181 (33 F.R. 2137) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Page Field (lat. 26°35'10" N., long. 81°51'50" W.); within 2 miles each side of the Fort Myers VORTAC 213° radial, extending from the 8-mile radius area to 9 miles southwest of the VORTAC; within 2 miles each side of the 219° bearing from Fort Myers RBN, extending from the 8-mile radius area to 8 miles southwest of the RBN.

Proposed revisions of instrument approach procedures to Page Field require alterations to the control zone and 700-foot transition area to provide required controlled airspace protection for IFR aircraft in descent below 1,500 feet above the surface.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on January 14, 1969.

GORDON A. WILLIAMS, JR.,  
Acting Director, Southern Region.

[F.R. Doc. 69-810; Filed, Jan. 22, 1969;  
8:45 a.m.]

**I 14 CFR Part 71 I**

[Airspace Docket No. 69-SO-1]

**TRANSITION AREA**

**Proposed Alteration**

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that

would alter the Lakeland, Fla., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Area Manager, Miami Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 2014, AMF Branch, Miami, Fla. 33159. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

The Lakeland transition area described in § 71.181 (33 F.R. 2137 and 6533) would be altered by deleting " \* \* \* extending from the 8-mile radius area to 8 miles southwest of the VORTAC \* \* \* " and substituting " \* \* \* extending from the 8-mile radius area to 10 miles southwest of the VORTAC \* \* \* " therefor.

A review of the Lakeland terminal airspace designation revealed that inadequate controlled airspace protection exists for aircraft executing AL-939-VOR RWY 4 instrument approach procedure in descent below 1500 feet above the surface. The proposed increase from 8 to 10 miles to the transition area extension predicated on the Lakeland VORTAC 233° radial will provide the necessary protection.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on January 10, 1969.

JAMES G. ROGERS,  
Director, Southern Region.

[F.R. Doc. 69-811; Filed, Jan. 22, 1969;  
8:45 a.m.]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 69-SO-3]

### TRANSITION AREA

#### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Administration that would alter the Ocala, Fla., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Area Man-

ager, Miami Area Office, Attention: Chief, Air Traffic Branch, Federal Aviation Administration, Post Office Box 2014, AMF Branch, Miami, Fla. 33159. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Southern Regional Office, Federal Aviation Administration, Room 724, 3400 Whipple Street, East Point, Ga.

The Ocala transition area described in § 71.181 (33 F.R. 2137) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Ocala Municipal (Jim Taylor) Airport (lat. 29°10'18" N., long. 82°13'26" W.); within 2 miles each side of the Ocala VORTAC 171° radial, extending from the 9-mile radius to 9 miles south of the VORTAC; and that airspace extending upward from 1200 feet above the surface bounded on the north by the Ocala 700-foot transition area, on the northeast by the northeast boundary of V-159, on the south by a 15-mile radius arc centered on Ocala VORTAC, and on the northwest by the northwest boundary of V-441.

Since the last alteration of Ocala transition area, turbojet aircraft have begun utilizing Ocala Municipal (Jim Taylor) Airport. Criteria appropriate to this airport requires an increase in the basic radius circle from 5 to 9 miles. A revision to the procedure turn altitude for the AL-5055-VOR/DME-1 instrument approach procedure permits substantial reduction to the 700-foot transition area extension predicated on the Ocala VORTAC 171° radial.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on January 13, 1969.

GORDON A. WILLIAMS, JR.,  
Acting Director, Southern Region.

[F.R. Doc. 69-812; Filed, Jan. 22, 1969;  
8:46 a.m.]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 68-CE-121]

### FEDERAL AIRWAYS AND REPORTING POINTS

#### Proposed Alteration and Revocation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that

would alter and revoke certain VOR Federal airways in the vicinity of Evansville, Scotland, West Point, and Indianapolis, Ind., and revoke low altitude reporting points.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration is considering the following airspace actions that will permit the Scotland VORTAC and West Point VOR to be deleted from the airway system, and permit a more efficient utilization of the airspace. The proposed actions would also provide a refinement of the airway structure for handling en route traffic into and from the Evansville, Indianapolis and Louisville terminal areas.

1. Realign V-7 segment from Evansville with a 1,200-foot AGL floor to Lafayette, Ind., via the intersection of the Evansville 015° T (012° M) and Lewis, Ind., 198° T (196° M) radials; Lewis, and Terre Haute, Ind., including a 1,200-foot AGL west alternate segment from Evansville to Terre Haute via the intersection of Evansville 360° T (357° M) and Terre Haute 215° T (213° M) radials.

2. Realign V-11 segment from Evansville with a 1,200-foot AGL floor direct to Indianapolis, including a 1,200-foot AGL east alternate segment from Evansville to Indianapolis via the intersection of Evansville 046° T (043° M) and Bloomington, Ind., 205° T (204° M) radials; Bloomington; and the intersection of the Bloomington 025° T (024° M) and Indianapolis 185° T (184° M) radials.

3. Realign V-53 segment from Indianapolis with a 1,200-foot AGL floor to Peotone, Ill., via the intersection of Indianapolis 312° T (311° M) and Lafayette, and intersection of Lafayette 313° T (312° M) and Peotone 152° T (150° M) radials.

4. Realign V-128 segment from Peotone with a 1,200-foot AGL floor to Indianapolis, via the intersection of Peotone 152° T (150° M) and Indianapolis 312° T (311° M) radials.

5. Realign V-171 segment from Louisville, Ky., with a 1,200-foot AGL floor

direct to Lewis, including a 1,200-foot AGL north alternate segment from Louisville to Lewis via the intersection of Louisville 312° T (311° M) and Bloomington 153° T (152° M) radials, and Bloomington.

6. Revoke V-227 segment between Indianapolis and Lafayette.

7. Realign V-243 segment from Bowling Green, Ky., with a 1,200-foot AGL floor direct to Lewis.

8. Revoke V-491 from Lafayette to Peotone.

9. Revoke the Scotland, Ind., and West Point, Ind., low altitude reporting points.

These actions are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 16, 1969.

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

[F.R. Doc. 69-836; Filed, Jan. 22, 1969;  
8:47 a.m.]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 67-SO-118]

### CONTROL ZONES AND TRANSITION AREA

#### Proposed Alteration and Designation

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the terminal airspace in the vicinity of Pensacola, Fla. Concurrently, nonrule-making action to redescribe Warning Area W-155 is proposed.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting State accepts the responsibility of providing air traffic services

over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Due to the operation of larger and faster aircraft, new runway construction, changes in instrument approach procedures and name changes of navigational aids; there is a need to alter the control zones at Pensacola and Milton, Fla., designate a transition area at Milton and alter the Pensacola transition area.

In conjunction with rule-making actions proposed in this docket, the following ancillary nonrule-making action is proposed:

Warning Area W-155 would be redescribed as follows:

Beginning at lat. 30°10'20" N., long. 88°01'30" W., thence east along a line 3 NM from and parallel to the shoreline to lat. 30°11'20" N., long. 87°44'15" W., thence to lat. 30°09'45" N., long. 87°45'45" W., thence counterclockwise along a 30-mile arc centered at NAS Pensacola TACAN (lat. 30°21'28" N., long. 87°18'59" W.), to lat. 30°04'00" N., long. 87°41'20" W., to lat. 30°02'50" N., long. 87°42'20" W., thence counterclockwise along a 30-mile arc centered at

NAS Pensacola LF RBN (lat. 30°20'19" N., long. 87°20'00" W.) to lat. 29°54'00" N., long. 87°15'17" W., to lat. 30°18'00" N., long. 87°00'00" W., to lat. 30°18'20" N., long. 87°00'00" W., thence east along a line 3 NM from and parallel to the shoreline to long. 86°48'00" W., thence south along long. 86°48'00" W. to lat. 29°25'20" N., to lat. 29°36'00" N., long. 88°01'30" W., thence north along long. 88°01'30" W., to point of beginning.

Also, concurrent with the effective date of the amendments proposed in this docket, the name of the Pensacola NDB would be changed to Pickens, and the Pensacola LOM would be changed to Brent. These name changes are reflected in the proposed airspace descriptions.

In view of the foregoing, the FAA proposes the following airspace actions:

1. In § 71.171 (33 F.R. 2058) control zones are amended as follows:

#### PENSACOLA, FLA. (MUNICIPAL AIRPORT) CONTROL ZONE

Within a 5-mile radius of Pensacola Municipal Airport (lat. 30°28'25" N., long. 87°11'10" W.); within 2 miles each side of the 167° bearing from Pickens RBN, extending from the 5-mile radius zone to 8 miles south of the RBN; within 2 miles each side of the 331° bearing from the Brent LOM, extending from the 5-mile radius zone to 8 miles northwest of the LOM; and within the portion of a 4-mile radius of NAS Elyson Field (lat. 30°31'30" N., long. 87°11'45" W.), extending clockwise from a line 2 miles northeast of and parallel to the 331° bearing of the Brent LOM to the 5-mile radius zone.

#### PENSACOLA, FLA. (NAS SAUFLEY FIELD) CONTROL ZONE

Within a 5-mile radius of NAS Saufley Field (lat. 30°28'15" N., long. 87°20'30" W.); within 2 miles each side of the 214° bearing from Navy Saufley RBN, extending from the 5-mile radius zone to 8 miles southwest of the RBN; and within 2 miles each side of the Saufley VOR 234° radial, extending from the 5-mile radius zone to 8 miles southwest of the VOR, excluding the portions within the Pensacola (Municipal Airport) and NAS Pensacola (Forrest Sherman Field) control zones.

#### PENSACOLA, FLA. (NAS PENSACOLA-FORREST SHERMAN FIELD) CONTROL ZONE

Within a 5-mile radius of NAS Pensacola (Forrest Sherman Field) (lat. 30°21'15" N., long. 87°19'00" W.); within 2 miles each side of the 219° bearing from NAS Pensacola LF RBN, extending from the 5-mile radius zone to 8 miles southwest of the RBN; within 2 miles each side of the 174° bearing from NAS Pensacola UHF RBN, extending from the 5-mile radius zone to 8 miles south of the RBN; within 2 miles each side of NAS Pensacola TACAN 235° radial, extending from the 5-mile radius zone to 6.5 miles southwest of the TACAN.

#### MILTON, FLA. (NAS WHITING FIELD (NORTH)) CONTROL ZONE

Within a 5-mile radius of NAS Whiting Field (North) (lat. 30°43'15" N., long. 87°01'45" W.); within 2 miles each side of the Navy Whiting TACAN 309° radial, extending from the 5-mile radius zone to 6.5 miles northwest of the TACAN.

2. In § 71.181 (33 F.R. 2137 and 138) the Milton, Fla., transition area is added, and the Pensacola, Fla., transition area is amended as follows.

MILTON, FLA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of NAS Whiting Field (North) (lat. 30°43'15" N., long. 87°01'45" W.); within 2 miles each side of the 315° bearing from Navy Whiting RBN, extending from the 6-mile radius area to 8 miles northwest of the RBN; within 2 miles each side of Navy Whiting TACAN 309° radial, extending from the 6-mile radius area to 8 miles northwest of the TACAN, and within a 1.5-mile radius of Milton "T" (Private) Field (lat. 30°38'15" N., long. 86°59'20" W.).

PENSACOLA, FLA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Pensacola Municipal Airport (lat. 30°28'25" N., long. 87°11'10" W.); within 8 miles southwest and 5 miles northeast of the 331° bearing from the Brent LOM, extending from the 8-mile radius area to 12 miles northwest of the LOM; within a 6-mile radius of NAS Saufley Field (lat. 30°28'15" N., long. 87°20'30" W.); within 8 miles southeast and 5 miles northwest of Saufley VOR 234° radial, extending from the 6-mile radius area to 12 miles southwest of the VOR; within a 9-mile radius of NAS Pensacola (Forrest Sherman Field) (lat. 30°21'15" N., long. 87°19'00" W.); within 7 miles each side of the NAS Pensacola (Forrest Sherman Field) Runways 6/24 and 18/36 extended centerlines, extending from the 9-mile radius area to 12 miles northeast, south and southwest of the airport; and that airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 30°15'00" N., long. 87°41'00" W., thence north to lat. 30°50'00" N., long. 87°48'00" W., thence to the southeast boundary of V-20S and lat. 31°00'00" N., thence northeast along the southeast boundary of V-20S to and counterclockwise along the arc of a 14-mile radius circle centered at Monroeville, Ala. VOR, to and east along the south boundary of V-70, to and south along the west boundary of V-115 to lat. 30°50'00" N., to lat. 30°42'45" N., long. 86°45'45" W., to lat. 30°38'45" N., long. 86°55'00" W., to lat. 30°35'35" N., long. 86°56'40" W., thence clockwise along the arc of a 25-mile radius circle centered at NAS Saufley Field to lat. 30°22'05" N., thence to lat. 30°21'15" N., long. 87°00'50" W., to lat. 30°18'20" N., long. 87°00'00" W., to lat. 30°18'00" N., long. 87°00'00" W., to lat. 29°54'00" N., long. 87°15'17" W., thence clockwise along the arc of a 30-mile radius circle centered on NAS Pensacola LF RBN, to lat. 30°02'50" N., long. 87°42'20" W., to lat. 30°04'00" N., long. 87°41'20" W., thence clockwise along the arc of a 30-mile radius circle centered on NAS Pensacola TACAN, to lat. 30°09'45" N., long. 87°45'45" W., to point of beginning.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510) and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on January 17, 1969.

T. McCORMACK,  
Acting Chief, Airspace and  
Air Traffic Rules Division.

[F.R. Doc. 69-889; Filed, Jan. 22, 1969;  
8:50 a.m.]

Federal Highway Administration

[ 49 CFR Part 371 ]

[Docket No. 69-1; Notice 1]

STABILITY AND CONTROL OF  
COUPLED VEHICLES; TRUCKS,  
TRUCK TRACTORS, SEMITRAILERS,  
AND TRAILERS

Advance Notice of Proposed Motor  
Vehicle Safety Standard

The Administrator is considering the issuance of a Federal Motor Vehicle Safety Standard concerning combined safety vehicles consisting of truck tractors or trucks coupled with either semitrailers or full trailers, or both. The standard would establish performance requirements directed at improving the stability and control of coupled vehicles.

Comments are requested on factors that affect the operational stability and control of coupled-vehicle combinations. Factors that should be considered include the various types of couplings, location of the coupling point, brakes, amount and placement of trailer load, axle configuration, road and other environmental conditions, wind conditions including the effect of wind gusts, and anti-jacking devices.

Information and comments are also requested on test procedures that may be used to determine stability and control performance of coupled vehicles, the feasibility of adopting these procedures for regulatory purposes, the time required to generate new data and test procedures to the extent that they are necessary, the time needed to comply and the cost of complying with appropriate performance requirements.

Comments should refer to the docket and notice number, and be submitted in 10 copies to: Docket Section, Federal Highway Administration, Room 512, 400 Sixth Street SW., Washington, D.C. 20591. All comments received before the close of business on May 15, 1969, will be considered by the Administrator. If specific regulatory proposals are deemed appropriate, a notice of proposed rule making will be issued. All comments will be available in the docket at the above address for examination both before and after the closing date.

This advance notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. sections 1392, 1407, and the delegation of authority by the Secretary to the Federal Highway Administrator, 49 CFR 1.4(c).

Issued on January 17, 1969.

LOWELL K. BRIDWELL,  
Federal Highway Administrator.

[F.R. Doc. 69-886; Filed, Jan. 22, 1969;  
8:50 a.m.]

<sup>1</sup> Formerly 23 CFR Part 255; changed in a reorganization of Title 49 of the Code of Federal Regulations published Dec. 25, 1968, 33 F.R. 19602.

[ 49 CFR Part 371 ]

[Docket No. 69-2; Notice 1]

UPHILL PERFORMANCE; PASSENGER  
CARS, MULTIPURPOSE PASSENGER  
VEHICLES, TRUCKS, BUSES, AND  
MOTORCYCLES

Advance Notice of Proposed Motor  
Vehicle Safety Standard

The Administrator is considering the issuance of a Federal Motor Vehicle Safety Standard specifying performance requirements concerning the acceleration and speed maintenance capabilities on ascending grades of passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles. The reduction of speed differentials that are the cause of rear-end and passing collisions on ascending grades is an important safety goal.

Information is requested on the performance levels of existing vehicles in regard to acceleration and speed maintenance on the ascending grades commonly encountered on the highway system; and on improvements in vehicle performance that can be expected in the future. In addition, comments are requested in regard to appropriate regulatory requirements, present and future, for these aspects of performance. Among the specific areas of importance to be considered are acceleration and speed maintenance capabilities at speed ranges from zero to maximum permissible speed, at maximum loaded vehicle weight, rated gross vehicle weight, or rated gross combination weight, with the load uniformly distributed or distributed according to the manufacturer's recommendations, and with various power train and tire combinations, under dry-road and normal atmospheric conditions. Particular attention should be given to trucks, buses, and other vehicles whose uphill performance may be such that it disrupts the flow of traffic.

Comments are also requested on existing test procedures that may be used to determine uphill performance, the feasibility of adopting these procedures for regulatory purposes, the time required to generate new data and test procedures to the extent that they are necessary, the time needed to comply and the cost of complying with performance requirements appropriate for the present and the future.

Comments should refer to the docket and notice number, and be submitted in 10 copies to: Docket Section, Federal Highway Administration, Room 512, 400 Sixth Street SW., Washington, D.C. 20591. All comments received before the close of business on May 15, 1969 will be considered by the Administrator. If specific regulatory proposals are deemed appropriate, a notice of proposed rule making will be issued. All comments will be available in the docket at the above address for examination both before and after the closing date.

This advance notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. sections 1392, 1407, and the delegation of authority by the Secretary to the Federal Highway Administrator, 49 CFR 1.4(c).

LOWELL K. BRIDWELL,  
*Federal Highway Administrator.*

JANUARY 17, 1969.

[F.R. Doc. 69-887; Filed, Jan. 22, 1969;  
8:50 a.m.]

#### [ 49 CFR Part 393 ]

[Docket No. MC-8; Notice 69-1]

### BRAKE PERFORMANCE

#### Advance Notice of Proposed Revision of Motor Carrier Safety Regulations

The Federal Highway Administrator is considering the revision of § 393.52 of the Motor Carrier Safety Regulations, 49 CFR 393.52, to set more stringent requirements for braking performance of commercial vehicles.

Section 393.52 sets forth certain brake performance requirements, including brake force, vehicle deceleration, and stopping distance from 20 miles per hour. Since these requirements were issued in 1962, there have been improvements in commercial vehicle brake system technology and in the actual ability of commercial vehicles to stop safely and quickly. This period has also seen the growth of the Interstate Highway System to over 30,000 miles completed or under construction, higher vehicle speeds, and a continuing trend toward the use of multi-unit commercial vehicles. Accident data continues to show brake failures and braking system inadequacies to be the largest single cause of vehicle-defect-related accidents.

The Administrator is considering reducing the allowable stopping distance from 20 miles per hour and requests information on appropriate requirements for various classes of commercial vehicles in light of present-day needs. Appropriate changes in minimum required braking force and deceleration are also being considered.

Because vehicle braking characteristics as measured in a stop from 20 miles per hour do not totally describe a vehicle's braking system performance and capabilities, more comprehensive performance and brake rating requirements are also being considered. Comments are specifically requested on the adequacy, effectiveness, and practicability for this purpose of such requirements as those set forth in SAE Recommended Practice J880—Brake Rating System Test Code—Commercial Vehicles (or as updated in the AMA-TTMA Joint Brake Committee Report of September 1967 entitled "Horsepower Rating of Highway Commercial Vehicle Brake Systems"), and SAE Recommended Practice J992—Service Brake System Performance Requirements—Truck and Bus.

Interested persons are invited to submit comments concerning the advisability of upgrading the Brake Performance requirements of the Motor Carrier Safety Regulations. Comments are specifically invited on the proposals listed above, on the state of technology of commercial vehicle braking systems, including load-sensing, brake-proportioning devices, brake-balance, and "anti-skid" devices, and such other areas as may appear relevant.

Comments should refer to the docket number and the notice number and be submitted in three copies to: Bureau of Motor Carrier Safety, Federal Highway Administration, Room 302A, 400 Sixth Street SW., Washington, D.C. 20591. All comments received on or before the close of business on May 15, 1969, will be considered by the Administrator. If specific regulatory proposals are deemed appropriate, a notice of proposed rulemaking will be issued. All comments will be available in the docket at the above address for examination both before and after the closing date.

This advance notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegation of authority by the Secretary to the Federal Highway Administrator, 49 CFR 1.4(c).

Issued in Washington, D.C., on January 17, 1969.

LOWELL K. BRIDWELL,  
*Federal Highway Administrator.*

[F.R. Doc. 69-883; Filed, Jan. 22, 1969;  
8:50 a.m.]

#### [ 49 CFR Part 393 ]

[Docket No. MC-9; Notice 69-2]

### COUPLING SYSTEMS

#### Advance Notice of Proposed Revision of Motor Carrier Safety Regulations

The Federal Highway Administrator is considering the revision of the following sections of the Motor Carrier Safety Regulations: § 393.32 *Detachable electrical connections*, § 393.46 *Brake tubing and hose connections*, and § 393.70 *Coupling devices and towing methods, except for driveway-towaway operations*.

The needs of the industry and the concern of the general public have indicated that improved safety of commercial vehicle operation in these areas is a necessary undertaking. The trend toward the use of multiunit combination vehicles in many sections of the United States has increased the need for more specific requirements.

Consideration is being given to the revision of § 393.32 so as to require the use of a seven-conductor electrical connector and jacketed cable, and a uniform wiring pattern, such as that set forth in SAE Standards J560a and J559. The use of these devices would tend to ensure compliance with the present requirement

that "Suitable provision shall be made in every such detachable connection to afford reasonable assurance against connection in an incorrect manner or accidental disconnection."

The Administrator is also considering specifying the location of brake and electrical connections, and full trailer connections and accessory locations, such as set forth in SAE Recommended Practices J702a and J849a respectively. These requirements would tend to enhance operator convenience, the safety of combination vehicles and trailer interchange.

Consideration is also being given to amending § 393.70 to:

(a) Require that fifth-wheel kingpins comply with either SAE Standard J700a or SAE Recommended Practice J848a, depending on the total load being pulled, and be marked accordingly;

(b) Require that fifth-wheel upper and lower halves meet certain strength requirements and be marked accordingly to ensure that they are adequate for the purpose for which they are used.

(c) Require that tow-bars and pintle hooks be marked to indicate their capacity, in order to ensure that they are safe for use in multiunit combinations or other applications where towed vehicle weights are higher than normal;

(d) Delete the provision of § 393.70 (f) (1) "that a separate place of attachment independent of the pintle hook on a pintle hook forging or casting may be used to attach the safety chains or cables to the towing vehicle," in order to assure adequate structural integrity of safety chain attachments;

(e) Impose more specific requirements for locking devices in § 393.70(c), such as a requirement of a hand-operated secondary locking mechanism that would not fit into position unless the upper and lower halves of the fifth wheel were properly coupled, in order to ensure that the driver is alerted to improper coupling conditions. Improper coupling and locking of the fifth-wheel mechanism is evidently the cause of a substantial portion of those accidents involving coupling devices.

Interested persons are invited to submit comments concerning the areas under consideration outlined above. Comments should refer to the docket number and the notice number, and be submitted in three copies to: Bureau of Motor Carrier Safety, Federal Highway Administration, Room 302A, 400 Sixth Street SW., Washington, D.C. 20591. All comments received on or before the close of business on May 15, 1969, will be considered by the Administrator. If specific regulatory proposals are deemed appropriate, a notice of proposed rulemaking will be issued. All comments will be available in the docket at the above address for examination both before and after the closing date.

This advance notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, Section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegation

of authority by the Secretary to the Federal Highway Administrator, 49 CFR 1.4(c).

Issued in Washington, D.C. on January 17, 1969.

LOWELL K. BRIDWELL,  
Federal Highway Administrator.

[F.R. Doc. 69-884; Filed, Jan. 22, 1969; 8:50 a.m.]

**I 49 CFR Part 393 I**

[Docket No. MC-10; Notice 69-3]

**UPHILL PERFORMANCE**

**Advance Notice of Proposed Revision of Motor Carrier Safety Regulations**

The Federal Highway Administrator is considering the issuance of Motor Carrier Safety Regulations requiring certain performance capabilities of commercial vehicles on ascending grades.

The increasing numbers of passenger cars and commercial vehicles on the highways, expansion of the high-speed Interstate Highway System, and heavier multivehicle combinations have increased the public concern and the danger arising from the uphill performance of large commercial vehicles. The large speed differential between passenger cars and commercial vehicles on ascending grades has tended to cause unsafe passing maneuvers and lead to accidents.

Requirements may take the form of a proved or calculated gradeability (ability to climb a specified grade at a certain speed). A sliding scale of performance requirements might be considered, becoming more stringent on Interstate Highways, or certain parts of the Interstate System, or becoming more stringent as time passes, allowing updating of equipment used on these highways. A requirement that commercial vehicles be able to maintain a certain minimum speed on all highways on which they operate might also be considered.

Interested persons are invited to submit comments concerning uphill performance requirements for commercial vehicles. Comments should refer to the docket number and the notice number, and be submitted in three copies to: Bureau of Motor Carrier Safety, Federal Highway Administration, Room 302A, 400 Sixth Street SW., Washington, D.C. 20591. All comments received on or before the close of business on May 15, 1969, will be considered by the Administrator. If specific regulatory proposals are deemed appropriate, a notice of proposed rulemaking will be issued. All comments will be available in the docket at the above address for examination both before and after the closing date.

This advance notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegation of authority by the Secretary to the Fed-

eral Highway Administrator, 49 CFR 1.4(c).

Issued in Washington, D.C., on January 17, 1969.

LOWELL K. BRIDWELL,  
Federal Highway Administrator.

[F.R. Doc. 69-885; Filed, Jan. 22, 1969; 8:50 a.m.]

**FEDERAL COMMUNICATIONS COMMISSION**

**[ 47 CFR Part 2 ]**

[Docket No. 18426; FCC 69-53]

**SALE OR IMPORT OR SHIPMENT FOR SALE, OF DEVICES WHICH CAUSE HARMFUL INTERFERENCE TO RADIO COMMUNICATIONS**

**Notice of Proposed Rule Making**

1. Public Law 90-379, 82 Stat. 290, which was approved July 5, 1968, amended the Communications Act of 1934, as amended, by adding a new section 302. This section, entitled "Devices Which Interfere With Radio Reception," authorizes the Commission to "make reasonable regulations governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications." The new law further provides that such regulations shall be applicable to the manufacture, import, sale, shipment or use of such devices and prohibit any person from engaging in such activities with respect to devices which fail to comply with regulations promulgated by the Commission pursuant to this section.<sup>1</sup> The instant proceeding is designed as an initial step in implementation of this new statute and notice is hereby given of the Commission's proposal to adopt the regulations described herein.

2. Since this new statutory authority is applicable to many persons and companies whose activities in the manufacture or shipment of radio frequency devices have not hitherto been subject to Commission regulation, a brief review of the background and objectives of this new legislation may serve to place the Commission's proposed regulations in proper perspective. A primary objective of the Communications Act is to make available, so far as possible, to all the people of the United States, a rapid efficient and nationwide radio communication service. Accomplishment of this objective obviously requires the elimination of harmful interference to authorized radio services, and this in turn involves not only the appropriate allocation of radio frequencies to desirable purposes, but also some control over the

<sup>1</sup> Some activities which are exempted from these regulations and by the new law are described herein.

technical characteristics of radio frequency devices which may create radiation, intentionally or unintentionally, and cause such harmful interference. The continuing increase in the use of radio frequency devices in all phases of our nationwide economy and activities has helped to bring about a situation sometimes referred to as "spectrum pollution" or "radiation smog," a condition not unlike those described as water pollution or atmosphere smog in other fields and with similar deleterious effects. This condition is an unwelcome byproduct of the Nation's explosive technological growth and has become a definite hindrance to the attainment of efficient radio service throughout the country. Incontestably the great national resource provided by the many usable channels of radio communications which are available from the limited spectrum is far too valuable and essential to the nation's well-being to permit the atmosphere to be filled with unnecessary radio frequency radiation. Reduction in the levels of harmful interference is the primary objective of the newly enacted legislation and the Commission's proposed regulations.

3. Up to the present time the Commission's role in this area has stemmed from section 301 of the Communications Act which prohibits the use or operation of any apparatus for the transmission of energy or communications by radio except in accordance with a Commission authorization therefor. As a concomitant of this authority, the Commission has for many years prescribed radiation levels and related technical standards for various types of radio frequency devices, the use of which by any person or company has been authorized by the Commission by individual license or general rule. Such standards have been prescribed for equipment used in established radio services such as Broadcast, Domestic Public, Aviation, Marine, Public Safety, Industrial, Land Transportation, Citizens, Amateur, International Fixed Public, etc., and for many radio frequency devices authorized under Parts 15 and 18 of our rules.<sup>2</sup> While the prescription of such radiation levels and technical standards has been of material assistance in the Commission's efforts to restrict or eliminate harmful interference, the strictures of section 301 of the Communications Act, prior to the enactment of the new legislation, has proved a substantial deterrent to the practical effectiveness of these controls. The limitation of such restraint solely to the actual use of radio frequency devices has given rise to problems of specific and identifiable detection which have proven almost insurmountable. Thus, in fiscal year 1966, in excess of 150,000 man-hours were devoted by the Commission staff to tracing and eliminating interference of all types. And the expenditure of time and effort was even greater in

<sup>2</sup> See e.g., § 91.109(b); § 93.109(b); § 89.101 et seq.; § 73.40; § 15.63; § 15.7; § 15.212; § 18.72; § 18.102; § 21.100 et seq.

fiscal year 1967, when over 40,000 complaints of interference were received by the Commission. Despite these efforts, however, we cannot claim that the amount of spectrum pollution and harmful interference has been materially lessened. Another very practical impediment in the present system is that it is directed to persons who may have purchased radio frequency devices in good faith, in an open legal market and with no knowledge of their interference potential. In such a situation it has been difficult to obtain the substantial voluntary cooperation of users upon which the success of such a program must depend.

4. The proposed rules, and the new legislation, are designed to create an approach to the problem of harmful interference by permitting control measures directed at one of its major sources. While many manufacturers of radio frequency devices have viewed the interference potential characteristics of their products with much awareness and concern, others have not. Reaching into this source of the problem—to the manufacturers and importers, and in turn to the sellers and shippers of radio frequency devices—should permit corrective action, when necessary, before the offending devices have reached prospective users in epidemic proportions. In this connection the Commission advised the Congress, during the latter's consideration of the proposed legislation, that were such legislation to become law, the Commission would proceed to implement it gradually and only after a thorough study of all the problems involved. Thus, the rules proposed in this proceeding do not effect changes in existing technical standards which are presently applicable to radio frequency devices operated under authorization by the Commission for the particular service or purpose involved. What is suggested here is simply the application of existing technical standards to such equipment prior to distribution or shipment and under such type approval, type acceptance or certification requirements as are herein set forth.

5. Section 302 deals with radio frequency devices generally and provides that the implementing regulations shall be applicable to their manufacture, import, sale or shipment. However, the law exempts from its operation, and hence the proposed regulations do not apply to, carriers transporting such devices without trading in them; devices manufactured solely for export; the manufacture, assembly or installation of devices for its own use by a public utility engaged in providing electric service; and devices for use by the Government of the United States or any agency thereof. Apart from these exemptions, the ambit of radio frequency devices subject to the Commission's statutory authority is indeed broad, covering all devices capable of emitting energy by radiation, conduction, or other means in sufficient degree to cause harmful interference. They range from the many kinds of radio transmitters used in the broadcasting, com-

mon carrier, marine, aviation, and land mobile services to restricted radiation devices,<sup>3</sup> such as radio receivers; CATV's, low power communication devices, including wireless microphones, phonograph oscillators, radio controlled garage door openers, radio controlled models and toys, etc., and various types of industrial, scientific, and medical equipment such as ultrasonic, industrial heating, medical diathermy, radio frequency stabilized arc welding, and miscellaneous equipment. Included also are the tremendous number of incidental radiation devices<sup>4</sup> such as electric motors, automobile ignition systems, neon signs, etc. (The interference potential of such incidental radiation devices was clearly demonstrated during the December 1965 Gemini 7 space flight when it was found that the operation of electric cranes and winch trucks by a manufacturing plant located adjacent to a NASA installation, interfered with communications between the ground tracking station and the Gemini space craft.) Technical standards have already been prescribed by the Commission for all of these radio frequency devices used under Commission authorization except for those in the incidental radiation category and the proposed rules will, in effect, require compliance with these standards prior to the offering for sale or sale of such devices or their importation or shipment for purposes of sale.<sup>5</sup> (Thus, radio frequency devices manufactured solely for purposes of research, development, experimentation or testing, and not for purposes of sale, would not be covered by the proposed regulations.) Technical standards for the many kinds of incidental radiation devices have not yet been prescribed and therefore the basic control over the interference potential of such devices will continue to be the

<sup>3</sup> See Part 15 of the Commission's Rules, 47 CFR 15.1 et seq. A restricted radiation device is defined as "[a] device in which the generation of radio frequency energy is intentionally incorporated into the design and in which the radio frequency energy is conducted along wires or is radiated, exclusive of transmitters which require licensing under other parts of this chapter and exclusive of devices in which the radio frequency energy is used to produce physical, chemical, or biological effects in materials and which are regulated under the provisions of Part 18 of this chapter." 47 CFR 15.4(d).

<sup>4</sup> An incidental radiation device, as defined at § 15.4(c) of the rules, is a device that radiates radio frequency energy during the course of its operation although the device is not intentionally designed to generate radio frequency energy.

<sup>5</sup> We construe the second sentence of sec. 302(a) as permissive rather than mandatory and thus key the proposed regulations to the most practical points of control. Restrictions against manufacture, unless clearly necessitated, could raise questions concerning basic research product development, testing, etc. Prohibition against shipment for any purpose would encompass shipment to our own laboratory for type approval purposes. And prohibitions against use are already set forth in sec. 301 of the Act and in various parts of our rules. It would appear that the control points proposed would, for the present certainly, be adequate to achieve the basic objective.

present prohibition against their use if the radiation therefrom causes harmful interference. Nonetheless, comments are invited from interested persons with respect to whether and what technical standards should be considered for any particular type of incidental radiation device.<sup>6</sup>

6. Despite the existing technical standards for radio frequency devices, it long ago became clear that many users were substantially unaware of the interference potential of their radio frequency devices. One of the approaches taken by the Commission to meet this problem was the establishment of a review and analysis procedure under which many kinds of radio frequency devices could be cleared by the Commission, after appropriate testing by either the manufacturer or the Commission, prior to their shipment to and ultimate use by the purchaser. These procedures, known as type approval and type acceptance, have enabled manufacturers and other interested persons to secure advance determinations that their radio frequency devices met the required technical standards.<sup>7</sup> As a result of this procedure, the Commission has been able to maintain and publish radio equipments lists describing the various kinds of equipment which has been found to meet the applicable technical standards. The Commission has also established certification procedures for certain types of radiation devices under which the manufacturer tests his product in terms of the applicable technical standards, and is permitted to certificate the device as being in compliance with such technical standards, after notification to and acceptance by the Commission of the proposed certificate.<sup>8</sup> These procedures have been widely accepted by manufacturers of radio frequency equipment, since most manufacturers are keenly interested in the elimination of spectrum pollution and the enhanced demand for usable radio frequency devices consequent thereto. The acceptability of these advance determination procedures is also reflected in the increasing references in product promotional literature to the Commission's type approval, type acceptance and certification authorization. As a consequence, the Commission has been able to expand its requirements without substantial objection, that licensees or other authorized users of transmitting equipment, employ equipment which has been type approved or type accepted. The proposed rules would thus follow an already well-traveled road in requiring that, except as herein noted,<sup>9</sup> all radio

<sup>6</sup> For convenience, any such comments should be submitted in a separate document, labeled "Incidental Radiation Devices," and directed to the Commission's Chief Engineer.

<sup>7</sup> See Part 2 of our rules.

<sup>8</sup> See e.g., secs. 15.69; 18.111 et seq.; 15.227.

<sup>9</sup> Certain RF devices need not at present be type approved, type accepted or certified notwithstanding that technical standards have been established for such devices. In those instances, e.g., Class D Citizens Band transmitters, Amateur transmitters, Industrial Radiolocation devices, etc., the basic requirement will be compliance with the applicable technical standards.

frequency equipment except incidental radiation devices must be type approved, type accepted or certificated prior to its being sold, offered for sale or imported or shipped for sale.<sup>10</sup>

7. It is recognized that the proposal to require type approval, type acceptance or certification, as a condition precedent to the sale or shipment for sale of radio frequency devices, may raise problems with or require revisions of these procedures as presently set forth in our rules. For example, our certification procedures now set forth in Parts 15 and 18 might more properly be included in that part of our rules which deal with type acceptance and type approval procedures. Again, further consideration must be given to our on-site test procedures which are applicable to CATV systems, ultrasonic equipment, industrial heating equipment, RF stabilized arc welders, and comments are requested as to the desirability of continuing these procedures without further modification. Possible problems stemming from the application of these rules to components must also be analyzed in the light of present type approval procedures which require the submission for testing of the entire unit. There is an outstanding proceeding, Docket No. 17869, involving changes in our type acceptance procedures and a further notice of proposed rule making may be required in that proceeding to accommodate additional revisions necessitated by the rules proposed herein. The comments and suggestions of all persons affected by these proposals are invited with respect to these problems, the proposed rules, or any ancillary matter relative thereto.<sup>11</sup>

8. Accordingly, all interested persons are invited to file written comments on or before February 28, 1969, and reply comments on or before March 10, 1969. In reaching its decision in this matter, the Commission may also take into account any other relevant information before it, in addition to the comments invited by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished the Commission.

Adopted: January 15, 1969.

Released: January 17, 1969.

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

<sup>10</sup> In this connection it should be noted that a proposed revision of our type acceptance procedure is presently outstanding in Docket No. 17869, and that it is likely that revisions will be suggested as a result of the proposals mentioned above.

<sup>11</sup> Since the proposed rules simply adopt technical standards which are now applicable to the use of various radio frequency devices, it is not unlikely that any new rules that are adopted will be made applicable to all such devices irrespective of their current stages of distribution.

It is proposed that Subpart F of Part 2 of the Commission's rules be amended (a) by the addition to the subpart of the provisions set forth below, and (b) by revising the existing provisions of the subpart to conform them to the new provisions.

(1) *Radio frequency device defined.* As used in this subpart, a radio frequency device is any device which in its operation is capable of emitting radio frequency energy by radiation, conduction, or other means. Radio frequency devices include, but are not limited to, (a) the various types of radio communication transmitting devices described throughout this chapter, (b) the incidental and restricted radiation devices described in Part 15 of this chapter, and (c) the industrial, scientific and medical equipment described in Part 18 of this chapter; or any part or component thereof which in use emits radio frequency energy by radiation, conduction or other means.

(2) *Requirement for type approval, type acceptance or certification.* (a) In the case of a radio frequency device which in accordance with the Commission's rules must be type approved, type accepted or certificated prior to use, no person shall, after \_\_\_\_\_, sell or lease or offer for sale or lease, or import, ship or distribute for the purposes of selling or leasing or offering for sale or lease, any such radio frequency device, unless prior thereto such device shall have been type approved, type accepted, or certificated, as the case may be.

(b) In the case of a radio frequency device which in accordance with the Commission's rules, must comply with specified technical standards prior to use, no person shall, after \_\_\_\_\_, sell or lease or offer for sale or lease, or import, ship or distribute for the purposes of selling or leasing or offering for sale or lease, any such radio frequency device, unless prior thereto such device complies with the applicable technical standards specified in the Commission's rules.

(3) *Statutory exceptions.* As provided by section 302(c) of the Communications Act of 1934, as amended, section (2) of this subpart shall not be applicable to:

(a) Carriers transporting radio frequency devices without trading in them.

(b) Radio frequency devices manufactured solely for export.

(c) The manufacture, assembly, or installation of radio frequency devices for its own use by a public utility engaged in providing electric service: *Provided, however,* That no such device shall be operated if it causes harmful interference to radio communications.

(d) Radio frequency devices for use by the Government of the United States or any agency thereof: *Provided, however,* That this exception shall not be applicable to any such device after it has been disposed of by such Government or agency.

[F.R. Doc. 69-843; Filed, Jan. 22, 1969; 8:47 a.m.]

I 47 CFR Part 73 I

[Docket No. 18421; FCC 69-43]

HOURS OF OPERATION OF DOMINANT AND SECONDARY STATIONS

Notice of Proposed Rule Making

1. Section 73.81 of the Commission's rules, relating to the hours of operation of dominant (Class I) and limited-time secondary (Class II) stations on the same channel, reads as follows:

If the licensee of a secondary station authorized to operate limited time and a dominant station on a channel are unable to agree upon a definite time for resumption of operation by the station authorized limited time, the Commission shall be so notified by the licensee of the station authorized limited time. After receipt of such statement the Commission will designate for hearing the applications of both stations for renewal of license, and pending the hearing the schedule previously adhered to shall remain in full force and effect.

This rule relates to the hours of operation of U.S. Class I-A and I-B dominant stations and of co-channel Class II (secondary) stations authorized for "limited time" operation, which under § 73.23(b) of the rules are authorized to operate "during night hours, if any, not used by the dominant station or stations on the channel" (in addition to some other hours).<sup>1</sup>

2. This rule was adopted in exactly its present form in 1939, when the standard broadcast rules were codified into what is generally their present structure. It is essentially the same as earlier Rule 160, adopted by the Federal Radio Commission in 1931. At least in recent years the rule has been applied or cited extremely rarely, but it has been mentioned recently in connection with a question as to the operating hours of limited-time Station KFAX, San Francisco, in relation to those of co-channel I-A Station WKYC, Cleveland.<sup>2</sup> Whatever reasons may originally have prompted the adoption of the particular provisions of the rule, we are tentatively of the view that its meaning is both not clear and not necessarily an accurate reflection of what the Commission's present policy is or should be with respect to the provision of service by

<sup>1</sup> "Limited time" stations are Class II stations (all of long standing since no such authorizations have been made since 1959) on U.S. I-A or I-B clear channels. Those west of the dominant co-channel station are permitted to operate during daytime hours (local sunrise to local sunset); those east of the dominant station can operate during daytime hours and also until sunset at the Class I location to the west; and both groups are also permitted, under § 73.23(b), to operate during the additional night hours mentioned. There are 16 such stations, 6 on U.S. I-A channels west of the dominant station, 7 on U.S. I-A channels east of the dominant station, two on U.S. I-B channels east of the co-channel I-B station, and one on a I-B channel east of one co-channel I-B station and west of the other.

<sup>2</sup> See the Memorandum Opinion and Order adopted today concerning KFAX (FCC 69-42).

Class I and Class II stations. Therefore it appears that it should be amended as set forth below.

3. As described in our rules (§§ 73.21 (a) (1) and 73.182(a) (1)), a Class I station is a "dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances." Hence, as to such a station, "its primary service area is free from objectionable interference from other stations on the same and adjacent channels", and its secondary service area "free from objectionable interference from stations on the same channel." Section 73.182(a) (1) also describes the degree of protection to be afforded these stations: daytime, Class I-A and I-B stations are protected to the 0.1 mv/m groundwave contour with respect to co-channel stations and the 0.5 mv/m groundwave contour with respect to adjacent-channel stations. Nighttime, Class I-A stations are the only stations operating on their channels at night with certain specified exceptions mentioned in §§ 73.22 and 73.25(a); the rule also specifies that they are protected to the 0.5 mv/m 50-percent skywave contour from those co-channel stations permitted to operate, and to the 0.5 mv/m groundwave contour from adjacent-channel stations. Class I-B stations are protected nighttime to the 0.5 mv/m 50-percent skywave contour from co-channel I-B and Class II stations, and to the 0.5 mv/m groundwave contour from adjacent-channel stations. Class II stations, such as the limited-time stations involved here, are defined (in §§ 73.21 (a) (2) and 73.182(a) (2)) as secondary stations on clear channels, designed to "render primary service over an area which is limited by and subject to such interference as may be received from Class I stations".

4. As indicated by these rule provisions, the wide-area nighttime skywave and groundwave service of Class I stations is of high importance in the over-all standard broadcast structure, particularly at night, since it is relied on to bring service to areas which cannot otherwise receive adequate AM service. This has been emphasized in various Commission decisions over the past decade, including the 1958 "5 to 7" extended hours proceeding (Docket 12274, 17 R.R. 1669), the similar "6 to 6" proceeding of 1959 (Docket 12729, 18 R.R. 1689), the Clear Channel decisions (Docket 6741, 21 R.R. 1801 (1961) and 24 R.R. 1595 (1962)); and the recent "pre-sunrise" decisions (Docket 14419, 8 FCC 2d 698, 10 R.R. 2d 1580 (1967) and Docket 18023, FCC 68-859, August 1968).<sup>3</sup> In recent years there have been expressions by or on behalf of some Class II stations to the effect that Class I service is not at present really of ex-

tensive significance to distant listeners so as to warrant a high degree of protection as against the rendition of local service by Class II stations on these channels during additional hours; but for present purposes we are of the tentative view that a high degree of protection to Class I groundwave and skywave service is necessary to the provision of reasonably satisfactory service to the nation generally.<sup>4</sup>

5. While the operating effect of § 73.81 in its present form is not clear, since it has never been applied at least in recent years, it can be argued from its literal wording that a comparative hearing is required where there is a conflict in the nighttime operating hours of a Class I and a co-channel Class II limited-time station, or, at least, that this is the case when the Class I station extends its hours beyond those previously used. In our tentative view, the application of the comparative process in such situations is not warranted. Rather, as a general proposition, we believe that Class I stations should be permitted to render service and to extend their service time-wise, protected from interference to the extent provided in the rules and mentioned above. We do not here pass on the merits of two adjudicatory cases now under consideration, involving long-standing nighttime operation by Class II stations on I-A channels, since such operation originally had its origin in special considerations not generally applicable (Station WOI, Ames, Iowa, and Station WNYC, New York City). In general we believe that comparative consideration of the details of each individual case, which the literal language of the present rule might require if it were applied, is not warranted where fundamental AM allocation principles are involved.<sup>5</sup>

6. Accordingly, we propose to repeal § 73.81 in its present form and to provide that (except to the extent pre-sunrise operation is permitted under § 73.99) limited-time Class II stations shall not operate except during times permitted by the hours specified in their licenses or other hours not actually used by the co-channel dominant station. However, we believe it is also appropriate to make provision for achieving in the future what we assume was one of the purposes of the original rule: that where a Class I station actually is not operating during a substantial number of

<sup>3</sup> Recently these expressions have largely been in the limited context of pre-sunrise operation, rather than nighttime operation generally.

<sup>4</sup> Viewed as a group, the limited-time stations do not appear to represent sources of badly needed local service during the hours involved (we do not here consider pre-sunrise hours). Of the 16 stations, 11 are in large cities with multiple full-time AM and FM services; one (Clayton, Mo.) is adjacent to a large city and is itself associated with an FM station; one (Grand Island, Nebr.) is in a community with a full-time station and an available FM channel though no local station; and of the three in other communities without full-time AM outlets, all are associated with authorized FM stations (Norfolk, Nebr., Portsmouth, N.H., and Ithaca, N.Y.).

nighttime hours (which is now seldom the case),<sup>6</sup> the Class II limited-time station should be able to take advantage of these hours to bring additional service to its community and area. Therefore, we are proposing that new § 73.81 provide for the filing, by each Class I station on channels having limited-time Class II station,<sup>7</sup> of its hours of operation four times a year. The proposal is that, within a week before January 1, April 1, July 1, and October 1, each of these Class I stations shall file with the Commission a statement as to those hours which it operated on each of the days of the immediately preceding week, and those hours of each day of the week which it intends to use during the next 3-month period. Thus limited-time Class II stations will know what nighttime hours will be available to them (if any) and can plan on their use.

7. In instituting rule making looking toward amendment of the rule as set forth herein, we take no position as to how the present language of the rule is to be construed, as to which parties may wish to comment, for example, in light of the provisions of the immediately preceding section 73.80. Clarification is appropriate in any event.

8. In view of the foregoing, it is proposed to delete present § 73.81 of the rules and substitute a new section, to read as follows:

**§ 73.81 Nighttime operation by limited time and Class I stations.**

(a) Limited time Class II stations, which are permitted to operate from local sunrise until local sunset or sunset at the dominant co-channel station (whichever is later) and in addition during whatever nighttime hours are not used by the dominant station, shall not operate during other hours except as provided in § 73.99 concerning pre-sunrise operation, and authority issued pursuant thereto.

(b) The licensee of each Class I station on the frequencies 640, 750, 770, 780, 820, 830, 850, 870, 1020, 1100, 1110, 1160, and 1190 kc/s shall file with the Commission four times each year, within 1 week before the dates of January 1, April 1, July 1, and October 1, a statement showing: (1) the hours the station operated during each day of the week immediately preceding the statement; and (2) the hours of each day of the week which the station plans to operate during the next 3 months. Such statements will be publicly available at the offices of the Commission in Washington, D.C.

<sup>6</sup> At the time § 73.81 was adopted a number of fulltime stations did not operate 24 hours a day. There has been an increasing tendency toward around-the-clock operation; according to the August 1, 1968 Standard Rate and Data, of the 14 Class I stations to which limited-time Class II stations' hours are related, 13 (all but KOA, Denver) operate 24 hours a day at least 5 days a week.

<sup>7</sup> There are 13 clear channels with limited-time stations, those mentioned in the text of the proposed rule.

9. The amendment proposed herein is issued pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before March 3, 1969, and reply comments on or before March 17, 1969. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. 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.

11. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 69-849; Filed, Jan. 22, 1969;  
8:47 a.m.]

[ 47 CFR Part 73 ]

[Docket No. 18425, RM-1340; FCC 69-48]

**OPERATION OF TELEVISION BROADCAST STATIONS BY REMOTE CONTROL**

**Notice of Proposed Rule Making**

1. On March 29, 1967, the Commission adopted a report and order in docket No. 16206 (FCC 67-409) denying a petition by the National Association of Broadcasters (NAB) that VHF television broadcast stations be permitted to operate by remote control. The denial was based on the failure of NAB and other parties commenting in the proceeding, to show that the TV broadcast transmitter located at a remote point would or could receive adequate technical surveillance by a qualified radio operator located at a remote control point. The Commission did not close the door to further consideration on the matter if its doubts could be dispelled.

2. On August 14, 1968, NAB filed a new petition for rule making (RM-1340), to permit the operation of VHF television stations by remote control. Included in the petition are reports on the experimental operation of three VHF television broadcast stations by remote control. It is claimed that these experiments prove conclusively that such operation is feasible and that adequate technical supervision of the transmitter can be achieved. The experiments, conducted by Metro-media, Inc., for NAB, involved WNEW-TV, Channel 5, New York, N.Y.; KMBC-TV, Channel 9, Kansas City, Mo.; and KTTV, Channel 11, Los Angeles, Calif., and were designed to establish the reliability of existing VHF television broadcast equipment, the ability of automatic devices to detect malfunctions, the adequacy of alarms to

alert operating personnel, and the capability of TV station personnel to promptly take all necessary corrective action from the remote control point. NAB claims that these facts have been established.

3. The showing accompanying the NAB petition is quite impressive and although it does not completely dispel all concern of the Commission, it has sufficient merit to warrant the institution of rule making proceedings. NAB proposed specific rules which would permit operation by remote control upon application therefor, if a satisfactory showing is made as to the location of the control point or points; that the transmitter is capable of operation by remote control; and, that the remote control system will adequately fulfill all the requirements of operating the television facility in accordance with good operating practices from the remote control location. Another proposed rule spells out the specific parameters that shall be monitored and controlled. Other corollary amendments concerning transmission of telemetry signals and logging were proposed.

4. The remote control system installed at WNEW-TV, Channel 5, New York, N.Y., was highly sophisticated, being equipped with 40 alarm and status points and 16 control operations. In addition, the transmitter at WNEW-TV had certain automatic features that deactivated the transmitter if it went beyond the allowable frequency tolerance. The parameters indicated at the remote control point were not always in complete agreement with those observed at the transmitter. NAB notes this in the petition, stating that most deviations in tracking between the two metering systems occurred during the initial shakedown period of operation or occurred by reason of some fault which was subsequently corrected or identified. There were component failures which were detected and repaired. The report of the experimental operation does not indicate the time that elapsed between detection and correction. The list of malfunctions given in the report shows that the aural power meter reading was off calibration on February 20, 1968, and the list of operating adjustments made to the transmitter during the course of a normal operating day shows that the aural power telemeter was recalibrated on February 28, 1968. These, however, may have been unrelated events. Similar data was supplied with respect to the tests on the other two stations.

5. The stations on which these remote control tests were made are large stations, presumably well run and the transmitters are readily accessible from the remote control points. The remote control systems were elaborate and well designed. Nothing was said of the costs of such systems but it would appear that they would be much more expensive than the typical AM or FM remote control system. The installations at the Kansas City and Los Angeles stations were not quite so elaborate as that at WNEW-TV in New York. The use of such sophisticated remote control systems would allay most of the concern that the Commis-

sion has over remote control of VHF television stations. There is still the unanswered question of how malfunctions could be corrected and components replaced in a transmitter located in a place that is inaccessible for long periods of time due to weather conditions. Catastrophic failures would remove the station from the air but lesser malfunctions that produced spurious emissions or otherwise caused interference or degraded service would present the choice of turning the transmitter off or permitting it to continue in operation in spite of the improper operation. The Commission can resolve the doubts by requiring that the transmitter be inactivated either automatically or manually whenever improper operation occurs or is observed. This may result in loss of service to the public but the licensee has a large self-interest in continuity of service and could be expected to consider the risks involved in using remote control for a transmitter site that is difficult of access.

6. In light of the additional data submitted by NAB, the Commission is prepared to consider the desirability and feasibility of the operation of VHF television broadcast transmitters by remote control. However, the rules proposed by NAB will not provide the degree of control that the Commission must exercise in carrying out its responsibilities. The rules proposed by NAB would permit a new station or an existing station to commence operation by remote control upon a showing that it could be operated by remote control. The most convincing showing is an actual demonstration over a reasonable period of time. Although certain standard techniques and equipment may be used, the remote control system installation at each individual station will differ in some respects. The character of the installation may be a significant factor in its reliability. This is admitted by NAB when it notes that most of the problems developed during the "shakedown" period. Therefore, the rule proposed herein will not permit full remote control operation until the remote control system has been tested under simulated remote control operation for a period of 6 months. During this period, the transmitter must be manned by a qualified radio operator to supervise and assess the remote control efforts. Unlicensed personnel may man the remote control position since the qualified operator on duty at the transmitter will supervise all remote control efforts. Logs will be kept at the transmitter and the remote control position and entries made at the intervals prescribed by the rules. No correlation shall be attempted prior to the entries. The entries will be compared subsequently to record deviations between the transmitter meters and the indications at the remote control point. Automatic logging may be employed in lieu of manual logging. In all cases, if transmitter adjustments are required, they shall be first attempted from the remote control position and verified by the indicators provided at the remote control position. During such adjustments, the transmitter shall be under direct observation by the licensed operator

on duty at the transmitter so that he may override adjustments that might cause improper operation of the transmitter. However, the operator at the transmitter shall not communicate with the person making the adjustments at the remote control point since this would not be possible if the transmitter were actually operated by remote control. At the end of the simulated remote control period, the data specified in the rule must be submitted with the application for authority to begin actual remote control operation. No prior authority from the Commission is required to begin simulated remote control operation.

7. Other rules proposed herein by the Commission are more specific and differ in other respects from those proposed by NAB. The Commission proposes calibration and inspection of the remote control facilities of television stations 5 days per week as suggested by NAB. Simulated remote control operation is not required for UHF television stations because the hazard of harmful interference caused by improper operation is substantially less and a more liberal attitude is consistent with the overall policy of the Commission to foster the expanded use of UHF channels. NAB appears to suggest the use of more than one subcarrier multiplexed on the aural carrier. In view of the relative narrowness of the TV aural channel, it is proposed to restrict the use to a single subcarrier. If there is an actual need for more than one subcarrier for remote control operation and such additional subcarriers may be used without noticeable degradation of picture and sound quality, comments should be directed to that point. The provision for multiplexing has been placed in § 73.682 of the rules. The proposed range of frequencies which may be used for the subcarrier has been extended to permit more flexibility in selecting a frequency to avoid degradation of the visual and aural program signals. It is realized that this may result in sideband emissions beyond the limits of permissible aural carrier excursion but the inverse ratio of subcarrier frequency to modulation index is expected to result in extremely low energy levels outside the nominal aural channels. Therefore, it is considered to be inconsequential.

8. Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, it is proposed to amend Part 73, Subpart E of the Commission rules as set forth below.

9. Pursuant to applicable procedures set out in section 1.415 of the Commission's rules, interested persons may file comments on or before March 28, 1969, and reply comments on or before April 11, 1969. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. 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 rules, an original and 14 copies of all comments, replies, plead-

ings, briefs, and other documents shall be furnished the Commission.

Adopted: January 15, 1969.

Released: January 17, 1969.

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

1. Add a new § 73.676 to read as follows:

**§ 73.676 Remote control authorization.**

(a) Remote control of television broadcast stations operating on Channels 2-13, inclusive, will not be authorized until the proposed remote control system has been installed and tested for a period of 6 months under actual operating conditions. During this test and observation period, one or more operators holding a valid radiotelephone first-class operator license shall be on duty at the television transmitter and in actual charge thereof, whenever the transmitter is in operation. The remote control position shall be manned whenever necessary to make observations and adjustments of the television transmitter including all of the periods when observations and log entries are required by the rules. Nontechnical personnel properly instructed in the use of the equipment, may man the remote control position for the conduct of such observations and tests. The meter readings recorded or observed at the remote control point and the actual data observed simultaneously at the TV transmitter shall be subsequently compared and a record kept of all disparities of more than 2 percent. Whenever adjustments of the TV transmitter are necessary to restore or maintain proper operation, such adjustments shall be attempted from the remote control point, if the remote control system is equipped with the necessary control function. The TV transmitter shall be under observation by the operator on duty at the TV transmitter whenever such adjustments are being attempted to insure that they are correctly performed. A record shall be kept of all transmitter malfunctions which required adjustment to restore or maintain proper operation showing the number, nature and duration of those which were corrected by remote control, the number, nature and duration of those which could not be made by remote control, the number, nature and duration of failures of control and telemetry functions of the remote control system and any changes or modifications of the remote control system found to be necessary to exercise proper control of the transmitter.

(b) At the end of the 6-month observation period, equipment performance measurements required in the application for license, shall be made of the visual and aural transmitting system to determine whether the overall performance has remained in compliance with the technical requirements of the rules during the period of simulated-remote control operation.

(c) If the licensee has determined that the remote control system is operating

in accordance with the rules, an application (FCC Form 301A) for authority to operate the television transmitter by remote control may be submitted to the Commission. The application shall include the following information:

(1) The location of the control point, the reason for its choice if at other than the main studio and the approximate air-line distance from the control point to the television broadcast transmitter site.

(2) The number and purpose of the control and telemetry functions that will be provided at the control point.

(3) The method by which control functions will be transmitted to the television transmitter.

(4) The method by which telemetry data required by the rules will be transmitted from the television transmitter to the control point.

(5) A description of the fail-safe features of the remote control system which will insure that loss of required control or telemetry will place the television transmitter in a nonradiating condition.

(6) Measures taken to prevent tampering or activation of transmitting and remote control equipment by unauthorized persons.

(7) Equipment performance measurements required by paragraph (b) of this section to be taken at the end of the 6-month observation period.

(8) A complete summary of the data required to be obtained during the 6-month observation period.

(d) Television broadcast stations operating on Channels 14-83, inclusive, may be authorized to operate by remote control upon filing FCC Form 301-A containing a satisfactory showing as to the manner of compliance with the requirements of § 73.677 and the pertinent information required by § 73.676(c).

2. Section 73.676 is renumbered as § 73.677 and amended to read as follows:

**§ 73.677 Remote control operation.**

(a) Television broadcast stations operating by remote control shall provide as a minimum, the following telemetry and control functions at the control point.

(1) Means for turning the transmitter on and off at will.

(2) Suitable instruments to indicate the operating parameters required by § 73.671 to be entered in the operating log. The indicating instruments shall show the values of such parameters directly in the same units and with no less than the same accuracy as the indicating instruments employed at the transmitter. The use of arbitrary scales and conversion factors, except where permitted at the transmitter, is forbidden. This prohibition does not apply to indicating instruments used to show other operating parameters such as grid drive, plate current and voltage to intermediate stages, VU values, etc., which are not specifically required by the rules to be logged.

(3) A sufficient number of control circuits to perform all transmitter adjustments normally required to insure

strict compliance with the technical requirements of the rules.

(4) Apparatus suitable for continuously and accurately monitoring the waveform and other pertinent characteristics of the transmitted visual signal necessary to insure proper operation.

(5) Means for continuously monitoring the percentage of modulation of the aural signal.

(6) Means for determining that any required obstruction lighting of the antenna and supporting tower is functioning properly.

(7) All stations, whether operating by remote control or direct control, shall be equipped so as to be able to follow the Emergency Action Notification procedures described in § 73.932.

(b) The control point shall be manned by one or more operators meeting the requirements of § 73.661 at all times when the station is operating by remote control. Such operators may perform other tasks that do not require absence from the remote control position or otherwise impair necessary supervision of the TV transmitter. In the event that such other tasks divert attention from the remote control facilities, suitable aural and visual alerting and alarm signals shall be provided to insure prompt attention to deviations that may result in improper operation of the transmitter.

(c) The control circuits from the control point to the transmitter and the return telemetry circuit shall be so designed and installed that open circuits, short circuits, accidental grounding or other line faults where wire lines are used, or equipment failures, casual signals or random noise impulses, if other means are used, will not activate the transmitter and any fault or failure which results in loss of essential control or any essential telemetry function, will cause the television transmitter to cease radiating signals from the antenna.

(d) The equipment at the control point and at the transmitter shall be so installed and protected that it is not accessible to or capable of being operated by persons other than those duly authorized to do so by the licensee.

(e) The remote control equipment shall be calibrated and tested and the television broadcast transmitter shall be inspected as often as is necessary to insure proper operation and in any event at least 5 days each week. The performance of such required calibration, test and inspection on successive days at an interval of less than 12 hours will not be considered compliance with this rule insofar as it requires this to be done at least 5 days each week.

(f) Upon completion of the calibration, test and inspection required by paragraph (e) of this section, the inspecting operator shall enter a signed statement in the maintenance log that the required tests and inspection have been made, noting in detail the tests, adjustments and repairs which were made to insure proper operation and shall specify the amount of time, exclusive of travel time to and from the transmitter,

which was devoted to this task. If complete repair could not be effected, the statement shall set forth in detail the items of equipment concerned, the nature of the defect and the reasons for failure to make the needed repairs.

3. Add the following definition to § 73.681 in the appropriate place:

§ 73.681 Definitions.

\* \* \* \* \*  
*Multiplex Transmission (Aural)*. One or more information channels added to the regular aural channel of a television broadcast station by means of a modulated subcarrier.

\* \* \* \* \*  
 4. Section 73.682(a) is amended by adding the following new subparagraph:

§ 73.682 Transmission standards and changes.

(a) *Transmission Standards*. \* \* \*

(22) Multiplexing of the aural carrier may be employed for the purpose of transmitting telemetry and alerting signals from the transmitter site to the control point of a television broadcast station authorized to operate by remote control or a station conducting required observations prior to the submission of an application for authority to operate by remote control, subject to the following conditions:

(i) No observable degradation shall be caused to either the visual or aural signals.

(ii) Use of multiplexing shall not produce emissions outside the authorized television channel.

(iii) Multiplexing is limited to the use of a single subcarrier.

(iv) The maximum modulation of the aural carrier by the subcarrier shall not exceed 10 percent.

(v) The total modulation of the aural carrier including the subcarrier, shall comply with the requirements of § 73.687 (b) (7).

(vi) Audible effects in the frequency range 50 to 15,000 cycles per second caused by multiplexing, shall be at least 60 decibels below the level corresponding to 100 percent modulation of the aural carrier.

(vii) The frequency of the subcarrier used to modulate the aural carrier shall be within the range 20 to 50 kc/s.

\* \* \* \* \*  
 [F.R. Doc. 69-845; Filed, Jan. 22, 1969; 8:48 a.m.]

[ 47 CFR Part 73 ]

[Docket No. 18422, RM-1332; FCC 69-44]

TELEVISION BROADCAST STATIONS, FLAGSTAFF, ARIZ.

Table of Assignments

1. On July 26, 1968, Grand Canyon Television Co., Inc. (Grand Canyon), filed a petition requesting that the Commission delete the presently assigned Channels 9 and 13 at Flagstaff, Ariz., and in their place assign Channels 2 and 11. Flagstaff with its population of 18,214, is located in Coconino County

which contains 41,857 residents,<sup>1</sup> and is located about 120 miles north of Phoenix, the State capital.

2. Grand Canyon states that prior to filing this petition for rule making a study was made of the available site locations for Channels 9 and 11 in the vicinity of Flagstaff. This study indicates that Mormon Mountain (18 miles south-southeast of Flagstaff) would be the most desirable location to serve the area to the north and east, and still put the required signal over the city of Flagstaff. This is also one of the few sites that would meet the objections of the U.S. Forest Service which controls much of the land in this area. Channels 9 and 13 at this location would be short-spaced to cochannel Stations KGUN-TV and KOLD-TV at Tucson, Ariz. Channels 2 and 11 will meet the Commission's separation requirements from this location. In addition, the noncommercial educational channel assigned to Flagstaff (Channel 16) could also operate from Mormon Mountain in compliance with the mileage separation requirements.

3. On September 4, 1968, KOOL Radio-Television, Inc. (KOOL), licensee of television broadcast station KOOL, Phoenix, Ariz., filed a partial opposition to the Grand Canyon petition for rule making. KOOL does not oppose the requested substitution of Channel 2 for Channel 9 so as to meet the mileage separations at Mormon Mountain, but argues that substitution of Channel 11 for Channel 13 is not necessary to accommodate the petitioner. KOOL states that they propose to file an application for a 100-watt translator to operate on Channel 13 at Flagstaff at an early date, and that if Channel 11 is substituted for Channel 13 this will preclude the operation of the translator because of adjacent channel interference between the received signal on Channel 10, and the transmitter signal on Channel 11.

4. The Commission agrees that the substitution of Channel 2 for Channel 9 at Flagstaff will solve the petitioner's problem and that the substitution of Channel 11 for Channel 13 is unnecessary. While it is true that a future applicant for Channel 13 at Flagstaff would encounter the same separation problem as the petitioner's if it chose to use the Mormon Mountain site, such an assumption is purely speculative as there are no applicants or prospective applicants for Channel 13 at Flagstaff at this time. The petitioner does not claim that Mormon Mountain is the only site that can be used, but only that it is the site that is most suitable for its contemplated coverage, and at the same time meets the approval of the U.S. Forest Service. A future applicant for Channel 13 might choose some other site. In fact, two applicants for Channel 9, Flagstaff Telecasting Co., granted May 29, 1956, dismissed September 11, 1957, and Coconino Telecasters, Inc., granted January 18, 1961 and dismissed April 8, 1963, and one

<sup>1</sup> Population figures are those of the 1960 U.S. Census.

applicant for Channel 13, Saunders Broadcasting Co., granted September 8, 1960, dismissed July 30, 1968, did select sites that met the Commission's separation requirements. However, these stations were not built.

5. In view of the above and pursuant to the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the table of assignments for television channels in § 73.606 of the Commission's rules by substituting Channel 2 for Channel 9 at Flagstaff, Ariz. Since Flagstaff is within 250 miles of the United States-Mexican border the proposed assignment must be coordinated with the Mexican Government in accordance with the Mexican-USA Television Agreement of 1962.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before February 14, 1969, and reply comments on or before February 23, 1969. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all written comments, replies, pleadings, briefs or other documents shall be furnished the Commission.

Adopted: January 15, 1969.

Released: January 17, 1969.

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

[F.R. Doc. 69-846; Filed, Jan. 22, 1969;  
8:48 a.m.]

### [ 47 CFR Part 73 ]

[Docket No. 18423, RM-1350; FCC 69-45]

## FM BROADCAST STATIONS CHESAPEAKE-VIRGINIA BEACH, VA.

### Table of Assignments

1. On September 11, 1968, Payne of Virginia, Inc., licensee of AM Station WCPK (1 kw D), Chesapeake, Va., filed a petition for rule making requesting assignment of Channel 235 to Chesapeake, Va. Chesapeake has a population of 73,647 and is a part of the Norfolk-Portsmouth SMSA, which has a population of 578,507.<sup>1</sup> Chesapeake has one AM station, licensed to petitioner, but no FM assignment. Nine Class B FM assignments have

<sup>1</sup> All populations referred to herein are from the 1960 U.S. Census. The city of Chesapeake was formed subsequent to the 1960 U.S. Census by the merger of South Norfolk City (22,035) and Norfolk County (51,612), making a total population of 73,647. The city of South Norfolk was included in the Norfolk-Portsmouth urbanized area in 1960, as was a part of Norfolk County to the extent of 28,135 persons.

been made in the table of assignments for the hyphenated listing of Norfolk-Newport News, all of which are occupied by licensed stations distributed among various communities as follows: Seven in Norfolk, one in Newport News, and one in Suffolk. Newport News and Suffolk are located outside the Norfolk-Portsmouth SMSA. Eleven AM stations operate in the SMSA, consisting of five unlimited-time, four daytime-only, and two Class IV stations.

2. Petitioner submits that Channel 235 is the only Class B channel assignment that can be made to Chesapeake without making other changes in the table. By an accompanying engineering statement, it is shown that the requested assignment would conform to the minimum spacing requirements with other assignments if a site is located about 2 miles northeast of the northeast corner of Chesapeake. This restriction would necessitate locating the transmitter site in the city of Norfolk. Petitioner alleges that a Class B operation from such site would provide all of Chesapeake with the required 70 dbu signal, except a small uninhabited area in the southwest corner of Chesapeake consisting of the Dismal Swamp.

3. A study provided by petitioner indicates that the requested assignment, if made, would preclude assignment of the same channel to certain communities, including the following with populations greater than 2,000, none of which have an FM assignment: Portsmouth (114,773), Virginia Beach (84,215)<sup>2</sup>, Poquoson (4,273), and Cape Charles (2,041). All but the last two communities named have one or more AM stations.<sup>3</sup> Channel 232A would also be precluded from Cape Charles if the Chesapeake assignment were made. No other adjacent channel would be similarly affected in any community of more than 1,000 population.

4. In support of the proposal, petitioner submits that the requested assignment would not preclude its use at another community having greater need than Chesapeake for additional service. The petitioner urges that, because the communities of Portsmouth and Norfolk are bounded either by water of other adjacent communities, and since those communities are already 100 percent urbanized, future urban population expansion in the area will necessarily re-

<sup>2</sup> Virginia Beach is listed in the 1960 U.S. Census with a population of 8,091. However, as a result of annexation proceedings in 1962, the city boundaries were extended to coincide with those of former Princess Anne County resulting in a total population of 84,215 for Virginia Beach.

<sup>3</sup> Of the communities listed here, only Portsmouth and Virginia Beach are in the same SMSA as Chesapeake. Portsmouth could file for the channel if the assignment to Chesapeake were made under the "15-mile" provision of § 73.203(b) as amended. Contrary to petitioner's contention, the remaining precluded communities listed could not, since each is located more than 15 miles from the Chesapeake reference point.

sult in a tremendous population growth for Chesapeake.

5. The area and communities to which Channel 235 may be assigned and meet the standard spacing requirements are severely limited. The channel also appears to be the last Class B channel available for assignment in the area. We therefore consider that adopting a notice of proposed rule making proposing assignment of the channel to afford interested parties an opportunity to file comments is warranted. We are, however, offering a counter proposal to assign the channel to a hyphenated listing in the table so as to increase the number of communities for which applications may be filed. If the channel were listed in the table for Chesapeake-Virginia Beach, applications could then be filed for its use in Portsmouth (114,733), Chesapeake (73,647) and Virginia Beach (84,215), none of which have an FM assignment. We also note that the area in which the channel may be used to serve Virginia Beach is less restrictive than for either Portsmouth or Chesapeake, since a site could be located at or near the center of the community. This arrangement would also eliminate preclusion considerations, except for Poquoson and Cape Charles. In the case of the latter communities, we are of the opinion that making a first Class B FM channel available to one of the three communities mentioned which have much larger populations weighs heavily in their favor and thus would be in the public interest.

6. In view of the above, we are inviting comments and pertinent data from interested parties on our proposal to add the following entry to the Table of Assignments:

City	Channel No.
Chesapeake-Virginia Beach, Va.....	235

7. Authority for the adoption of the amendment proposed herein is contained in Sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before February 23, 1969, and reply comments on or before March 10, 1969. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken.

9. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: January 15, 1969.

Released: January 17, 1969.

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

[F.R. Doc. 69-847; Filed, Jan. 22, 1969;  
8:48 a.m.]

# Notices

## FEDERAL POWER COMMISSION

[Docket No. G-3973, etc.]

**MOBIL OIL CORP. ET AL.**

**Findings and Order**

JANUARY 6, 1969.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, dismissing application, dismissing motion, making successors co-respondents, redesignating proceedings, requiring filing of agreement and undertaking, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from the Permian Basin area of Texas and New Mexico are authorized to be made at or below the applicable area base rates, adjusted for quality of the gas, and under the conditions prescribed in Opinions Nos. 468 and 468-A, 34 FPC 159 and 1068.

Brammer Engineering, Inc., Agent (Operator) et al., Applicant in Docket No. CI63-1109, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to John Franks (Operator) et al., FPC Gas Rate Schedule No. 4. Said rate schedule will be redesignated as that of Applicant. Franks filed for an increase in rate under said rate schedule, which increase is suspended in Docket No. RI68-348. Therefore, Applicant will be made a co-respondent in Docket No. RI68-348 and the proceeding will be redesignated accordingly.

Nielson Enterprises, Inc., Applicant in Docket No. CI69-281, proposes to continue in part sales of natural gas heretofore authorized in Docket No. G-12525 to be made pursuant to Marathon Oil Co. FPC Gas Rate Schedule No. 30 and to

initiate sales from acreage not heretofore dedicated to interstate commerce. The presently effective rate under Marathon's rate schedule is in effect subject to refund in Docket No. RI67-465. Therefore, with respect to sales from acreage heretofore dedicated to Marathon's contract, Applicant will be made a co-respondent in Docket No. RI67-465; the proceeding will be redesignated accordingly; and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on December 27, 1968, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record:

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service 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 of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary

therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in Dockets Nos. G-3973, G-11035, G-11072, G-11860, G-12525, CI62-440, CI62-1226, CI63-1091, CI63-1109, CI63-1166, CI63-1343, CI64-55, CI65-875, CI66-1331, and CI67-1034 should be amended as hereinafter ordered and conditioned.

(6) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by Applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the temporary certificate issued June 1, 1961, in Docket No. G-17657 should be terminated.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application filed by Production Distribution, Inc., et al., in Docket No. G-17657 on August 23, 1962, should be dismissed as moot.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the motion filed by Prudential Drilling Co. (Operator), agent for Clegg & Hunt et al., in Docket No. RI60-405 on January 25, 1968, should be dismissed as moot.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Brammer Engineering, Inc., Agent (Operator), et al., should be made a co-respondent in the proceeding pending in Docket No. RI68-348 and that the proceeding should be redesignated accordingly.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Nielson Enterprises, Inc., should be made a co-respondent in the proceeding pending in Docket No. RI67-465, that said proceeding should be redesignated accordingly, and that Nielson Enterprises, Inc., should be required

to file an agreement and undertaking in said proceeding.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on certain applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d) (3) of the Commission's statement of general policy No. 61-1, as amended, shall be filed prior to the applicable date indicated in the tabulation herein.

(E) The certificates issued herein and the amended certificate are subject to the following conditions:

(a) The initial rates for sales authorized in Docket No. CI61-1653 shall be 16 cents per Mcf at 14.65 p.s.i.a. for gas-well gas or residue derived therefrom and 15.23 cents per Mcf at 14.65 p.s.i.a. for casinghead gas, the applicable area base rates prescribed in Opinion No. 468, as modified by Opinion No.

468-A as adjusted for quality or the contract rate, whichever is lower.

(b) The initial rate for the sale authorized in Docket No. CI69-425 shall be the applicable area base rate prescribed in Opinion No. 468, as modified by Opinion No. 468-A, as adjusted for quality of gas, or the contract rate, whichever is lower.

(c) If the quality of the gas delivered by Applicants in Dockets Nos. CI61-1653 and CI69-425 deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468-A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however*, that adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rates.

(d) Within 90 days from the date of initial delivery Applicant in Docket No. CI69-425 shall file a rate schedule quality statement in the form prescribed in Opinion No. 468-A.

(e) Refunds of amounts collected in excess of the applicable area rate for casinghead gas in Docket No. CI61-1653 are subject to the order implementing Opinion No. 468 and 468-A issued August 9, 1968, in Docket No. AR61-1 et al.

(f) The sale authorized in Docket No. CI66-1331 shall be made at the initial rate of 15 cents per Mcf at 14.65 p.s.i.a., including tax reimbursement. Applicant shall file a billing statement as required by the Natural Gas Act to reflect the 15-cent rate.

(F) The orders issuing certificates in Dockets Nos. G-3973, G-11860, CI65-875, and CI66-1331 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(G) The orders issuing certificates in Dockets Nos. G-11072, G-12525, CI63-1166, and CI64-55 are amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicants in Dockets Nos. CI69-402, CI69-281, CI68-1305, and CI68-903, respectively.

(H) The orders issuing certificates in Dockets Nos. CI62-440, CI63-1091, and CI63-1343 are amended by substituting the successors in interest as certificate holders.

(I) The orders issuing certificates in Dockets Nos. G-11035, CI62-1226, CI63-1109, and CI67-1034 are amended to reflect the change in operator as indicated in the tabulation herein.

(J) Permission for and approval of the abandonment of service by Applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(K) Permission for and approval of the abandonments in Dockets Nos. CI69-416, CI69-429, and CI69-431 shall not be construed to relieve Applicants of any refund obligations which may be ordered in the related rate suspension proceedings pending in Dockets Nos. RI68-424, RI65-564, and RI65-562, respectively.

(L) Permission for and approval of the abandonments in Dockets Nos. CI69-

417, and CI69-418 shall not be construed to relieve Applicants of any refund obligations ordered in Opinion No. 476.

(M) Permission for and approval of the abandonment are granted in Docket No. CI69-377; the certificate heretofore issued in Docket No. G-17657 is terminated; and the temporary certificate issued June 1, 1961, in Docket No. G-17657 is terminated. Docket No. G-17657 shall remain consolidated with the proceeding pending in Docket No. G-13221, et al.

(N) The application filed by Production Distribution, Inc., et al., in Docket No. G-17657 on August 23, 1962, is dismissed as moot.

(O) The certificates heretofore issued in Dockets Nos. G-4955, G-13125, G-17416, CI60-400, CI61-1444, CI63-3, CI64-346, CI65-496, CI66-86, and CI66-680 are terminated.

(P) The motion filed by Prudential Drilling Co. (Operator), agent for Clegg & Hunt et al., in Docket No. RI60-405 on January 25, 1968, is dismissed as moot.

(Q) Brammer Engineering, Inc., Agent (Operator), et al., is made a co-respondent in the proceeding pending in Docket No. RI68-348 and the proceeding is redesignated accordingly.<sup>2</sup>

(R) Nielson Enterprises, Inc., is made a co-respondent in the proceeding pending in Docket No. RI67-465 and said proceeding is redesignated accordingly.<sup>2</sup>

(S) Within 30 days from the issuance of this order Nielson Enterprises, Inc., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI67-465 to assure the refund of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding for sales made pursuant to Nielson's FPC Gas Rate Schedule No. 4 from acreage heretofore dedicated to Marathon Oil Co. FPC Gas Rate Schedule No. 30. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, said agreement and undertaking shall be deemed to have been accepted for filing.

(T) Nielson Enterprises, Inc., shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder, and the agreement and undertaking filed by it in Docket No. RI67-465 shall remain in full force and effect until discharged by the Commission.

(U) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Acting Secretary.

<sup>1</sup> John Franks (Operator), et al., and Brammer Engineering, Inc., Agent (Operator), et al.

<sup>2</sup> Marathon Oil Co. (Operator) et al., and Nielson Enterprises, Inc.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPO rate schedule to be accepted	Description and date of document	No.	Supp.
G-3073-1 D 10-28-68	Mobil Oil Corp. (partial abandonment)	Texas Eastern Transmission Corp., South Cottonwood Creek Field, De Witt County, Tex.	413	Notice of cancellation 10-25-68.3	0	
G-11035 E 10-21-68	Prudential Drilling Co. (Operator), agent for Clegg & Hunt, et al. (successor to Clegg & Hunt (Operator) et al.)	Texas Gas Pipe Line Corp., Gilbert Woods and Marrs McLean Fields, Jefferson County, Tex.	1	Notice of cancellation 10-17-68	1	1-2
G-11890 D 10-29-68	Mobil Oil Corp. (partial abandonment)	Cities Service Gas Co., North Rhodes Field, Barber County, Kans.	6	Notice of cancellation 10-28-68.3	0	8
CI01-1053 A 8-15-61 C 2-23-65 E 10-28-68	Continental Oil Co. (Operator) et al. Dyna Ray Oil & Gas Co., Inc. (successor to Irving Pasternak)	El Paso Natural Gas Co., Todd Ranch Area, Crockett County, Tex. El Paso Natural Gas Co., South Blanco Pictured Cliffs Field, Rio Arriba and Sandoval Counties, N. Mex.	100 100 2 2	Contract 3-30-61. Supplemental agreement, 1-19-65. Irving Pasternak, FPO GRS No. 3. Supplement Nos. 1-4. Notice of succession 10-23-68.	100 100 2 2	2
CI09-1226 E 10-28-68	Brammer Engineering, Inc., agent (Operator) et al. (successor to John Franks (Operator) et al.)	Texas Eastern Transmission Corp., North Liberty Hill Field, Bienville Parish, La.	3	Assignment 9-20-68. Effective date: 9-1-68. John Franks (Operator) et al., FPO GRS No. 7. Supplement Nos. 1-5. Notice of succession 10-27-68.	3	1-5
CI09-1091 E 7-31-68	Petroleum Promotions, Inc. (successor to Bear Run Oil & Gas Co.)	Consolidated Gas Supply Corp., Hackers Creek District, Lewis County, W. Va.	20	Assignment 8-16-67. Assignment 9-2-67. Assignment 8-4-68. Effective date: 3-1-68. John Franks (Operator) et al., FPO GRS No. 11.	20	1
CI09-1100 E 10-28-68	Brammer Engineering, Inc., agent (Operator) et al. (successor to John Franks (Operator) et al.)	Texas Gas Transmission Corp., Perryville-Custon Area, Lincoln Parish, La.	4	Supplement Nos. 1-3. Notice of succession 10-27-68.	4	1-3
CI09-1342 E 10-28-68	Dyna Ray Oil & Gas Co., Inc. (successor to Irving Pasternak)	El Paso Natural Gas Co., South Blanco Pictured Cliffs Field, Rio Arriba and Sandoval Counties, N. Mex.	1	Effective date: 9-1-68. FPO GRS No. 5. Supplement Nos. 1-4. Notice of succession 10-23-68.	1	1-4
CI09-875 C 10-28-68	CWM and VLM Trust	El Paso Natural Gas Co., Haslo Dakota Field, Santa Juan County, N. Mex.	1	Assignment 9-20-68. Effective date: 9-1-68. Supplemental agreement 9-23-68.3	1	5
CI09-1331 C 10-21-68	William E. Snee et al.	Arkansas Louisiana Gas Co., Arkoma Area, Le Flore County, Okla.	5	Amendatory agreement 9-24-68.3	5	8

Filing code: A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.  
D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.  
See footnotes at end of table.

FEDERAL REGISTER, VOL. 34, NO. 15—THURSDAY, JANUARY 23, 1969

Docket No. and date filed	Applicant	Purchaser, field, and location	FPO rate schedule to be accepted	Description and date of document	No.	Supp.
CI07-1034 E 10-21-68 as supplemented 10-23-68	Brammer Engineering, Inc., agent (Operator), et al. (successor to John Franks (Operator), et al.)	Arkansas Louisiana Gas Co., Northwest Cointquit Field, Olaborno Parish, La.	2	Contract 4-9-68. Assignment 7-29-68. Letter 11-9-67. Notice of succession 10-17-68. Effective date: 9-1-68.	2	2
CI09-903 (CI04-55) F 1-17-68	Mobil Oil Corp. (successor to Texas Eastern Transmission Corp.)	Arkansas Louisiana Gas Co., Southwest Waukomis Field, Garfield County, Okla.	442	Assignment 7-29-68. Letter 11-9-67. Notice of succession 10-17-68. Effective date: 9-1-68.	442	2
CI09-1306 (CI08-1169) F 9-18-68	Mobil Oil Corp. (successor to La Gloria Oil & Gas Co.)	Arkansas Louisiana Gas Co., Amos Area, Major County, Okla.	483	Contract 4-11-68. Letter 11-1-67. Notice of succession 10-17-68. Effective date: 9-1-68.	483	2
(G-12525) <sup>1</sup> CI09-377 (G-17657) C 4-17-61.7 E 8-23-68.3 B 10-7-68	Marathon Oil Co. (Operator) et al. Production Distribution, Inc., et al. <sup>2</sup>	Transcontinental Gas Pipe Line Corp., Reeves Field, Alton Parish, La.	30	Assignment 9-13-68.3	30	12
CI09-386 A 10-17-68	Crescent Oil Co.	United Fuel Gas Co., acreage in Wayne County, W. Va.	1	Contract 9-30-68.3	1	3
CI09-395 A 10-21-68	Jegruss Oil Corp.	United Fuel Gas Co., East Spenser Field, Boone County, W. Va.	1	Contract 10-1-68.3	1	1
CI09-390 A 10-21-68	Atlantic-Inland Oil Corp.	United Fuel Gas Co., Jackson Run Field, Jackson County, W. Va.	1	Contract 8-1-68.3	1	1
CI09-481 A 10-18-68	Empire-Pacific Oil, Ltd.	El Paso Natural Gas Co., Ginder Buttes Field, LaPlata County, Colo.	10	Contract 8-28-68.3. Assignment 10-3-68.3	10	1
CI09-402 (G-11072) F 10-18-68	Sidwell Oil & Gas, Inc. (Operator) et al. (successor to Sun Oil Co.)	Panhandle Eastern Pipe Line Co., Hansford, Morrow Lower Field, Hansford County, Tex.	323	Contract 7-10-68.3	323	1
CI09-403 A 10-22-68	Atlantic Richfield Co.	Kansas-Nebraska Natural Gas Co., Inc., Red Lion Field, Sedgewick County, Colo.	1	Contract 10-17-68	1	1
CI09-404 A 10-22-68	Omega Gas Co.	Montana-Dakota Utilities Co., Richland Plant, Bronson Field, Richland County, Mont.	68	Notice of cancellation 10-18-68.3	68	2
CI09-408 (CI09-480) B 10-23-68	Coastal States Gas Producing Co. (Operator) et al.	Texas Eastern Transmission Corp., Borchers Field, Victoria County, Tex.	1	Notice of cancellation 10-22-68.3	1	1
CI09-400 (CI09-30) B 10-24-68	Frankel Oil & Gas Co. (Operator) et al.	Valley Gas Transmission, Inc., Gum Cove Field, Cameron Parish, La.	7	Contract 7-1-68.3	7	1
CI09-410 A 10-23-68	Tesoro Petroleum Corp.	Mountain Fuel Supply Co., Big Gulch Field, Moffat County, Colo.	6	Contract 7-10-68.3	6	1
CI09-411 A 10-24-68	E. Lytle Johnson	Kansas-Nebraska Natural Gas Co., Inc., Red Line and Marks Butte Fields, Sedgewick County, Colo.	1	Notice of cancellation 11-14-68.3.3	1	8
CI09-415 (G-4055) B 10-23-68	Slocum Gas Co. <sup>3</sup>	United Gas Pipe Line Co., Grapeland Field, Houston County, Tex.	146	Notice of cancellation 10-22-68.3	146	4
CI09-410 B 10-25-68	Sunray DX Oil Co.	Northern Natural Gas Co., Harper Ranch Field, Clark County, Kans.				

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI60-417 (CI63-3) B 10-25-68	George R. Brown (Operator) et al.	Lone Star Gathering Co., Belitz Field, DeWitt County, Tex.	Notice of cancellation 10-23-68. <sup>35</sup>	34	11 2
CI60-418 (CI64-346) B 10-25-68	Highland Oil Co.	Lone Star Gathering Co., North Koenig Field, DeWitt County, Tex.	Notice of cancellation 10-23-68. <sup>35</sup>	35	5 2
CI60-422 A 10-28-68 <sup>12</sup>	An-Son Corp.	Natural Gas Pipeline Co. of America, Mocane-Laverne Field, Beaver County, Okla.	Contract 7-26-68 <sup>13</sup>	36	-----
CI60-424 A 10-29-68 <sup>12</sup>	J. L. Trittipio, Inc.	United Fuel Gas Co., Poca District, Putnam County, W. Va.	Contract 10-8-68 <sup>13 37</sup>	2	-----
CI60-425 A 10-29-68	Sun Oil Co. <sup>36</sup> (South- west Division).	El Paso Natural Gas Co., Spraberry Trend Field, Reagan County, Tex.	Contract 10-7-68	242	-----
CI60-428 (CI65-496) B 10-30-68	Callery Properties, Inc. (Operator), et al.	United Fuel Gas Co., Florence Field, Vermil- ion Parish, La.	Notice of cancellation 10-30-68. <sup>23</sup>	12	1
CI60-429 (G-17416) B 10-30-68	Francis A. Callery (Operator), et al.	United Gas Pipe Line Co., East Gibson Field, Terrebonne Parish, La.	Notice of cancellation 10-30-68. <sup>23</sup>	37	16 14
CI60-430 (CI60-400) B 10-30-68	Callery Properties, Inc. (Operator), et al.	United Fuel Gas Co., South Pecan Lake Field, Cameron Parish, La.	Notice of cancellation 10-30-68. <sup>23</sup>	3	1
CI60-431 (CI61-1444) B 10-30-68	Callery Properties, Inc., et al.	United Gas Pipe Line Co., East Gibson Field, Terrebonne Parish, La.	Notice of cancellation 10-30-68. <sup>23</sup>	40	6 2

<sup>1</sup> Other sales covered under Docket No. G-3973; therefore, the certificate in said docket will be terminated only with respect to Applicant's FPC GRS No. 413.

<sup>2</sup> Source of gas depleted.

<sup>3</sup> Effective date: Date of this order.

<sup>4</sup> Application to amend the certificate to reflect change in operator.

<sup>5</sup> Commission order issued July 28, 1967, in Docket No. RI61-230 et al., stated that the proceedings in Docket No. RI60-405 would be closed upon compliance with the order. Clegg & Hunt has complied with the order and Applicants' motion to be substituted as Respondent will be dismissed as moot.

<sup>6</sup> By letter filed Sept. 30, 1968, Applicant agreed to accept a permanent certificate containing conditions imposed by Opinion No. 468, as modified by Opinion No. 468-A.

<sup>7</sup> The sale authorized in Docket No. CI62-1226 shall be made at the rate of 16.7766 cents including 1.75-cent tax reimbursement at 15.025 p.s.i.a.

<sup>8</sup> Replaces short-form statement submitted by predecessor pursuant to section 154.92(c) of the regulations.

<sup>9</sup> From Bear Run Oil & Gas Co. to Richard O. Harper.

<sup>10</sup> From Richard O. Harper to Petroleum Promotions, Inc.

<sup>11</sup> From Bear Run Oil & Gas Co. to Petroleum Promotions, Inc.

<sup>12</sup> Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.

<sup>13</sup> Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).

<sup>14</sup> By letter dated Nov. 13, 1968 (filed Nov. 14, 1968), Applicant indicated willingness to accept permanent authorization for the additional acreage conditioned to 15 cents. Contractual rate is 16.015 cents including 0.015-cent tax reimbursement.

<sup>15</sup> Partial successor in interest to Texas Eastern Transmission Corp. whose sales were previously covered under Union's FPC GRS No. 148, Docket No. CI64-55.

<sup>16</sup> Also on file as Union Oil Co. of California FPC GRS No. 148.

<sup>17</sup> Conveys subject acreage from Union Oil Co. of California to Texas Eastern Transmission Corp.

<sup>18</sup> Reflects reassignment of subject acreage from Texas Eastern Transmission Corp. to Mobil Oil Corp.

<sup>19</sup> Partial successor in interest to LaGloria Oil & Gas Co. whose sales were previously covered under Harry L. Blackstock, Jr. (Operator), et al., FPC GRS No. 1, Docket No. CI63-1166.

<sup>20</sup> Adopts contract dated Jan. 28, 1963 between Harry L. Blackstock, Jr., and buyer; on file as Harry L. Blackstock, Jr. (Operator), et al., FPC GRS No. 1.

<sup>21</sup> Reflects transfer of acreage from LaGloria Oil & Gas Co. to Mobil Oil Corp.

<sup>22</sup> Part of the acreage was previously covered by Marathon Oil Co.'s certificate in Docket No. G-12525.

<sup>23</sup> Supersedes contract dated Apr. 9, 1957, on file as Marathon Oil Co. FPC GRS No. 30, with respect to acreage acquired from Marathon via assignment dated Mar. 13, 1968 (Jan. 1, 1970, moratorium applicable to newly dedicated acreage only).

<sup>24</sup> No certificate filing made or necessary; only the related rate filing is being accepted for filing by this order.

<sup>25</sup> Conveys acreage from Marathon to Nielson Enterprises, Inc.

<sup>26</sup> Production Distribution, Inc., et al., as successor to Beck Oil Co. et al., submitted abandonment application.

<sup>27</sup> Temporary certificate issued June 1, 1961; Supp. No. 1 consolidated in the certificate proceeding in Docket No. G-13221 et al. (Opinion No. 436). The temporary certificate in Docket No. G-17657 will be terminated.

<sup>28</sup> Production Distribution, Inc., et al., filed application to be substituted as certificate holder in lieu of Beck Oil Co. et al., in Docket No. G-17657. No Commission action was taken on this application, Supp. No. 2 redesignating the rate schedule has not been accepted for filing; therefore, the application will be dismissed and the related rate schedule canceled.

<sup>29</sup> Cancels Beck Oil Co. et al., FPC GRS No. 1.

<sup>30</sup> Currently on file as Sun Oil Co. FPC GRS No. 78.

<sup>31</sup> Assigns acreage from Sun Oil Co. to Applicant.

<sup>32</sup> Applicant as successor to William C. Wiederhold (Operator), agent for the Estate of R. G. Piper et al., submitted application to abandon the acquired properties.

<sup>33</sup> Cancels William C. Wiederhold (Operator), agent for the Estate of R. G. Piper et al., FPC GRS No. 1.

<sup>34</sup> Rate of 16 cents effective subject to refund in Docket No. RI63-424.

<sup>35</sup> Sale of gas in interstate commerce discontinued Oct. 31, 1967, buyer authorized to abandon interstate service by order of Sept. 15, 1967.

<sup>36</sup> Rate of 16 cents found proper in Opinion No. 476.

<sup>37</sup> Provides for sale of gas produced from The Newburg Formation only.

<sup>38</sup> Applicant has stated willingness to accept a permanent certificate in accordance with the terms and conditions of Opinion No. 468, as modified by Opinion No. 468-A.

<sup>39</sup> Rate of 22.75 cents effective subject to refund in Docket No. RI65-564.

<sup>40</sup> Rate of 22.75 cents effective subject to refund in Docket No. RI65-562.

## Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent) \_\_\_\_\_

Docket No. \_\_\_\_\_

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of § 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. \_\_\_\_\_, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 196\_\_.

(Name of Respondent)

By \_\_\_\_\_

Attest:

[F.R. Doc. 69-677; Filed, Jan. 22, 1969; 8:45 a.m.]

[Docket No. G-3573, etc.]

### SOUTHERN PETROLEUM EXPLORATION, INC. ET AL.

#### Findings and Order

DECEMBER 23, 1968.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, terminating rate proceeding, making successor co-respondent, substituting respondent, redesignating proceedings, requiring filing of agreements and undertakings, requiring filing of rider to surety bond, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area

base rates, adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Aztec Oil & Gas Co., Applicant in Dockets Nos. G-4581, G-13883, and CI69-188, proposes to continue in toto the sales of natural gas heretofore authorized in Dockets Nos. G-4581 and G-13883 and to continue in part the sale of natural gas heretofore authorized in G-19075, respectively. Said sales are made pursuant to gas purchase contracts presently on file with the Commission as Acoma Oil Corp. FPC Gas Rate Schedule Nos. 2, 3, 7, 8, and 9, and Jay J. Harris et al., FPC Gas Rate Schedule No. 4. Said rate schedules will be redesignated as Applicant's FPC gas rate schedules or the contracts comprising said rate schedules will be accepted for filing as Applicant's FPC gas rate schedules. The presently effective rates under said rate schedules are in effect subject to refund in Dockets Nos. RI64-363 and RI64-667.

Aztec Oil & Gas Co. Certificate Docket No.	Acoma Oil Corp. FPC Gas Rate Schedule No.	Rate proceeding Docket No.
G-4581	2	RI64-363
	3	RI64-363
G-13883	7	RI64-363
	8	RI64-363
	9	RI64-363

Aztec Oil & Gas Co. Certificate Docket No.	Jay J. Harris et al., FPC Gas Rate Schedule No.	Rate proceeding Docket No.
CI69-188	4	RI64-667

Therefore, Applicant will be made a co-respondent in said proceedings; the proceedings will be redesignated accordingly; and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amounts determined to be just and reasonable in said proceedings.

D. H. Byrd (Operator) et al., Applicant in Docket No. CI61-374, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Wiley Page (Operator) et al., FPC Gas Rate Schedule No. 3. Said rate schedule will be redesignated as that of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI64-203, and Applicant indicates in his certificate application that he intends to be responsible for the total refund from the time that the increased rate was made effective subject to refund. Therefore, Applicant will be substituted in lieu of Wiley Page (Operator) et al., as respondent in Docket No. RI64-203; the proceeding will be redesignated accordingly; and Applicant will be required to file a rider to the surety bond presently on file in said proceeding to change Applicant's status from third-party indemnitor to principal in lieu of Wiley Page.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and re-

quired by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on December 19, 1968, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record:

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefore, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service 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 of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in Dockets Nos. G-3573, G-4581, G-7241, G-11120, G-11893, G-13883, CI60-175, CI60-252, CI61-137, CI61-374, CI61-637, CI61-1790, CI62-1251, CI64-844, CI64-902, CI64-953, CI65-461, CI65-1221, CI66-470, CI67-1744, CI68-1038, CI68-1148, and CI68-1266 should be amended as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in the following dockets should be amended to reflect the deletion of acreage where new certificates are

issued herein to authorize service from the subject acreage:

Amend to delete acreage	New certificates
G-8462	CI69-250
G-8592	CI69-250
G-8679	CI69-250
G-8816	CI69-250
G-8854	CI69-250
G-9395	CI69-250
G-9903	CI69-250
G-10613	CI69-250
G-10827	CI69-250
G-10984	CI69-250
G-11821	CI69-250
G-13633	CI69-250
G-14370	CI69-250
G-16528	CI69-250
G-19075	CI69-188
CI61-30	CI69-374
CI63-655	CI69-379
CI65-1307	CI69-392
CI66-805	CI69-250
CI66-899	CI69-250
CI68-199	CI69-250

(7) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(8) The abandonments proposed by Applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate suspension proceeding pending in Docket No. RI65-486 should be terminated.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Aztec Oil & Gas Co. should be made a co-respondent in the proceedings pending in Dockets Nos. RI64-363 and RI64-667, that said proceedings should be redesignated accordingly, and that Aztec should be required to file an agreement and undertaking.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that D. H. Byrd (Operator) et al., should be substituted in lieu of Wiley Page (Operator) et al., as respondent in the proceeding pending in Docket No. RI64-203, that said proceeding should be redesignated accordingly, and that D. H. Byrd should be required to file a rider to the surety bond presently on file in said proceeding.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on certain applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d) (3) of the Commission's statement of general policy No. 61-1, as amended, shall be filed prior to the applicable date indicated in the tabulation herein.

(E) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The initial rates for sales authorized in Dockets Nos. CI64-902, CI66-1072, and CI69-334 shall be the applicable area base rates prescribed in Opinion No. 468, as modified by Opinion No. 468-A, as adjusted for quality of gas, or the contract rates, whichever are lower. If the quality of the gas delivered by Applicants deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468-A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however*, That adjustments reflecting changes in

B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rates. Within 90 days from the date of initial delivery Applicants in Docket Nos. CI64-902 and CI69-334 shall file rate schedule quality statements in the form prescribed in Opinion No. 468-A.

(b) In the event that Applicant in Docket No. CI69-334 under Article Fourth (b) of the subject contract exercises its options to process the gas, Applicant shall submit to the Commission for acceptance, not less than 30 nor more than 90 days prior to the commencement of such processing, a rate schedule supplement setting forth the conditions and details of the contemplated actions.

(c) In the event that any advance payments are made prior to the date of initial delivery under the subject contract, Applicant in Docket No. CI69-334 shall advise the Commission of the amount of such payments, and such payments shall be subject to future orders of the Commission concerning the propriety of such payments.

(d) The certificate issued in Docket No. CI68-1235 is conditioned by limiting the buyer's daily take-or-pay obligations to a 1 to 7,300 Mcf of reserves ratio during the third and fourth contract years.

(e) The certificate issued in Docket No. CI69-318 is conditioned by limiting the buyer's daily take-or-pay obligations to a 1 to 3,650 Mcf ratio of takes to reserves during the first 2 years of the contract and a 1 to 7,300 Mcf ratio of reserves thereafter.

(f) The certificate issued in Docket No. CI69-334 is conditioned by limiting the buyer's daily take-or-pay obligations under the subject contract commencing January 1, 1970, to a 1 to 7,300 Mcf of reserves ratio or 20,000 Mcf per day per well, whichever is lesser.

(g) The certificates issued in Dockets Nos. CI69-59, CI69-115, CI69-209, CI69-315, CI69-318, and CI69-334 are conditioned upon any determination which may be made in the proceeding pending in Docket No. R-338 with respect to the transportation of liquefiable hydrocarbons.

(h) The sale authorized in Docket No. CI69-59 shall be made at the initial rate of 15 cents per Mcf at 14.65 p.s.i.a. and subject to B.t.u. adjustment.

(i) The sale authorized in Docket No. CI69-315 shall be made at the initial rate of 15 cents per Mcf at 14.65 p.s.i.a.

(j) Sales authorized in Dockets Nos. CI68-1235 and CI69-318 shall be made at the initial rate of 15 cents per Mcf at 14.65 p.s.i.a., including tax reimbursement and subject to B.t.u. adjustment.

(k) In the event that the Commission amends its statement of general policy No. 61-1 by adjusting the boundary between the Oklahoma Panhandle area and the Oklahoma "Other" area so as to increase the initial wellhead price for new gas, Applicants in Dockets Nos. CI68-1235 and CI69-318 thereupon may substitute the new rates reflecting the amounts of such increases and there-

after collect the new rates prospectively in lieu of the initial rates herein authorized in said dockets.

(l) Sales authorized in Dockets Nos. CI68-1370, CI69-115, and CI69-209 shall be made at the initial rate of 17 cents per Mcf at 14.65 p.s.i.a., including tax reimbursement and subject to B.t.u. adjustment.

(m) Within 90 days from the date of initial delivery Applicants in Dockets Nos. CI68-1389 and CI69-356 shall file three copies each of a rate schedule quality statement as specified by ordering paragraph (E) of Opinion No. 546.

(F) The orders issuing certificates in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein to authorize service from the subject acreage:

Amend to delete acreage	New certificates
G-8462	CI69-250
G-8592	CI69-250
G-8679	CI69-250
G-8816	CI69-250
G-8854	CI69-250
G-9395	CI69-250
G-9903	CI69-250
G-10613	CI69-250
G-10827	CI69-250
G-10984	CI69-250
G-11821	CI69-250
G-13633	CI69-250
G-14370	CI69-250
G-16528	CI69-250
G-19075	CI69-188
CI61-30	CI69-374
CI63-655	CI69-379
CI65-1307	CI69-392
CI66-805	CI69-250
CI66-899	CI69-250
CI68-199	CI69-250

(G) The orders issuing certificates in Dockets Nos. G-3573, G-7241, G-11120, G-11893, CI60-252, CI61-137, CI61-1790, CI62-1251, CI64-902, CI65-461, CI67-1744, CI68-1038, and CI68-1148 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(H) The orders issuing certificates in Dockets Nos. CI60-175 and CI66-470 are amended to include the interest of the coowners; and the related rate schedule and certificate in Docket No. CI66-470 are redesignated as Sunray DX Oil Co. (Operator) et al.

(I) The orders issuing certificates in Dockets Nos. G-4581, G-13883, CI61-374, CI61-637, and CI68-1266 are amended by substituting the successors in interest as certificate holders.

(J) The orders issuing certificates in Dockets Nos. CI64-844, CI64-953, and CI65-1221 are amended to reflect the change in operator as indicated in the tabulation herein.

(K) Permission for and approval of the abandonment of service by Applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(L) Permission for and approval of the abandonment are granted in Docket No. CI69-390 and the certificate heretofore issued in Docket No. CI61-1103 is terminated. Applicant is not relieved of any refund obligation ordered in Opinion

No. 501. Docket No. CI61-1103 shall remain consolidated with the proceeding pending in Docket No. CI62-1544 et al., for compliance with the refund requirements therein.

(M) The certificates heretofore issued in Dockets Nos. G-14920, G-16549, G-17243, G-20105, CI61-567, CI62-794, CI62-805, CI64-639, CI66-226, and CI66-323 are terminated.

(N) The rate suspension proceeding pending in Docket No. RI65-486 is terminated.

(O) Aztec Oil & Gas Co. is made a co-respondent in the proceedings pending in Dockets Nos. RI64-363<sup>1</sup> and RI64-667<sup>2</sup> and the proceedings are redesignated accordingly.

(P) Within 30 days from the issuance of this order Aztec Oil & Gas Co. shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking to assure the refund of any amounts collected by it in Dockets Nos. RI64-363 and RI64-677, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(Q) Aztec Oil & Gas Co. shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder, and the agreement and undertaking filed by Aztec shall remain in full force and effect until discharged by the Commission.

(R) D. H. Byrd (Operator) et al., is substituted in lieu of Wiley Page (Operator) et al., as respondent in the proceeding pending in Docket No. RI64-203, and the proceeding is redesignated accordingly.<sup>3</sup>

(S) Within 30 days from the issuance of this order D. H. Byrd (Operator) et al., shall execute and file with the Secretary of the Commission a rider to the surety bond presently on file with the Commission in Docket No. RI64-203 to change his status from third-party indemnitor to principal in lieu of Wiley Page (Operator) et al., and to assure the refund of all amounts collected, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such rider shall be deemed to have been accepted for filing.

(T) D. H. Byrd (Operator) et al., shall comply with the refunding and reporting procedure required by the Natural Gas

Act and section 154.102 of the regulations thereunder, and the surety bond filed in Docket No. RI64-203 with Byrd as principal shall remain in full force and effect until discharged by the Commission.

(U) The rate schedules and rate schedule supplements related to the authoriza-

tions granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

[SEAL]

GORDON M. GRANT,  
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted	
			Description and date of document	No. Supp.
G-3573 C 8-16-68 <sup>1</sup>	Southern Petroleum Exploration, Inc.	El Paso Natural Gas Co., Chacra Formation, Rio Arriba County, N. Mex.	Supplemental Agreement 8-13-68. <sup>2</sup>	13 13
G-4581 E 8-5-68	Aztec Oil & Gas Co. (Operator) et al. (successor to Acoma Oil Corp. (Operator) et al.).	El Paso Natural Gas Co., Hedges Unit, Blanco Mesa Verde Field, San Juan County, N. Mex.	Acoma Oil Corp. (Operator) et al., FPC GRS No. 2. Supplement Nos. 1-4. Notice of succession 7-29-68. Assignment 6-25-68. Effective date: 1-1-68.	28 28 1-4
G-4581 E 8-5-68	do	El Paso Natural Gas Co., Maddox-Waller, Mark Maddox, and Waller Units, Blanco Mesa Verde Field, San Juan County, N. Mex.	Acoma Oil Corp. (Operator) et al., FPC GRS No. 3. Supplement Nos. 1-6. Notice of succession 7-29-68. Assignment 6-25-68. Effective date: 1-1-68.	29 29 1-6
G-7241 C 9-3-68 <sup>13</sup>	Aztec Oil & Gas Co.	El Paso Natural Gas Co., Blanco-Mesa Verde Field, San Juan County, N. Mex.	Amendment 8-6-68. <sup>2</sup>	3 23
G-7241 C 10-21-68 <sup>1</sup>	do	El Paso Natural Gas Co., Aztec Pictured Cliffs Field, San Juan County, N. Mex.	Supplemental agreement 9-27-68. <sup>4</sup>	4 23
G-11120 D 10-16-68	Cities Service Oil Co.	Consolidated Gas Supply Corp., Gaskill Township, Jefferson County, Pa.	Sublease agreement 6-12-67. <sup>5 6</sup> Sublease agreement 10-24-67. <sup>6 7 8</sup> Assignment 8-23-67. <sup>8 9</sup>	274 274 15 17 21
G-11893 D 9-25-67	Mobil Oil Corporation.	Northern Natural Gas Co., acreage in Lea County, N. Mex.	Assignment 8-23-67. <sup>8 9</sup>	17 21
G-13883 E 8-5-68	Aztec Oil & Gas Co. (Operator) et al. (successor to Acoma Oil Corp. (Operator) et al.).	Southern Union Gathering Co., Lawson Unit, Blanco Mesa Verde Field, San Juan County, N. Mex.	Acoma Oil Corp. (Operator) et al., FPC GRS No. 7. Supplement Nos. 1-6. Notice of succession 7-29-68. Assignment 6-25-68. Effective date: 1-1-68.	25 25 1-6 7
G-13883 E 8-5-68	do	Southern Union Gathering Co., State Unit, Blanco Mesa Verde Field, San Juan County, N. Mex.	Acoma Oil Corp. (Operator) et al., FPC GRS No. 8. Supplement Nos. 1-6. Notice of succession 7-29-68. Assignment 6-25-68. Effective date: 1-1-68.	26 26 1-6 7
G-13883 E 8-5-68	do	Southern Union Gathering Co., Vasaly Unit, Blanco Mesa Verde Field, San Juan County, N. Mex.	Acoma Oil Corp. (Operator) et al., FPC GRS No. 9. Supplement Nos. 1-6. Notice of succession 7-29-68. Assignment 6-25-68. Effective date: 1-1-68.	27 27 1-6 7
CI60-175 8-26-68 <sup>10</sup>	Pubco Petroleum Corp. (Operator) et al.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	Supplemental agreement 4-9-63.	13 10
CI60-252 C 10-10-68 <sup>1</sup>	Mobil Oil Corp.	Panhandle Eastern Pipe Line Co., Guymon-Hugoton (Deep) Field, Texas County, Okla.	Amendatory agreement 9-17-68. <sup>2 11</sup>	301 6
CI61-137 D 10-27-67	Mobil Oil Corp. et al.	CRA, Inc. (successor to Brooks Gas Corp.), Brooks Field, Irion County, Tex.	Assignment 8-30-67. <sup>8 12</sup>	362 8
CI61-137 D 12-13-67	do	do	Assignment 10-25-67. <sup>8 12</sup>	362 9
CI61-374 E 10-1-68	D. H. Byrd (Operator) et al. (successor to Wiley Page (Operator) et al.).	Texas Eastern Transmission Corp., Willow Springs Field, Gregg County, Tex., and North Lansing Field, Harrison County, Tex.	Wiley Page (Operator) et al., FPC GRS No. 3. Supplement Nos. 1-4. Notice of succession 9-30-68. Effective date: 5-20-68.	1 1 1-4

Filing code: A—Initial service;  
B—Abandonment;  
C—Amendment to add acreage;  
D—Amendment to delete acreage;  
E—Succession;  
F—Partial succession;  
See footnotes at end of table:

<sup>1</sup> Acoma Oil Corp. (Operator) et al., and Aztec Oil & Gas Co. (Operator) et al.  
<sup>2</sup> Jay J. Harris et al., Hugh McMillan, and Aztec Oil & Gas Co. et al.  
<sup>3</sup> D. H. Byrd (Operator) et al.





- <sup>40</sup> Transfers acreage from Sinclair Oil & Gas Co. (now Sinclair Oil Corp.) to American Liberty Oil Co. et al.; previously covered by Sinclair's FPC GRS No. 77, Docket No. G-9395.
- <sup>41</sup> Transfers acreage from Union Producing Co., to Fred LaRue with depth limitations; previously covered by Union's FPC GRS Nos. 92 and 222, Dockets Nos. G-13633 and G-14370, respectively.
- <sup>42</sup> Transfers acreage from Union Producing Co. to Larco Drilling Co. with depth limitations; previously covered by Union's FPC GRS No. 222, Docket No. G-14370.
- <sup>43</sup> Transfers acreage from Humble Oil & Refining Co. to Joseph F. Fritz with depth limitations; previously covered by Humble's FPC GRS No. 110, Docket No. G-8816.
- <sup>44</sup> Transfers acreage from Joseph F. Fritz to Larco Drilling Co.
- <sup>45</sup> Transfers acreage from Southern Natural Gas Co. to Larco Drilling Co. with depth limitations; previously covered under Southern's Rate Schedule F-1, Docket No. G-8679.
- <sup>46</sup> Transfers acreage from Gulf Oil Corp. to Fred LaRue; previously covered by Gulf Oil Corp. FPC GRS No. 92, Docket No. G-10327.
- <sup>47</sup> Transfers acreage from Gulf Oil Corp. to Heber Ladner; previously covered by Gulf Oil Corp. FPC GRS No. 92, Docket No. G-10327.
- <sup>48</sup> Transfers a portion of the acreage from Heber Ladner to Larco Drilling Co. and Joseph F. Fritz.
- <sup>49</sup> Transfers acreage from C. F. & H. Oil Co., Inc., to Larco Drilling Co.; previously covered by C. F. & H. Oil Co., Inc., FPC GRS No. 1, Docket No. G-10613.
- <sup>50</sup> Transfers acreage from Marathon Oil Co. to Fred LaRue, et al., with depth limitations; previously covered by Marathon's FPC GRS No. 16, Docket No. G-11821.
- <sup>51</sup> Transfers operating rights from Ridgway Management, Inc., et al., to Larco Drilling Co.; previously covered by C. R. Ridgway and W. B. Ridgway FPC GRS No. 1, Docket No. G-8854.
- <sup>52</sup> Transfers acreage from George D. Hunt and Bonnie Compton Whitaker to Larco Drilling Co.; previously covered by George D. Hunt et al., FPC GRS No. 1, Docket No. G-8462.
- <sup>53</sup> Instrument whereby Larco Drilling Co. et al., transfer acreage acquired (Supp. Nos. 1-21) to Lamar Corp. Larco et al., also assigned acreage covered by Larco Drilling Co. FPC GRS No. 2, Docket No. CI66-899, and Fred LaRue FPC GRS Nos. 1, 2, 3, and 7, Dockets Nos. G-9903, G-16528, CI66-805, and CI68-189, respectively.
- <sup>54</sup> Transfers production payment to Lamar Corp.
- <sup>55</sup> Instrument whereby Lamar Corp., Almagest, Inc., Latham Oil Co., Inc., merge together, Latham Oil Co., Inc., being the surviving corporation.
- <sup>56</sup> Currently on file as Shell Oil Co., FPC GRS No. 306.
- <sup>57</sup> Complies with temporary certificate issued Oct. 18, 1968; Applicant states willingness to accept a permanent certificate conditioned to an initial rate of 15 cents per Mcf and subject to the outcome of the proceeding in Docket No. R-338.
- <sup>58</sup> Accepts and complies with the temporary certificate issued Oct. 25, 1968; Applicant has expressed willingness to accept a permanent certificate conditioned similarly to the temporary certificate issued by letter dated Nov. 8, 1968.
- <sup>59</sup> Production ceased due to waterflogging.
- <sup>60</sup> A proposed rate of 14 cents was suspended in Docket No. RI65-486 but was never placed into effect; therefore, the rate suspension proceeding pending in Docket No. RI65-486 will be terminated.
- <sup>61</sup> Source of gas depleted.
- <sup>62</sup> Production of gas no longer economically feasible.
- <sup>63</sup> Amended contract summary filed.
- <sup>64</sup> Currently on file as Kirby Petroleum Co., FPC GRS No. 26.
- <sup>65</sup> Assigns acreage from Kirby Petroleum Co. to Applicant.
- <sup>66</sup> Partially supersedes Oct. 31, 1962 contract (Equitable Contract No. 6895); on file as George L. Yaste, d.b.a. Oil States Sales Co., FPC GRS No. 6.
- <sup>67</sup> Sale being made without prior Commission authorization.
- <sup>68</sup> Currently on file as Texas Oil & Gas Corp., FPC GRS No. 49.
- <sup>69</sup> Rate of 16 cents per Mcf found proper in Opinion No. 501.
- <sup>70</sup> Part of the acreage was previously covered by Anadarko Production Co.'s certificate in Docket No. CI65-1307 (Jan. 1, 1970, moratorium applicable to the newly dedicated acreage only).
- <sup>71</sup> Adopts terms of contract dated May 17, 1965, between Ambassador Oil Corp. (Anadarko's predecessor) et al., and the buyer; on file as Anadarko Production Co. (Operator) et al., FPC GRS No. 109.

Suggested general undertaking in accordance with Order No. 377:

BEFORE THE FEDERAL POWER COMMISSION  
(Name of Respondent) \_\_\_\_\_

GENERAL UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees to comply with the refunding and reporting provisions of § 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to any present and future rate increases suspended under section 4(e) of the Natural Gas Act and collected subject to refund thereunder and has caused this undertaking to be executed and sealed in its name by a duly authorized officer this \_\_\_\_\_ day of \_\_\_\_\_, 196\_\_\_\_\_

(Name of Respondent)  
By \_\_\_\_\_

Attest:

[F.R. Doc. 69-680; Filed, Jan. 22, 1969; 8:45 a.m.]

[Docket No. G-2594 etc.]

## SOUTHWEST GAS PRODUCING COMPANY, INC., ET AL.

### Findings and Order

JANUARY 14, 1969.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, making successors

co-respondents, redesignating proceedings, requiring filing of agreement and undertaking, accepting agreement and undertaking for filing, and accepting related rate schedules and supplements for filing.

Each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates, adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Forest Oil Corp. (Operator) et al., Applicant in Docket No. CI69-426, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-4229 to be made pursuant to Asso-

ciated Programs, Inc. (Operator), et al., FPC Gas Rate Schedule No. 3. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI65-581, and Applicant proposes to continue collecting part of that increased rate. Therefore, Applicant will be made a co-respondent in the proceeding pending in Docket No. RI65-581; said proceeding will be redesignated accordingly; and Applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

Payne Producing Co., Applicant in Docket No. CI69-476, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI60-441 to be made pursuant to CRA, Inc. (Operator), et al., FPC Gas Rate Schedule No. 11. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of Applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI65-583, and Applicant indicates in its certificate application that it intends to be responsible for all refunds from the time that the increased rate was made effective subject to refund with respect to sales from the assigned acreage. Concurrently with its certificate application Applicant filed an agreement and undertaking to assure such refunds. Therefore, Applicant will be made a co-respondent in the proceeding pending in Docket No. RI65-583; said proceeding will be redesignated accordingly; and the agreement and undertaking will be accepted for filing.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, petitions to intervene by Skelly Oil Co. and Sinclair Oil Corp. were filed in Docket No. CI63-708, in the matter of the application filed on August 10, 1966, in said docket. The petitions to intervene have been withdrawn, and no other petitions to intervene, notices of intervention, or protests to the granting of any of the applications have been filed.

At a hearing held on January 9, 1969, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record:

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the

jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service 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 of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in Dockets Nos. G-2594, G-3162, G-3169, G-3913, G-4229, G-5145, G-5715, G-6480, G-7160, G-7229, G-8524, G-8789, G-13322, CI60-441, CI63-263, CI63-489, CI63-708, CI63-1101, CI66-1213, CI67-142, CI67-481, CI67-1833, and CI68-676 should be amended as hereinafter ordered and conditioned.

(6) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonment proposed by Applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Forest Oil Corp. (Operator) et al., should be made a co-respondent in the proceeding pending in Docket No. RI65-581, that said proceeding should be redesignated accordingly, and that Forest should be required to file an agreement and undertaking.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Payne Producing Co.

should be made a co-respondent in the proceeding pending in Docket No. RI65-583, that said proceeding should be redesignated accordingly, and that the agreement and undertaking submitted by Payne in said proceeding should be accepted for filing.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The grant of the certificates issued herein on certain applications filed after July 1, 1967, is upon the condition that no increase in rate which would exceed the ceiling prescribed for the given area by paragraph (d)(3) of the Commission's statement of general policy No. 61-1, as amended, shall be filed prior to the applicable date indicated in the tabulation herein.

(E) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The initial rates for sales authorized in Dockets Nos. G-7160, CI63-708,

CI67-481, and CI69-406 shall be the applicable area base rates prescribed in Opinion No. 468, as modified by Opinion No. 468-A, as adjusted for quality of the gas, or the contract rates, whichever are lower. If the quality of the gas delivered by Applicants deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468-A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however*, That adjustments reflecting changes in B.t.u. content of the gas shall be made in accordance with the applicable formula and charged without the filing of notices of changes in rate.

(b) Within 90 days from the date of initial delivery Applicants in Dockets Nos. G-7160, CI67-481, and CI69-406 shall file rate schedule quality statements in the form prescribed in Opinion No. 468-A. Applicant in Docket No. CI63-708 shall file a rate schedule quality statement within 45 days from the date of this order.

(c) In the event that Applicant in Docket No. CI69-406 under Article Fourth (b) of its related rate schedule exercises its option to process the gas, Applicant shall submit to the Commission for acceptance, not less than 30 nor more than 90 days prior to the commencement of such processing, a rate schedule supplement setting forth the conditions and details of the contemplated action.

(d) In the event that any advance payments are made prior to the date of initial delivery under the subject contract, or any payments are made pursuant to drilled well contribution or production payment agreements, Applicant in Docket No. CI69-406 shall advise the Commission of the amount of such payments, and such payments shall be subject to future orders of the Commission concerning the propriety of such payments.

(e) The certificate issued in Docket No. CI69-406 is conditioned by limiting the buyer's daily take-or-pay obligations under the subject contract commencing January 1, 1970, to a 1 to 7,300 Mcf of reserve ratio or 20,000 Mcf per day per well, whichever is lesser.

(f) The certificates issued herein in Dockets Nos. CI69-405 and CI69-406 are conditioned upon any determination which may be made in the proceeding pending in Docket No. R-338 with respect to the transportation of liquefiable hydrocarbons.

(g) Sales authorized in Docket No. G-6480 shall be made at the predecessor's rate of 13 cents per Mcf at 15.025 p.s.i.a. and the 1 cent per Mcf minimum guarantee for liquids shall not be applicable for this sale.

(h) The sale authorized in Docket No. CI68-1297 shall be made at the initial rate of 15 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment. Acceptance of the related rate filing is contingent upon Applicant's filing three copies of a revised billing statement as required by the Natural Gas Act to reflect the 15 cents rate.

NOTICES

(i) The sale authorized in Docket No. CI69-341 shall be made at the initial rate of 15 cents per Mcf at 14.65 p.s.i.a., including tax reimbursement and subject to B.t.u. adjustment. In the event that the Commission amends its statement of general policy No. 61-1, by adjusting the boundary between the Oklahoma Panhandle area and the Oklahoma "Other" area so as to increase the initial wellhead price for new gas, Applicant thereupon may substitute the new rate reflecting the amount of such increase and thereafter collect the new rate prospectively in lieu of the initial rate herein authorized.

(j) The certificate issued in Docket No. CI69-341 is conditioned by limiting the buyer's daily take-or-pay obligations to a 1 to 7,300 Mcf of reserves ratio during the third contract year.

(k) The sale authorized in Docket No. CI69-472 shall be made at the initial rate of 17 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment. The certificate is conditioned by limiting the buyer's daily take-or-pay obligations to a 1 to 7,300 Mcf of reserves ratio during the first and second contract years.

(l) The certificates issued in Dockets Nos. CI69-330 and CI69-378 are conditioned by limiting the buyer's daily take-or-pay obligations to a 1 to 7,300 Mcf of reserves ratio.

(m) The acceptance for filing of the related rate filing in Docket No. CI69-376 is contingent upon Applicant's filing three copies of a billing statement as required by the regulations under the Natural Gas Act.

(n) The orders issuing certificates in Dockets Nos. G-2594, G-3162, G-3169, G-3913, G-5145, G-5715, G-6480, G-7160, G-7229, G-8524, G-13322, CI63-263, CI63-489, CI63-708, CI66-1213, CI67-142, CI67-481, CI67-1833, and CI68-676 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(o) The orders issuing certificates in Dockets Nos. G-4229, G-8789, CI60-441, and CI63-1101<sup>1</sup> are amended by deleting therefrom authorization to sell natural gas from acreage assigned to Applicants in Dockets Nos. CI69-426, CI68-1297, CI69-376, and G-6480, respectively.

(p) Permission for and approval of the abandonment of service by Applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(q) The certificates heretofore issued in Dockets Nos. G-18443 and CI61-1125 are terminated.

(r) Forest Oil Corp. (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI65-581, and said proceeding is redesignated accordingly.<sup>2</sup>

(s) Within 30 days from the issuance of this order Forest Oil Corp. (Operator) et al., shall execute, in the form set out

below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking to assure the refund of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in Docket No. RI65-581. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing.

(L) Forest Oil Corp. (Operator) et al., shall comply with the refunding and reporting procedure of the Natural Gas Act and section 154.102 of the regulations thereunder, and the agreement and undertaking filed by Forest shall remain in full force and effect until discharged by the Commission.

(M) Payne Producing Co. is made a co-respondent in the proceeding pending in Docket No. RI65-583, said proceeding

is redesignated accordingly;<sup>3</sup> and the agreement and undertaking submitted by Payne in said proceeding is accepted for filing.

(N) Payne Producing Co. shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking submitted by Payne in said proceeding shall remain in full force and effect until discharged by the Commission.

(O) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission,

[SEAL] GORDON M. GRANT,  
Secretary.

<sup>3</sup> CRA, Inc. (Operator), et al., and Payne Producing Co.

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted	
			Description and date of document	No. Supp.
G-2594 D 10-21-68	Southwest Gas Producing Co., Inc. (Operator), et al. (partial abandonment).	Mississippi River Transmission Corp., West Unionville Field, Lincoln Parish, La.	Notice of cancellation 10-16-68. <sup>1,2</sup>	2 10
G-3162 D 9-9-68	Jeanne Washburn Holleman (partial abandonment).	do.	Notice of cancellation 9-4-68. <sup>1,2</sup>	1 8
G-3169 D 9-9-68	M. H. Marr (partial abandonment).	do.	Notice of cancellation 9-5-68. <sup>1,2</sup>	1 9
G-3913 D 9-27-68	Ashland Oil & Refining Co. (partial abandonment).	do.	Notice of cancellation 9-25-68. <sup>1,2</sup>	104 11
G-5145 (C866-65) (C866-27) D 3	Humble Oil & Refining Co. (Operator) et al.	El Paso Natural Gas Co., Strawberry Area, Glasscock County, Tex.	Assignment 9-20-68 <sup>4</sup> Assignment 9-26-68 <sup>5</sup> Effective date: 10-1-68.	5 62 5 63
G-5715 D 8-20-65	Cabot Corp. (SW)	Phillips Petroleum Co., Hugoton Field, Texas County, Okla.	Letter agreement 7-20-65. <sup>6</sup>	26 3
G-6480 (CI63-1101) C 10-28-68	Brookhaven Oil Co.	El Paso Natural Gas Co., Blanco Mesa Verde Field, San Juan County, N. Mex.	Assignment 8-27-68 <sup>7</sup> Effective date: 8-27-68.	3 22
G-7160 C 8-29-68	Gulf Oil Corp. <sup>3</sup> (Operator) et al.	Northern Natural Gas Co., Blinbery and Tubbs Gas Pools, Lea County, N. Mex.	Supplemental agreement 7-15-68. <sup>8</sup>	15 24
G-7229 D 10-2-68	Arka Exploration Co. (partial abandonment).	Mississippi River Transmission Corp., West Unionville Field, Lincoln Parish, La.	Notice of cancellation 9-30-68. <sup>1,2</sup>	3 15
G-8524 D 9-5-68	Charles K. Williams (partial abandonment).	do.	Notice of cancellation 8-29-68. <sup>1,2</sup>	1 8
G-13322 D 9-13-68	The Lincoln-Converse Co. (partial abandonment).	do.	Notice of cancellation 9-11-68. <sup>1,2</sup>	1 11
CI63-263 C 11-9-68 <sup>10</sup>	King Resources Co. (Operator) et al.	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	Amendatory agreement 9-9-68. <sup>9</sup>	1 10
CI63-489 D 11-13-68	Ashland Oil & Refining Co.	Michigan Wisconsin Pipe Line Co., Cedardale Field, Woodward County, Okla.	Amendatory agreement 10-11-68. <sup>9,11</sup>	81 14
CI63-708 C 8-10-68 <sup>13</sup> C 1-27-67 <sup>12</sup> C 5-5-67 <sup>12</sup>	CRA, Inc. <sup>12</sup>	Northern Natural Gas Co., Velrex and Eldorado Fields, Schleicher County, Tex.	Supplemental agreement 7-21-66. Supplemental agreement 8-22-66. Supplemental agreement 1-23-67. Amendatory agreement 1-23-67. Amendatory agreement 2-10-67. Amendatory agreement 4-13-67. Letter 6-1-67.	49 2 49 3 49 4 49 5 49 6 49 7 49 8

Filing code: A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.  
D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.  
See footnotes at end of table.

<sup>1</sup> Only that portion of the acreage assigned to Brookhaven Oil Co.  
<sup>2</sup> Associated Programs, Inc. (Operator), et al., and Forest Oil Corp. (Operator) et al.

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted	Description and date of document	No.	Supp.
CI09-422 A 11-5-68 10	Blak Oil Co.	Northern Natural Gas Co., Unnamed Field, Hutchinson County, Tex.	Contract 10-11-68	Contract 10-11-68	3	1
CI09-454 A 11-6-68 10	Louis H. Weltman (Operator) et al.	United Gas Pipe Line Co., Wilman Field, San Patricio County, Tex.	Contract 10-21-68	Contract 10-21-68	3	1
CI09-462 (G-1843) A 11-8-68 10	Texas Gas Exploration Corp.	Trunkline Gas Co., West Nonn Mills Field, Hardin County, Tex.	Notice of cancellation (undated), 20	Notice of cancellation (undated), 20	2	1
CI09-463 A 11-8-68 10	Tarpon Management Co., agent for Mary Agnes Fowler Shry.	United Gas Pipe Line Co., Circle A Field, Childress County, Tex.	Contract 9-25-68 10	Contract 9-25-68 10	4	1
CI09-469 A 11-12-68 10	Star Gas Co.	United Gas Pipe Line Co., Star District, Kern River County, Tex.	Contract 8-29-68 10	Contract 8-29-68 10	23	1
CI09-470 (CI01-1125) B 11-8-68 10	Texas Gas Exploration Corp. (Operator) et al.	Commodity Gas Supply Corp., South Bayne Field, Acadia Parish, La.	Notice of cancellation (undated), 20	Notice of cancellation (undated), 20	5	3
CI09-471 A 11-12-68 10	N. G. Clark et al., d.b.a. Trittippo & Clark.	Equitable Gas Co., Birch District, Brantley County, W. Va.	Contract 7-19-68 10	Contract 7-19-68 10	14	1
CI09-472 A 11-12-68 10	Sun Oil Co. (Southwest Division)	Natural Gas Pipeline Co. of America, East Lake-ton Field, Gray County, Tex.	Contract 11-1-68 10	Contract 11-1-68 10	243	1

Docket No. and date filed	Applicant	Purchaser, field and location	FPC rate schedule to be accepted	Description and date of document	No.	Supp.
C 10-21-68		Mertzon Plant, Iron County, Tex.	Supplemental agreement 8-23-68 10	Supplemental agreement 8-23-68 10	40	12
CI09-4212 C 9-27-68 10 10	J. Gregory Merrion (Operator), et al.	El Paso Natural Gas Co., Southwaco Field, Polk County, Tex.	Supplemental agreement 8-23-68 10	Supplemental agreement 8-23-68 10	4	3
CI07-142 C 10-8-68 10	N. G. Clark	Equitable Gas Co., Hackers Creek District, Travis County, W. Va.	Letter agreement 9-18-68 10	Letter agreement 9-18-68 10	13	2
CI07-481 C 10-8-68 10	Forest Oil Corp. (Operator), et al.	Transwestern Pipeline Co., West Rob Coballo Field, Pees and Reeves Counties, Tex.	Supplemental agreement 9-18-68 10	Supplemental agreement 9-18-68 10	30	4
CI07-1833 D 10-24-68 10	Kerr-McGee Corp. (partial abandonment)	Mississippi River Transmission Corp., West Unionville Field, Lincoln Parish, La.	Notice of cancellation 10-23-68 10	Notice of cancellation 10-23-68 10	100	4
CI08-674 C 1-3-68 10	Mobil Oil Corp.	El Paso Natural Gas Co., Flora Vista Field, San Juan County, N. Mex.	Supplemental agreement 1-12-68 10	Supplemental agreement 1-12-68 10	427	5
CI08-1297 (G-8789) F 5-10-68 10	Fruce Anderson, et al. (successor to Colorado Oil & Gas Corp.)	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Greenwood Field, Morton County, Kans.	Supplemental agreement 7-30-68 10	Supplemental agreement 7-30-68 10	427	6
(G-8789) 10	Colorado Oil & Gas Corp. (Operator)	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Greenwood Field, Morton County, Kans.	Assignment 6-14-67 20	Assignment 6-14-67 20	25	27
CI09-277 A 10-20-68 10	Carl E. Walters, et al.	Pennzoil United, Inc., McElroy District, Tyler County, W. Va.	Contract 2-1-65 (1241) Assignment 4-30-68 20	Contract 2-1-65 (1241) Assignment 4-30-68 20	2	1
CI09-380 A 9-30-68 10	Burns Truist et al.	Texas Eastern Transmission Corp., Panther Reef Field, Calhoun County, Tex.	Contract 8-27-68 10	Contract 8-27-68 10	1	1
CI09-341 A 10-2-68 10	Cities Service Oil Co.	Panhandle Eastern Pipeline Co., Aledo Field, Custer and Dewey Counties, Okla.	Contract 12-8-67 10	Contract 12-8-67 10	303	1
CI09-376 (CI09-441) F 10-4-68 10	Payne Producing Co. (successor to C.R.A. Inc.)	Texas San Juan Oil Corp., Miller and Fox Fields, Duval County, Tex.	Contract 2-22-60 20	Assignment 3-1-68 20	9	1
CI09-378 A 10-11-68 10	S. A. Story & Associates.	Texas Eastern Transmission Corp., Plymouth East 4600 Field, San Patricio County, Tex.	Contract 8-30-68 10	Contract 8-30-68 10	1	1
CI09-405 A 10-23-68 10	Ashland Oil & Refining Co.	Panhandle Eastern Pipeline Co., Cedarvale Field, Woodward County, Okla.	Contract 10-4-68 10	Contract 10-4-68 10	104	1
CI09-409 A 10-23-68 10	Cities Service Oil Co.	Natural Gas Pipeline Co. of America, acreage in Winkler County, Tex.	Contract 8-15-68 10	Contract 8-15-68 10	305	1
CI09-423 A 10-23-68 10	Southwest Oil Industries, Inc.	Michigan Wisconsin Pipeline Co., McCamp-Caverno Field, Harper County, Okla.	Contract 9-9-68 10	Contract 9-9-68 10	10	1
CI09-426 (G-4223) F 10-23-68 10	Forest Oil Corp. (Operator) et al. (successor to associated Programs, Inc.)	Transwestern Pipeline Co., Cago Ranch Field, Brooks County, Tex.	Contract 12-14-64 10	Contract 12-14-64 10	46	1
			Letter agreement 6-21-68 10	Letter agreement 6-21-68 10	46	2
			Letter agreement 6-21-68 10	Letter agreement 6-21-68 10	46	3

See footnotes at end of table.

1 Canceled contract only insofar as it pertains to the Vaughn Sand, Mississippi River Transmission Corp. desires to acquire the reservoir for a gas storage project.

2 Effective date: Date of this order.

3 No certificate filing made or necessary.

4 Transfers acreage from Humble to John L. Cox who has a small producer certificate in Docket No. 0869-65.

5 Transfers acreage from Humble to Morris L. Antwell who has a small producer certificate in Docket No. 0869-27.

6 Deletes all formations below 2,800 feet from the surface of the ground, which Cabot states would not be economical to develop at present price.

7 From Pan American Petroleum Corp. to Brookhaven and El Paso Natural Gas Co. The Pan American and Brookhaven rate schedules are comprised of same contract. The certificate in Docket No. 0163-1101 will be amended only insofar as it covers the interest assigned to Brookhaven.

8 By letter filed Nov. 13, 1968, Applicant agreed to accept permanent authorization conditioned as Opinion No. 493, as modified by Opinion No. 493-A.

9 Effective date: Date of initial delivery (Applicant shall advise the Commission as to such date).

10 Jan. 1, 1970, moratorium pursuant to the Commission's statement of general policy No. 61-1, as amended.

11 Deletes certain expired leases covering acreage in sec. 23, 23 N., 17 W.

12 Applicant has agreed to accept permanent authorization containing Opinion No. 493 conditions.

13 Applications filed by predecessor, Brooks Gas Corp.

14 Effective date: Date of initial delivery (Supp. No. 12 only), all other supplements previously accepted for filing.

15 Application notified as partial succession in interest to Dockets Nos. 0161-623 and 0164-176; further review of the application reveals that the new acreage was not heretofore dedicated to interstate commerce.

16 Covers production from the Wolfcamp formation.

17 Deletes acreage from contract comprising Northwest Production Corp. (Operator) et al., FPO GRS No. 1 and commits acreage to contract comprising Mobil's FPO GRS No. 427. Northwest has not filed for authorization to sell gas from this acreage.

18 Provides for 5-year makeup period with respect to acreage added by supplemental agreements dated Jan. 12, 1968 and Apr. 8, 1968.

19 Also on file as Colorado Oil & Gas Corp. (Operator) et al., FPO GRS No. 25. Covers formations to base of Morrow Formation.

20 Transfers 25-percent interest in 820 acres as to formations below 3600 feet to Anderson et al., from Colorado Oil & Gas Corp., a subsidiary of the buyer. Assignor shall own 75 percent and is still operator.

21 Predecessor's effective base rate is 15 cents and Applicant is willing to accept such rate subject to upward and downward B.t.u. adjustment.

22 No certificate filing made or necessary; only the related rate filing is being accepted for filing by this order.

23 Sale being made without prior Commission authorization by the predecessor.

24 Document whereby Carl E. Walters et al. acquired their interest in the subject properties from H. R. Wright et al.

25 Complies with temporary certificate issued Oct. 31, 1968. Applicant will agree to accept a permanent certificate limiting buyer's take-or-pay obligation to a quantity based on 1 to 1,300 reserve barrels.

26 Complies with temporary certificate issued Nov. 14, 1968. Applicant indicates willingness to accept a permanent certificate conditioned on the final rate of 15 cents per B.t.u. for FPO GRS No. 11.

27 Also on file as C.R.A. et al., FPO GRS No. 427, covering C.R.A. et al., FPO GRS No. 427.

28 Applicant's temporary certificate issued Nov. 18, 1968. Applicant indicates willingness to accept a permanent certificate limiting buyer's take-or-pay obligation to a quantity based on 1 to 7,300 reserve ratio.

<sup>29</sup> By letter dated Nov. 18, 1968, Applicant advised willingness to accept a permanent certificate conditioned to the outcome of the proceeding in Docket No. R-338.

<sup>30</sup> By letter filed Nov. 12, 1968, Applicant agreed to accept a permanent certificate containing conditions set forth in Opinion No. 468, as modified by Opinion No. 468-A. Applicant has agreed to accept authorization with certain issues reserved for determination at a later date (advance payments, transportation of liquefiable hydrocarbons, drilled well contributions and production payments); and with the condition that the buyer's take-or-pay obligation commencing Jan. 1, 1970, shall not exceed the lesser of 20,000 Mcf per day per well or 1 Mcf for each 7,300 Mcf of reserves.

<sup>31</sup> Application filed and noticed as initial service; however, further review of the application reveals that Applicant is partially succeeding to the interest of Associated Programs, Inc., in Docket No. G-4229.

<sup>32</sup> Contract between Associated Oil & Gas Co. and buyer; currently on file as Associated Programs, Inc. (Operator), et al., FPC GRS No. 3.

<sup>33</sup> Provides for the transfer of acreage from Associated Programs, Inc., to Forest Oil Corp.

<sup>34</sup> Clarifies Farmout agreement dated May 25, 1968.

<sup>35</sup> Provides for the transfer of a portion of Forest's interest to Timbuck Co.

<sup>36</sup> Source of gas depleted.

<sup>37</sup> Applicant has indicated willingness to accept a permanent certificate conditioned to 17 cents subject to B.t.u. adjustment (Contract rate is 18.5 cents subject to upward and downward B.t.u. adjustment).

Suggested general undertaking in accordance with Order No. 377:

BEFORE THE FEDERAL POWER COMMISSION  
(Name of Respondent) -----

GENERAL UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees to comply with the refunding and reporting provisions of § 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to any present and future rate increases suspended under section 4(e) of the Natural Gas Act and collected subject to refund thereunder and has caused this undertaking to be executed and sealed in its name by a duly authorized officer this

----- day of -----, 196-----

(Name of Respondent)

By -----

Attest:

[F.R. Doc. 69-748; Filed, Jan. 22, 1969;  
8:45 a.m.]

[Docket No. CP69-48]

### SEA ROBIN PIPELINE CO.

#### Notice of Amendment to Application

JANUARY 17, 1969.

Take notice that on January 15, 1969, Sea Robin Pipeline Co. (Applicant), Post Office Box 1407, Shreveport, La. 71102, filed in Docket No. CP69-48 an amendment to the application filed in that docket on August 30, 1968, in which Applicant now modifies its original request for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act by seeking authorization to construct and operate a revised offshore pipeline system and to increase its purchases of natural gas from offshore producers, all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

The original proposal consisted of approximately 72 miles of 36-inch pipeline, approximately 89 miles of 30-inch pipeline, and approximately 28 miles of 24-inch pipeline. The system was to extend from a point in St. Mary Parish, La., to points in the Ship Shoal Area and the East Cameron Area. The system was expected to have a capacity of 613,000 Mcf per day. The total estimated cost of the originally proposed system, including the necessary gathering and appurtenant facilities, was \$82,385,000.

By the amendment filed January 15, 1969, Applicant now proposes to construct and operate a pipeline system consisting of a 36-inch pipeline extending from a point near Erath, La., 65 miles to

Block 149 in the Vermilion Area. From Block 149 of the Vermilion Area, the pipeline will extend in a southeastern direction approximately 47 miles to Block 205 of the Eugene Island Area utilizing 26- and 24-inch lines. A southwestern extension of approximately 57 miles using 30- and 24-inch lines will be constructed to Block 195 and Block 265 in the East Cameron Area. The total estimated cost of this system, including the necessary appurtenances and gathering lines, is \$75,567,000.

Applicant proposes also to increase the contract quantities available to its pipeline customers from the 613,000 Mcf initially proposed to 800,000 Mcf per day. The natural gas will be sold under a two-part rate which provides for a demand charge of \$1.21 per Mcf.

In this instance it appears that a shorter notice is reasonable and consistent with the public interest, and, therefore, 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 protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a 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. 69-890; Filed, Jan. 22, 1969;  
8:50 a.m.]

[Docket No. CP69-46]

### SOUTHERN NATURAL GAS CO.

#### Notice of Amendment to Application

JANUARY 17, 1969.

Take notice that on January 16, 1969, Southern Natural Gas Co. (Applicant),

Post Office Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP69-46 an amendment to the application filed in the same docket on August 30, 1968, by requesting pursuant to section 7(c) of the Natural Gas Act a certificate of public convenience and necessity authorizing the construction and operation of facilities other than those set forth in the original application, all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

By the original application filed in Docket No. CP69-46 Applicant was to receive natural gas from Sea Robin Pipeline Co. (Sea Robin) at the terminus of the pipeline to be constructed by Sea Robin which was to extend from a point Offshore Louisiana to a point in St. Mary Parish, La. Sea Robin has now decided to construct its pipeline with a terminus in Vermilion Parish, La. As originally proposed, Sea Robin was to deliver natural gas to Applicant at the St. Mary terminus. Sea Robin now proposes to deliver the natural gas to United Gas Pipe Line Co. (United) at the Vermilion terminus. United will transport and now deliver the natural gas to Applicant at the same point in St. Mary Parish, La., where Sea Robin's terminus was originally proposed.

Applicant specifically requests that its application in Docket No. CP69-46 be treated as a request for a certificate of public convenience and necessity authorizing the construction and operation of facilities in St. Mary Parish to receive natural gas from United which will receive the gas from Sea Robin in Vermilion Parish, La.

In this instance it appears that a shorter notice period is reasonable and consistent with the public interest, and, therefore, 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 protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a 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. 69-891; Filed, Jan. 22, 1969;  
8:50 a.m.]

[Docket No. RI69-470]

**REQUESTED INVESTIGATION OF ADEQUACY OF NATURAL GAS RESERVES****Notice of Request for Investigation**

JANUARY 16, 1969.

Take notice that the Public Service Commission of the State of New York, on January 8, 1969, requested that the Federal Power Commission institute an investigation into the adequacy of natural gas reserves and suggested that the scope of the investigation be limited to the off-shore area of Louisiana. A copy of the request of the New York Commission is available for examination in the Office of Public Information of the Federal Power Commission.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than February 13, 1969, data, views, and comments in writing concerning the request for an investigation. An original and 14 conformed copies should be filed with the Commission.

GORDON M. GRANT,  
Secretary,

[F.R. Doc. 69-802; Filed, Jan. 22, 1969;  
8:45 a.m.]

**DEPARTMENT OF THE TREASURY**

Bureau of the Mint

**GUARD FORCE****Appointment as Special Policemen***Correction*

In F.R. Doc. 69-435 appearing at page 520 in the issue of Tuesday, January 14, 1969, the date line immediately preceding the signature should read: "Dated: January 9, 1969."

**DEPARTMENT OF JUSTICE****EXPATRIATION OF UNITED STATES CITIZENS****Attorney General's Statement of Interpretation**

JANUARY 18, 1969.

In *Afroyim v. Rusk*, 387 U.S. 253 (1967), the Supreme Court held unconstitutional section 401(e) of the Nationality Act of 1940, which provided that a citizen of the United States shall lose his citizenship by voting in a foreign political election.<sup>1</sup>

The sweeping language of the *Afroyim* opinion raises questions as to its effect on the validity of expatriation provisions, other than those relating to voting, in the Immigration and Nationality Act ("the Act") or in former law preserved by section 405(c) of the Act, 8 U.S.C.

<sup>1</sup> This provision was reenacted as section 349(a)(5) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(5). The latter is therefore also unconstitutional under *Afroyim*.

1101, note.<sup>2</sup> These questions are of importance to the Department of State in the administration of the passport laws and to the Immigration and Naturalization Service in the administration of the immigration laws.

Of course, the ultimate determination of the effect of *Afroyim* is a matter for the courts. The Act empowers the Attorney General, however, to determine *Afroyim's* effect on the Act for administrative purposes.<sup>3</sup> This Statement of Interpretation will serve to guide both the Department of State and the Immigration and Naturalization Service in the performance of their functions insofar as they involve questions of loss of citizenship.

1. Section 401(e) of the 1940 Act had been ruled constitutional in the Court's earlier decision in *Perez v. Brownell*, 356 U.S. 44 (1958). The majority opinion in *Perez* rejected the argument that "the power of Congress to terminate citizenship depends upon the citizen's assent." 356 U.S. at 61. *Afroyim* expressly overruled *Perez* and held, in agreement with the Chief Justice's dissent in *Perez*, that the Government is without power to deprive a citizen of his citizenship for voting in a foreign election. 387 U.S. at 267. The rule laid down in *Afroyim* is that a U.S. citizen has a constitutional right to remain a citizen "unless he voluntarily relinquishes that citizenship." 387 U.S. at 268.

*Afroyim* did not expressly address itself to the question of defining what declarations or other conduct can properly be regarded as a "voluntary relinquishment" of citizenship. As a consequence, it did not provide guidelines of sufficient detail to permit me to pass definitively upon the validity of other expatriating provisions of the Act. It did, however, stress the constitutional mandate that no citizen born or naturalized in the United States can be deprived of his citizenship unless he has "voluntarily relinquished" it.

On the question of what constitutes "voluntary relinquishment", we must look to earlier cases in the Supreme Court. Some guidance may be found in earlier opinions of the Justices who joined in the Court's opinion in *Afroyim*. Particularly relevant are the Chief Justice's dissent in *Perez*, which was cited in *Afroyim* with approval, and the concurring opinion of Justice Black (who wrote the opinion of the Court in *Afroyim*) in *Nishikawa v. Dulles*, 356 U.S. 129, 138 (1958), decided the same day as *Perez*.

<sup>2</sup> In *Trop v. Dulles*, 356 U.S. 86 (1958), the Court held unconstitutional section 349(a)(8) of the Act, pertaining to desertion from the armed forces, and in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144 (1963), it held unconstitutional section 349(a)(10), pertaining to leaving the United States to avoid military service. In *Schneider v. Rusk*, 377 U.S. 183 (1964), the Court invalidated section 352(a)(1), 8 U.S.C. 1484(a)(1), pertaining to residence in a foreign country by a naturalized citizen.

<sup>3</sup> Section 103(a) of the Act, 8 U.S.C. 1103(a).

In *Perez*, the Chief Justice stated (356 U.S. at 68-69; footnotes omitted):

It has long been recognized that citizenship may not only be voluntarily renounced through exercise of the right of expatriation but also by other actions in derogation of undivided allegiance to this country. While the essential qualities of the citizen-state relationship under our Constitution precludes the exercise of governmental power to divest U.S. citizenship, the establishment of that relationship did not impair the principle that conduct of a citizen showing a voluntary transfer of allegiance is an abandonment of citizenship. Nearly all sovereignties recognize that acquisition of foreign nationality ordinarily shows a renunciation of citizenship. Nor is this the only act by which the citizen may show a voluntary abandonment of his citizenship. Any action by which he manifests allegiance to a foreign state may be so inconsistent with the retention of citizenship as to result in loss of that status. In recognizing the consequences of such action, the Government is not taking away U.S. citizenship to implement its general regulatory powers, for, as previously indicated, in my judgment citizenship is immune from divestment under these powers. Rather, the Government is simply giving formal recognition to the inevitable consequence of the citizen's own voluntary surrender of his citizenship.

In *Nishikawa*, Mr. Justice Black stated (356 U.S. at 139):

Of course a citizen has the right to abandon or renounce his citizenship and Congress can enact measures to regulate and affirm such abjuration. But whether citizenship has been voluntarily relinquished is a question to be determined on the facts of each case after a judicial trial in full conformity with the Bill of Rights. Although Congress may provide rules of evidence for such trials, it cannot declare that such equivocal acts as service in a foreign army, participation in a foreign election or desertion from our armed forces, establish a conclusive presumption of intention to throw off American nationality. *Cf. Tot v. United States*, 319 U.S. 463. Of course such conduct may be highly persuasive evidence in the particular case of a purpose to abandon citizenship.

The foregoing quotations do not come from majority opinions, and *Afroyim* does not adopt them. Indeed, *Afroyim* does not reach the question of whether it may be possible under some circumstances for allegiance to be transferred or abandoned without constituting a voluntary relinquishment of the status of citizenship. That question must await further court decisions. Under any reading of *Afroyim*, however, it is clear that an act which does not reasonably manifest an individual's transfer or abandonment of allegiance to the United States cannot be made a basis for expatriation.

2. For administrative purposes, and until the courts have clarified the scope of *Afroyim*, I have concluded that it is the duty of Executive officials to apply the Act on the following basis. "Voluntary relinquishment" of citizenship is not confined to a written renunciation, as under section 349(a)(6) and (7) of the Act, 8 U.S.C. 1481(a)(6) and (7). It can also be manifested by other actions declared expatriative under the Act, if such actions are in derogation of allegiance to this country. Yet even in those cases, *Afroyim* leaves it open to the individual to raise the issue of intent.

Once the issue of intent is raised, the Act makes it clear that the burden of proof is on the party asserting that expatriation has occurred.<sup>4</sup> *Afroyim* suggests that this burden is not easily satisfied by the Government. In the words of Justice Black quoted above from his concurring opinion in *Nishikawa*, the voluntary performance of some acts can "be highly persuasive evidence in the particular case of a purpose to abandon citizenship." Yet some kinds of conduct, though within the proscription of the statute, simply will not be sufficiently probative to support a finding of voluntary expatriation.

For instance, it is obviously not enough to establish a voluntary relinquishment of citizenship that an individual accepts employment as a public school teacher in a foreign country. This I have already decided in the case of a dual national, *Matter of Sally Ann Becher*, 12 I.&N. Dec. -----; Interim Decision 1771 (Aug. 21, 1967). A different case would be presented by an individual's acceptance of an important political post in a foreign government.<sup>5</sup>

A similar approach can be taken with respect to service in a foreign army, depending on the particular circumstances involved. Thus, an individual who enlists in the armed forces of an allied country does not necessarily evidence that by so doing he intends to abandon his U.S. citizenship. But it is highly persuasive evidence, to say the least, of an intent to abandon U.S. citizenship if one enlists voluntarily in the armed forces of a foreign government engaged in hostilities against the United States.<sup>6</sup>

The examples mentioned above are, of course, merely illustrative. In each case the administrative authorities must make a judgment, based on all the evidence, whether the individual comes within the terms of an expatriation provision and has in fact voluntarily relinquished his citizenship. In order to avoid conflicts in interpretation between the Department of State and the Immigration and Naturalization Service, these agencies should undertake to consult with each other; if any substantial difference should arise as to any particular type of situation, it should be referred to the Attorney General for resolution.

3. Finally, note should be made as to the scope of this Statement of Interpretation. I believe the *Afroyim* principles reach, and therefore this Statement covers, all of section 349(a) of the Act, section 350 insofar as it relates to dual nationals born or naturalized in the United States; and section 405(c) insofar as it purports to continue the effectiveness of individual losses of nationality under the similar provisions of sections 401 and 404 of the Nationality Act of 1940.

<sup>4</sup> Section 349(c) of the Act, added in 1961, 8 U.S.C. 1481(c).

<sup>5</sup> See section 349(a) (4) (A) and (B) of the Act, 8 U.S.C. 1481(a) (4) (A) and (B).

<sup>6</sup> See section 349(a) (3), 8 U.S.C. 1481(a) (3).

There are additional considerations relating to dual nationals born abroad which may affect their acquisition and retention of U.S. citizenship. This matter is currently in litigation.<sup>7</sup> Hence this statement does not necessarily apply to loss of U.S. citizenship acquired as a result of birth abroad to a citizen parent or parents.

This statement has no application to a revocation of naturalization unlawfully procured. See *Afroyim v. Rusk*, 387 U.S. at 267, n.23.

RAMSEY CLARK,  
Attorney General.

[F.R. Doc. 69-947; Filed, Jan. 21, 1969;  
11:57 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### CALIFORNIA

#### Notice of Application for Withdrawal

Pursuant to the regulations in 43 CFR Subpart 2311, I hereby make application for withdrawal of certain public lands in California.

The information required by 43 CFR 2311.1-1 is as follows:

1. Applicant: Assistant Secretary of the Interior, Public Land Management.

2. Legal description:

#### SAN BERNARDINO MERIDIAN

- T. 6 S., R. 5 E.,  
Sec. 2, NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 10, E $\frac{1}{2}$  and N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
Sec. 12, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
T. 15 S., R. 9 E.,  
Sec. 31, SE $\frac{1}{4}$ ;  
Sec. 32, SW $\frac{1}{4}$ .  
T. 16 S., R. 9 E.,  
Sec. 5, lots 7 and 8;  
Sec. 6, lots 8 and 9.  
T. 16 S., R. 9 E.,  
Sec. 10, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ , and E $\frac{1}{2}$ SE $\frac{1}{4}$ .  
T. 17 S., R. 11 E.,  
Sec. 18, lots 1, 2, and 3, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 9 N., R. 12 E.,  
Secs. 3 to 6, inclusive (partly surveyed);  
Sec. 7, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 8, N $\frac{1}{2}$  and N $\frac{1}{2}$ S $\frac{1}{2}$  (unsurveyed);  
Sec. 9, N $\frac{1}{2}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$  (partly surveyed).  
T. 10 N., R. 12 E.,  
Secs. 19 to 22, inclusive;  
Secs. 27 to 34, inclusive;  
Sec. 35, W $\frac{1}{2}$ W $\frac{1}{2}$ .  
T. 14 N., R. 13 E.,  
Sec. 1, S $\frac{1}{2}$ ;  
Secs. 2 and 3;  
Sec. 4, S $\frac{1}{2}$ ;  
Secs. 8, 9, 10, 11, and 12;  
Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
Secs. 14, 15, 17, 20, 21, and 22;  
Sec. 23, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 24;  
Sec. 25, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$ , and S $\frac{1}{2}$ ;  
Secs. 27, 28, 29, 32, 33, 34, and 35.

<sup>7</sup> *Bellet v. Rusk*, awaiting decision in the U.S. District Court for the District of Columbia.

- T. 14 N., R. 14 E.,  
Sec. 6, lots 1 and 2 of SW $\frac{1}{4}$ ;  
Sec. 7, lots 1 and 2 of NW $\frac{1}{4}$ , lots 1 and 2 of SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 18, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , lots 1 and 2 of SW $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , and SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 19;  
Sec. 30, lots 1 and 2 of NW $\frac{1}{4}$ , lots 1 and 2 of SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ .  
T. 3 N., R. 21 E.,  
Sec. 28, SE $\frac{1}{4}$  (unsurveyed).  
T. 4 S., R. 16 E.,  
Sec. 26, SW $\frac{1}{4}$ NW $\frac{1}{4}$  and W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 28, SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Secs. 33 and 34.  
T. 9 N., R. 20 E.,  
Sec. 22, W $\frac{1}{2}$ SW $\frac{1}{4}$ .  
T. 11 N., R. 1 W.,  
Sec. 18, S $\frac{1}{2}$  (portions unsurveyed);  
Sec. 19, lots 1 and 2 of SW $\frac{1}{4}$ , N $\frac{1}{2}$ , and SE $\frac{1}{4}$  (portions unsurveyed);  
Sec. 30, W $\frac{1}{2}$ NE $\frac{1}{4}$ , lots 1 and 2 of NW $\frac{1}{4}$ , N $\frac{1}{2}$  lots 1 and 2 of SW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 11 N., R. 2 W.,  
Sec. 23, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , and E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 24;  
Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ .

#### MOUNT DIABLO MERIDIAN

- T. 27 S., R. 43 E. (unsurveyed),  
Sec. 4, N $\frac{1}{2}$  and SW $\frac{1}{4}$ ;  
Sec. 5, NE $\frac{1}{4}$  and N $\frac{1}{2}$ SE $\frac{1}{4}$ .

#### SAN BERNARDINO MERIDIAN

- T. 2 N., R. 24 E.,  
Sec. 8, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 17, N $\frac{1}{2}$ NW $\frac{1}{4}$ .  
T. 3 N., R. 5 E.,  
Sec. 30, lot 9;  
Sec. 31, lots 2 and 3.  
T. 7 N., R. 3 E.,  
Sec. 3, lots 1 and 2, and S $\frac{1}{2}$ NE $\frac{1}{4}$ .  
T. 7 N., R. 4 E.,  
Sec. 18, NE $\frac{1}{4}$ ;  
Sec. 30, NE $\frac{1}{4}$ .  
T. 8 N., R. 3 E.,  
Sec. 4, S $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ .  
T. 16 $\frac{1}{2}$  S., R. 10 E.,  
Sec. 2, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 17 S., R. 11 E.,  
Sec. 6, lot 7.  
T. 8 S., R. 6 E.,  
Sec. 20, SE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 13 N., R. 11 E.,  
Sec. 12.  
T. 13 N., R. 12 E.,  
Secs. 5 to 8, inclusive.  
T. 14 N., R. 12 E.,  
Sec. 28, SW $\frac{1}{4}$ ;  
Sec. 29, SE $\frac{1}{4}$ ;  
Secs. 31 and 32.  
T. 11 N., R. 15 E.,  
Sec. 1, lots 7 and 8;  
Sec. 2, E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , and E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 11 N., R. 15 E.,  
Sec. 15, W $\frac{1}{2}$ NE $\frac{1}{4}$  and W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ .  
T. 7 S., R. 21 E.,  
Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
T. 11 N., R. 15 E.,  
Sec. 18, lots 8, 9, 10, and 11, and W $\frac{1}{2}$  of lot 12.  
T. 15 N., R. 10 E.,  
Sec. 14, S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 23, N $\frac{1}{2}$ NE $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ .  
T. 12 N., R. 11 E.,  
Sec. 33, NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 5 S., R. 13 E. (unsurveyed),  
Sec. 14, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , and N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
Sec. 27, E $\frac{1}{2}$ NE $\frac{1}{4}$ .  
T. 14 N., R. 18 E.,  
Sec. 7, E $\frac{1}{2}$  lot 16 and W $\frac{1}{2}$  lot 17.

- T. 14 N., R. 18 E.,  
 Sec. 20, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$  and SW $\frac{1}{4}$ SW $\frac{1}{4}$  SE $\frac{1}{4}$ ;  
 Sec. 29, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$  and N $\frac{1}{2}$ NE $\frac{1}{4}$  NW $\frac{1}{4}$ .  
 T. 5 S., R. 20 E.,  
 Sec. 17, E $\frac{1}{2}$ SE $\frac{1}{4}$  (unsurveyed).  
 T. 6 S., R. 21 E.,  
 Sec. 18, lot 14.

## MOUNT DIABLO MERIDIAN

- T. 32 S., R. 46 E.,  
 Sec. 19, S $\frac{1}{2}$  lot 1 of NW $\frac{1}{4}$  and SW $\frac{1}{4}$ NE $\frac{1}{4}$ .  
 T. 31 S., R. 45 E.,  
 Sec. 30, lots 2, 3, and 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ .

## SAN BERNARDINO MERIDIAN

- T. 12 N., R. 14 E.,  
 Sec. 12, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 13, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$  SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , and N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
 T. 12 N., R. 18 E.,  
 Sec. 13, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$  SE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and NW $\frac{1}{4}$ .  
 T. 8 S., R. 20 E. (unsurveyed),  
 Sec. 28, W $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$  and SE $\frac{1}{4}$ ;  
 Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 33, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 T. 11 N., R. 15 E.,  
 Sec. 8, SW $\frac{1}{4}$ .  
 T. 15 S., R. 10 E.,  
 Sec. 31, lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ .  
 T. 16 S., R. 10 E.,  
 Sec. 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 6, lots 1 to 5, inclusive, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 T. 11 N., R. 6 E.,  
 Sec. 18, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ .  
 T. 10 N., R. 2 E.,  
 Sec. 18, lots 1 and 2, W $\frac{1}{2}$ NE $\frac{1}{4}$ , and E $\frac{1}{2}$  NW $\frac{1}{4}$ .  
 T. 7 N., R. 1 W.,  
 Sec. 27, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ ;  
 Sec. 28, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ .  
 T. 8 N., R. 13 E.,  
 Sec. 4, lots 1, 2, 6, 7, 8, 9, and 11, and S $\frac{1}{2}$  SE $\frac{1}{4}$ ;  
 Sec. 7, lot 1.  
 T. 8 N., R. 12 E.,  
 Sec. 12, NE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 T. 6 S., R. 16 E. (unsurveyed),  
 Sec. 20, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 21, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 28, W $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 29, E $\frac{1}{2}$ NE $\frac{1}{4}$ .  
 T. 8 S., R. 20 E.,  
 Sec. 9, E $\frac{1}{2}$  and E $\frac{1}{2}$ W $\frac{1}{2}$  (unsurveyed).

3. Sections 1-3, act of February 28, 1958 (72 Stat. 27), are not applicable.

4. Acreage: Both the gross acreage and the net acreage are 49,733 acres.

5. Purpose: The protection of unique botanical, geological, zoological, or cultural characteristics and of irreplaceable scientific, historical and recreational values of the lands which are located in the California Desert.

6. Contamination: No contamination will result from the withdrawal.

7. Period of withdrawal: Until terminated by administrative action or act of Congress.

8. Operation of the public land laws and regulations: The withdrawal would withdraw the lands from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not from leasing under

the mineral leasing laws. It would not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

9. Water: If and when development of the lands is authorized, unappropriated water on the lands may be put to beneficial use.

10. Justification: These lands have unique biological, geological, cultural, and recreation values of irreplaceable value which are in danger of total destruction if left unprotected. Avoidable damage to some of the sites is now occurring.

11. Authority for the withdrawal: Authority of the President (U.S. v. Midwest Oil Company, 236 U.S. 459; Mason v. United States, 260 U.S. 545) delegated to the Secretary of the Interior by Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831).

Maps showing the lands are on file in the Riverside Land Office in the publication "The California Desert."

Pursuant to 43 CFR 2311.1-2 and 2311.1-3, the noting of this application on the records of the land office and the publication thereof in the FEDERAL REGISTER will operate to segregate the lands from appropriation as set forth in paragraph numbered 8.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Secretary of the Interior, Washington, D.C. 20240.

HARRY R. ANDERSON,  
 Assistant Secretary for  
 Public Land Management.

Approved: January 16, 1969.

STEWART L. UDALL,  
 Secretary of the Interior.

[F.R. Doc. 69-837; Filed, Jan. 17, 1969;  
 12:53 p.m.]

[R 1396, R 1954]

## CALIFORNIA

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

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 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 in paragraph 3. 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 with-

drawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of (a) segregating all public lands described below from appropriation only under the agricultural land laws (43 U.S.C. chs. 7 and 9; 25 U.S.C., sec. 334) and from sale under section 2455 of the revised statutes (43 U.S.C. 1171) and (b) segregating the lands described in paragraph 4 from all forms of appropriation including the mining laws (30 U.S.C. ch. 2), but not the mineral leasing laws. The lands shall remain open to all other applicable forms of appropriation.

3. The public lands are located within San Bernardino and a small portion of Riverside Counties and include the Barstow and Victorville-Twenty-nine Palms Planning Units. For the purpose of this proposed classification the public lands within each planning unit have been analyzed in detail and described in documents and on map available for inspection at the Riverside District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502, and in the California State Office, Federal Office Building, 2800 Cottage Way, Room E-2820, Sacramento, Calif. 95825.

[R 1396]

BARSTOW PLANNING UNIT

SAN BERNARDINO COUNTY

San Bernardino Meridian, California

All public lands in:

- T. 6 N., R. 1 E.,  
 Secs. 1 through 32, inclusive;  
 Secs. 34 through 36, inclusive.  
 T. 7 N., R. 1 E.  
 T. 8 N., R. 1 E.  
 T. 9 N., R. 1 E.,  
 Sec. 6, N $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$ S $\frac{1}{2}$ , S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Secs. 7 and 8;  
 Sec. 18;  
 Secs. 25 through 29, inclusive;  
 Sec. 30, S $\frac{1}{2}$ ;  
 Secs. 31 through 36, inclusive.  
 T. 10 N., R. 1 E.,  
 Secs. 1 through 24, inclusive;  
 Secs. 26 through 32, inclusive;  
 Secs. 34 and 35.  
 T. 11 N., R. 1 E.  
 T. 12 N., R. 1 E.  
 T. 6 N., R. 2 E.  
 T. 7 N., R. 2 E.  
 T. 8 N., R. 2 E.  
 T. 9 N., R. 2 E.,  
 Sec. 19;  
 Secs. 26 through 27;  
 Secs. 30 through 36, inclusive.  
 T. 10 N., R. 2 E.,  
 Secs. 1 through 24, inclusive;  
 Secs. 26 through 32, inclusive.  
 T. 11 N., R. 2 E.  
 T. 12 N., R. 2 E.,  
 Sec. 6 (per California Protraction Diagram No. 57);  
 Sec. 7;  
 Secs. 9 and 10;  
 Secs. 13 through 36, inclusive.  
 T. 6 N., R. 3 E.  
 T. 7 N., R. 3 E.  
 T. 8 N., R. 3 E.  
 T. 9 N., R. 3 E.,  
 Secs. 31 and 32.  
 T. 10 N., R. 3 E.,  
 Secs. 1, 2, and 3;  
 Sec. 6;  
 Sec. 11.

T. 11 N., R. 3 E.  
 T. 12 N., R. 3 E.,  
 Secs. 19 through 36, inclusive.  
 T. 6 N., R. 4 E.  
 T. 7 N., R. 4 E.  
 T. 8 N., R. 4 E.  
 T. 9 N., R. 4 E.,  
 Secs. 1 through 4, inclusive;  
 Secs. 10 through 15, inclusive;  
 Secs. 22 through 27, inclusive;  
 Secs. 34, 35, and 36.  
 T. 10 N., R. 4 E.,  
 Secs. 1 through 6, inclusive;  
 Secs. 10 through 15, inclusive;  
 Secs. 22 through 28, inclusive;  
 Secs. 32 through 36, inclusive.  
 T. 11 N., R. 4 E.  
 T. 12 N., R. 4 E.,  
 Secs. 19 through 36, inclusive, partly  
 unsurveyed.  
 T. 6 N., R. 5 E.,  
 Secs. 17 through 20, inclusive;  
 Secs. 29 through 32, inclusive.  
 T. 6 N., R. 1 W.,  
 Sec. 1;  
 Sec. 2, NE $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 7, lots 1, 2, 3, and 4;  
 Sec. 11, NE $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Secs. 12, 13, and 14;  
 Sec. 15, E $\frac{1}{2}$ ;  
 Secs. 18, 19, and 20;  
 Secs. 23 through 36, inclusive.  
 T. 7 N., R. 1 W.,  
 Secs. 1 through 30, inclusive;  
 Sec. 34, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 35 and 36.  
 T. 8 N., R. 1 W.  
 T. 9 N., R. 1 W.,  
 Secs. 1 through 4, inclusive;  
 Sec. 12;  
 Secs. 19 and 20;  
 Sec. 22, W $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ ;  
 Sec. 25;  
 Sec. 26, S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 27, W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
 Secs. 28 through 36, inclusive.  
 T. 10 N., R. 1 W.,  
 Secs. 1 through 30, inclusive;  
 Secs. 33 through 36, inclusive.  
 T. 11 N., R. 1 W. (partially unsurveyed).  
 T. 12 N., R. 1 W.,  
 Secs. 31 through 36, inclusive.  
 T. 6 N., R. 2 W.,  
 Secs. 1 through 32, inclusive;  
 Secs. 34 through 36, inclusive.  
 T. 7 N., R. 2 W.  
 T. 8 N., R. 2 W.  
 T. 9 N., R. 2 W.,  
 Sec. 15; NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ -  
 SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ -  
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ -  
 SE $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ -  
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 22;  
 Sec. 23, S $\frac{1}{2}$ ;  
 Secs. 24 through 36, inclusive.  
 T. 10 N., R. 2 W.,  
 Secs. 1 through 28, inclusive;  
 Secs. 34 and 35.  
 T. 11 N., R. 2 W.  
 T. 12 N., R. 2 W.,  
 Secs. 31 through 36, inclusive.  
 T. 7 N., R. 3 W.  
 T. 8 N., R. 3 W.,  
 Secs. 1, 2, and 3;  
 Sec. 6;  
 Secs. 10 through 15, inclusive;  
 Secs. 22 through 28, inclusive;  
 Secs. 32 through 36, inclusive.  
 T. 9 N., R. 3 W.,  
 Secs. 6, 7, and 8;  
 Secs. 17 through 20, inclusive;  
 Secs. 28 through 32, inclusive;  
 Secs. 35 and 36.  
 T. 10 N., R. 3 W.,  
 Sec. 2;  
 Secs. 5 through 8, inclusive;  
 Secs. 18, 19, and 20;  
 Secs. 30 and 31.

T. 11 N., R. 3 W.,  
 Secs. 1 through 26, inclusive;  
 Secs. 29 through 32, inclusive;  
 Secs. 35 and 36.  
 T. 12 N., R. 3 W.,  
 Secs. 31 through 36, inclusive.  
 T. 8 N., R. 4 W.,  
 Secs. 1 through 10, inclusive;  
 Secs. 18 and 19.  
 T. 9 N., R. 4 W.  
 T. 10 N., R. 4 W.  
 T. 11 N., R. 4 W.  
 T. 12 N., R. 4 W.,  
 Secs. 31 through 36, inclusive.  
 T. 8 N., R. 5 W.,  
 Secs. 1 through 24, inclusive;  
 Secs. 26 through 35, inclusive.  
 T. 9 N., R. 5 W.  
 T. 10 N., R. 5 W.  
 T. 11 N., R. 5 W.  
 T. 12 N., R. 5 W.,  
 Secs. 31 through 36, inclusive.  
 T. 8 N., R. 6 W.,  
 Secs. 1 through 12, inclusive;  
 Secs. 15 through 22, inclusive;  
 Sec. 24, S $\frac{1}{2}$ ;  
 Sec. 25;  
 Secs. 27 through 36, inclusive.  
 T. 9 N., R. 6 W.,  
 Secs. 1 through 4, inclusive;  
 Secs. 9 through 16, inclusive;  
 Secs. 21 through 28, inclusive;  
 Secs. 33 through 36, inclusive.  
 T. 10 N., R. 6 W.,  
 Secs. 1 through 4, inclusive;  
 Sec. 5, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 6, W $\frac{1}{2}$ ;  
 Secs. 9 through 16, inclusive;  
 Secs. 21 through 28, inclusive;  
 Secs. 33 through 36, inclusive.  
 T. 11 N., R. 6 W.  
 T. 12 N., R. 6 W.,  
 Secs. 31 through 36, inclusive.  
 T. 8 N., R. 7 W.  
 T. 10 N., R. 7 W.,  
 Secs. 1 through 4, inclusive.  
 T. 11 N., R. 7 W.,  
 Secs. 1 through 4, inclusive;  
 Secs. 9 through 16, inclusive;  
 Secs. 21 through 28, inclusive;  
 Secs. 33 through 36, inclusive.  
 T. 12 N., R. 7 W.,  
 Secs. 33 through 36, inclusive.

*Mount Diablo Meridian, California*

T. 32 S., R. 44 E.  
 T. 32 S., R. 45 E.  
 T. 32 S., R. 46 E.  
 T. 32 S., R. 47 E.

The public lands proposed to be classi-  
 fied for multiple-use management in the  
 Barstow Planning Unit aggregate ap-  
 proximately 758,302 acres.

[R. 1954]

VICTORVILLE-TWENTYNINE PALMS PLANNING  
 UNIT

SAN BERNARDINO AND RIVERSIDE COUNTIES

*San Bernardino Meridian, California*

All public lands in:

T. 3 N., R. 1 E.,  
 Secs. 1 and 2;  
 Secs. 4 through 12, inclusive.  
 T. 4 N., R. 1 E.,  
 Sec. 1;  
 Sec. 32.  
 T. 5 N., R. 1 E.,  
 Secs. 1 and 2;  
 Sec. 5, N $\frac{1}{2}$ ;  
 Sec. 12;  
 Secs. 24 and 25;  
 Sec. 36 (partly unsurveyed).  
 T. 3 N., R. 2 E.,  
 Secs. 1 through 16, inclusive (partly  
 unsurveyed).  
 Secs. 22 through 25, inclusive (unsur-  
 veyed).

T. 4 N., R. 2 E.,  
 Sec. 1;  
 Sec. 3;  
 Sec. 4, N $\frac{1}{2}$ ;  
 Sec. 5, N $\frac{1}{2}$ ;  
 Sec. 6, N $\frac{1}{2}$ ;  
 Sec. 20, S $\frac{1}{2}$ ;  
 Sec. 21, S $\frac{1}{2}$ ;  
 Sec. 22, NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 23, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 26, 27 and 28;  
 Sec. 29, NE $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
 Secs. 32 through 36, inclusive.  
 T. 5 N., R. 2 E., all township.  
 T. 1 N., R. 3 E.,  
 Secs. 1 and 2;  
 Secs. 11 through 16, inclusive;  
 Secs. 21 through 36, inclusive.  
 T. 2 N., R. 3 E.,  
 Secs. 1 through 4, inclusive;  
 Secs. 10 through 15, inclusive;  
 Sec. 22, NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Secs. 23 through 26, inclusive;  
 Secs. 35 and 36.  
 T. 3 N., R. 3 E.,  
 Secs. 5 through 8, inclusive;  
 Secs. 14 through 36, inclusive (partly un-  
 surveyed).  
 T. 4 N., R. 3 E.,  
 Secs. 1 through 21, inclusive.  
 T. 5 N., R. 3 E., all township (partly un-  
 surveyed).  
 T. 1 N., R. 4 E.,  
 Sec. 6;  
 Sec. 32;  
 Sec. 36.  
 T. 2 N., R. 4 E.,  
 Secs. 1 through 12, inclusive;  
 Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$   
 NE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$   
 SE $\frac{1}{4}$ , W $\frac{1}{2}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 14 through 21, inclusive;  
 Sec. 26;  
 Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 W $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , NW $\frac{1}{4}$   
 SW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Secs. 28 through 30, inclusive;  
 Sec. 31, lots 4 and 11, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$   
 SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 32, N $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ .  
 T. 3 N., R. 4 E.,  
 Sec. 1;  
 Sec. 12, N $\frac{1}{2}$ ;  
 Sec. 19;  
 Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$  and W $\frac{1}{2}$ ;  
 Sec. 21, NW $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
 Sec. 22, NE $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
 Secs. 23 through 36, inclusive.  
 T. 4 N., R. 4 E.,  
 Secs. 1 through 18, inclusive;  
 Secs. 20 through 29, inclusive;  
 Secs. 34 through 36, inclusive.  
 T. 5 N., R. 4 E., all township (partly un-  
 surveyed).  
 T. 1 N., R. 5 E.,  
 Sec. 2;  
 Sec. 4.  
 T. 2 N., R. 5 E.,  
 Secs. 4 through 9, inclusive (partly un-  
 surveyed);  
 Secs. 16 through 21, inclusive (partly un-  
 surveyed);  
 Sec. 24, N $\frac{1}{2}$  and SW $\frac{1}{4}$ ;  
 Sec. 26;  
 Secs. 28 through 33, inclusive (partly  
 unsurveyed).  
 T. 3 N., R. 5 E.,  
 Secs. 1, 2 and 3;  
 Sec. 4, N $\frac{1}{2}$  and SE $\frac{1}{4}$ ;  
 Secs. 5 and 6;  
 Sec. 10, N $\frac{1}{2}$  and SE $\frac{1}{4}$ ;  
 Sec. 11;  
 Sec. 12, N $\frac{1}{2}$  and SW $\frac{1}{4}$ ;  
 Sec. 14, N $\frac{1}{2}$ ;  
 Sec. 17, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , and  
 W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 18, S $\frac{1}{2}$ ;  
 Sec. 19;

- Sec. 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , and SE $\frac{1}{4}$ ;  
 Sec. 21, S $\frac{1}{2}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ ;  
 Sec. 25;  
 Sec. 26, E $\frac{1}{2}$ ;  
 Sec. 28, S $\frac{1}{2}$ ;  
 Secs. 29 through 32, inclusive;  
 Sec. 33, N $\frac{1}{2}$ ;  
 Sec. 35, NE $\frac{1}{4}$ .
- T. 4 N., R. 5 E., all township (partly unsurveyed).
- T. 5 N., R. 5 E.,  
 Secs. 4 through 9, inclusive;  
 Secs. 14 through 23, inclusive;  
 Secs. 26 through 35, inclusive.
- T. 3 N., R. 6 E.,  
 Secs. 17 through 21, inclusive;  
 Secs. 28 through 33, inclusive.
- T. 1 N., R. 7 E.,  
 Sec. 1, SW $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 2;  
 Secs. 12 through 24, inclusive.
- T. 1 N., R. 8 E.,  
 Sec. 7;  
 Secs. 18 and 19.
- T. 2 N., R. 9 E.,  
 Secs. 25 and 26;  
 Sec. 27, E $\frac{1}{2}$ .
- T. 1 N., R. 10 E.,  
 Sec. 4, W $\frac{1}{2}$ W $\frac{1}{2}$  and SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 5, N $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
 Sec. 6.
- T. 2 N., R. 10 E., all township.
- T. 1 N., R. 11 E.,  
 Secs. 1, 2 and 3;  
 Sec. 4, N $\frac{1}{2}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 10, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , and SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 11, N $\frac{1}{2}$ ;  
 Sec. 12, N $\frac{1}{2}$ .
- T. 2 N., R. 11 E., all township (partly unsurveyed).
- T. 1 N., R. 12 E.,  
 Secs. 1 and 2;  
 Sec. 3, N $\frac{1}{2}$  and SE $\frac{1}{4}$ ;  
 Sec. 4, W $\frac{1}{2}$ ;  
 Secs. 5 through 8, inclusive;  
 Sec. 9, NW $\frac{1}{4}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 11 through 15, inclusive;  
 Sec. 17, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 18, N $\frac{1}{2}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 19, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;  
 Sec. 20, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;  
 Secs. 21 through 30, inclusive;  
 Sec. 31, N $\frac{1}{2}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Secs. 32 through 36, inclusive.
- T. 2 N., R. 12 E., all township (partly unsurveyed).
- T. 3 N., R. 1 W.,  
 Sec. 3;  
 Sec. 4, lots 3 through 12, inclusive, and S $\frac{1}{2}$ ;  
 Secs. 5 and 6.
- T. 4 N., R. 1 W.,  
 Secs. 4 through 9, inclusive;  
 Sec. 31, S $\frac{1}{2}$ .
- T. 5 N., R. 1 W.,  
 Secs. 1 through 28, inclusive (partly unsurveyed);  
 Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , and E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Secs. 30 through 36, inclusive (partly unsurveyed).
- T. 3 N., R. 2 W.,  
 Secs. 1 through 8, inclusive.
- T. 4 N., R. 2 W.,  
 Secs. 1 through 3, inclusive;  
 Secs. 25, 26 and 27;  
 Sec. 28, S $\frac{1}{2}$ N $\frac{1}{2}$  and S $\frac{1}{2}$ ;  
 Secs. 29 through 36, inclusive.
- T. 5 N., R. 2 W.,  
 Sec. 1;  
 Sec. 2, lot 1, E $\frac{1}{2}$  lot 2, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 8, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;
- Sec. 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
 Sec. 10, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 11, E $\frac{1}{2}$ ;  
 Secs. 12 and 13;  
 Sec. 14, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , and E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 15;  
 Sec. 17, SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 20, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Secs. 21, 22, and 23;  
 Sec. 24, NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 25, W $\frac{1}{2}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 26 and 27;  
 Sec. 28, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
 Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ ;  
 Sec. 30, SE $\frac{1}{4}$ NE $\frac{1}{4}$  and SE $\frac{1}{4}$ ;  
 Sec. 31, N $\frac{1}{2}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 32, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 33, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Secs. 34 and 35.
- T. 3 N., R. 3 W.,  
 Secs. 1 through 4, inclusive;  
 Sec. 5, S $\frac{1}{2}$ ;  
 Sec. 7, E $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
 Secs. 8 through 12, inclusive.
- T. 4 N., R. 3 W.,  
 Sec. 22, SW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 23, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 24, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Secs. 25 through 27, inclusive;  
 Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 30;  
 Secs. 33 through 36, inclusive.
- T. 5 N., R. 3 W.,  
 Sec. 6, S $\frac{1}{2}$ SE $\frac{1}{4}$ .
- T. 6 N., R. 3 W.,  
 Secs. 1 through 6, inclusive;  
 Secs. 19 and 20;  
 Secs. 24 through 30, inclusive.
- T. 3 N., R. 4 W.,  
 Secs. 1 through 23, inclusive;  
 Secs. 26 through 30, inclusive.
- T. 6 N., R. 4 W.,  
 Secs. 1 through 9, inclusive;  
 Sec. 10, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 11 through 14, inclusive;  
 Sec. 15, NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$  (that portion within M.S. 5532), and SE $\frac{1}{4}$ ;  
 Sec. 23.
- T. 7 N., R. 4 W.,  
 Secs. 1 through 29, inclusive;  
 Secs. 33 through 36, inclusive.
- T. 3 N., R. 5 W.,  
 Secs. 1 through 17, inclusive;  
 Sec. 20, E $\frac{1}{2}$ ;  
 Secs. 21 through 27, inclusive;  
 Sec. 28, N $\frac{1}{2}$ .
- T. 7 N., R. 5 W.,  
 Secs. 1 through 18, inclusive;  
 Sec. 22;  
 Sec. 23, N $\frac{1}{2}$ NW $\frac{1}{4}$ .
- T. 6 N., R. 6 W.,  
 Sec. 4.
- T. 7 N., R. 6 W.,  
 Sec. 6, N $\frac{1}{2}$ N $\frac{1}{2}$ ;  
 Secs. 7 through 36, inclusive.
- T. 4 N., R. 7 W.,  
 Sec. 35, SW $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 6 N., R. 7 W.,  
 Secs. 1 through 6, inclusive.
- T. 7 N., R. 7 W., all township.
- T. 1 S., R. 3 E., all township.
- T. 1 S., R. 4 E.,  
 Secs. 1 through 10, inclusive;  
 Sec. 11, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , and N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 12;  
 Sec. 16, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 17, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , and NW $\frac{1}{4}$ ;  
 Secs. 18 through 20, inclusive;  
 Sec. 22, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Secs. 23 through 26, inclusive;  
 Sec. 27, NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
 Secs. 30 and 31;  
 Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 33 through 36, inclusive.
- T. 1 S., R. 5 E.,  
 Sec. 6;  
 Sec. 8, E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 18;  
 Sec. 20;  
 Secs. 28 through 32, inclusive.
- T. 1 S., R. 7 E.,  
 Sec. 5, unsurveyed.
- T. 1 S., R. 9 E.,  
 Secs. 11 through 15, inclusive;  
 Secs. 24 and 25.
- T. 2 S., R. 9 E.,  
 Secs. 1, 12 and 13 (unsurveyed).
- T. 1 S., R. 10 E., all township (unsurveyed).
- T. 2 S., R. 10 E.,  
 Secs. 1 through 24, inclusive (unsurveyed).
- T. 1 S., R. 11 E.,  
 Sec. 1;  
 Sec. 2, NE $\frac{1}{4}$  and S $\frac{1}{2}$ ;  
 Sec. 3, S $\frac{1}{2}$ ;  
 Sec. 4, S $\frac{1}{2}$ ;  
 Sec. 5, S $\frac{1}{2}$ ;  
 Sec. 6, S $\frac{1}{2}$ ;  
 Secs. 7 through 36, inclusive (partly unsurveyed).
- T. 2 S., R. 11 E.,  
 Secs. 1 through 24, inclusive (unsurveyed).
- T. 1 S., R. 12 E.,  
 Secs. 1 through 4, inclusive;  
 Sec. 5, S $\frac{1}{2}$ ;  
 Sec. 6, S $\frac{1}{2}$ ;  
 Secs. 7 through 36, inclusive (partly unsurveyed).
- T. 2 S., R. 12 E.,  
 Secs. 1 through 12, inclusive (unsurveyed);  
 Secs. 14 through 22, inclusive (unsurveyed).

The public lands proposed to be classified for multiple-use management in the Victorville-Twenty-nine Palms Planning Unit aggregate approximately 569,371 acres.

4. As provided in paragraph 2 above, the following lands are further segregated from all forms of appropriation including the mining laws but not the mineral leasing laws (totaling approximately 9,160 acres).

*San Bernardino Meridian, California*

- T. 1 S., R. 3 E.,  
 Sec. 12, NE $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 1 S., R. 4 E.,  
 Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$ .
- T. 1 S., R. 5 E.,  
 Sec. 8, E $\frac{1}{2}$ SE $\frac{1}{4}$ .
- T. 2 N., R. 3 E.,  
 Sec. 14, NW $\frac{1}{4}$ ;  
 Sec. 15, S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 36, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ .
- T. 2 N., R. 4 E.,  
 Sec. 2, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 3 N., R. 1 E.,  
 Sec. 4, lots 7 and 8.

[New Mexico 4831]

## NEW MEXICO

## Notice of Classification

JANUARY 14, 1969.

Pursuant to section of the Act of September 19, 1964 (43 U.S.C. 1412), the lands described below are hereby classified for disposal through exchange under section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, for lands within Hidalgo County, N. Mex.

Two protests have been received following the publication of notice of proposed classification (33 F.R. 13042). These protests are purportedly based on the loss of tax base lands in the county if the privately-owned lands are transferred into Government ownership. No comments were received on the public lands going into private ownership.

The lands affected by this classification are located in Chaves, Lincoln, and Luna Counties, N. Mex., and are described as follows:

## NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

- T. 3 N., R. 3 E.,  
 Sec. 19, S $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 23, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ .
- T. 3 N., R. 4 E.,  
 Sec. 21, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 22, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 27, NW $\frac{1}{4}$ ;  
 Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$ .
- T. 3 N., R. 5 E.,  
 Sec. 30, lot 9;  
 Sec. 31, lots 2 and 3.
- T. 3 N., R. 1 W.,  
 Sec. 5, lot 5.
- T. 4 N., R. 4 E.,  
 Sec. 24, S $\frac{1}{2}$ ;  
 Sec. 25, N $\frac{1}{2}$ .
- T. 4 N., R. 2 W.,  
 Sec. 26, lots 1 and 2, N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 35, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 7 N., R. 3 E.,  
 Sec. 3, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ .
- T. 7 N., R. 4 E.,  
 Sec. 18, NE $\frac{1}{4}$ ;  
 Sec. 30, NE $\frac{1}{4}$ .
- T. 7 N., R. 1 W.,  
 Sec. 27, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
 lots 1 and 2;  
 Sec. 28, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ .
- T. 7 N., R. 3 W.,  
 Sec. 10, SW $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 8 N., R. 3 E.,  
 Sec. 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 31, NE $\frac{1}{4}$ SE $\frac{1}{4}$ .
- T. 10 N., R. 2 E.,  
 Sec. 22, NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$   
 SE $\frac{1}{4}$ .
- T. 11 N., R. 1 W.,  
 Sec. 18;  
 Sec. 19;  
 Sec. 30, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , lot 1 of  
 NW $\frac{1}{4}$ , lot 2 of NW $\frac{1}{4}$ , N $\frac{1}{2}$  lot 1 of SW $\frac{1}{4}$ ,  
 N $\frac{1}{2}$  lot 2 of SW $\frac{1}{4}$ .
- T. 11 N., R. 2 W.,  
 Sec. 14, SW $\frac{1}{4}$ ;  
 Sec. 15;  
 Sec. 22, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 23;  
 Sec. 24;  
 Sec. 26, NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ .

## Mount Diablo Meridian, California

- T. 32 S., R. 45 E.,  
 Sec. 24, lot 4.
- T. 32 S., R. 46 E.,  
 Sec. 19, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$  lot 1 of NW $\frac{1}{4}$ .
- T. 32 S., R. 47 E.,  
 Sec. 21, E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 34, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

5. 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 Manager, Riverside District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502, or at the public hearing.

6. A public hearing on this proposed classification will be held on February 14, 1969, at 10 a.m. in the Victorville Recreation and Park District Community Center, 15615 Eighth Street, at Victorville, Calif.

For the State Director.

JACK F. WILSON,  
 Manager.

[F.R. Doc. 69-816; Filed, Jan. 22, 1969;  
 8:46 a.m.]

- Sec. 32, W $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 33, E $\frac{1}{2}$  and E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 35, SE $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 7 S., R. 30 E.,  
 Sec. 5, SW $\frac{1}{4}$ ;  
 Sec. 7, SE $\frac{1}{4}$ ;  
 Sec. 8, SW $\frac{1}{4}$ ;  
 Sec. 17, NE $\frac{1}{4}$ ;  
 Sec. 18, lots 1, 2, 3, 4, and NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 19, lot 4 and E $\frac{1}{2}$ SW $\frac{1}{4}$ .
- T. 6 S., R. 31 E.,  
 Sec. 19, lots 3, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
 Sec. 20, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ ;  
 Sec. 29, N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and  
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 30, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$ , and NE $\frac{1}{4}$ NW $\frac{1}{4}$ .
- T. 22 S., R. 7 W.,  
 Sec. 23, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 24, lots 3, 4, 5, 6, 11, 12, 13, 14, 15,  
 16, NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 25, lots 3, 4, 5, 6, 11, 12, 13, and 14;  
 Sec. 28, SW $\frac{1}{4}$ ;  
 Sec. 33, lots 3, 4, N $\frac{1}{2}$ , and N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 34, lots 1, 2, NE $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 35, SW $\frac{1}{4}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ .

The areas described aggregate 13,872-36 acres.

For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 721, Washington, D.C. 20240 (43 CFR 2411-12(d)).

R. BUFFINGTON,  
 Acting State Director.

[F.R. Doc. 69-817; Filed, Jan. 22, 1969;  
 8:46 a.m.]

[New Mexico 6286]

## NEW MEXICO

## Notice of Termination of Classification of Public Lands for Transfer Out of Federal Ownership

JANUARY 15, 1969.

1. As a result of protest received by the Secretary of the Interior following publication of the notice of classification (33 F.R. 11857, 11858 and 11859), this classification and segregation as it pertains to the following-described lands is hereby terminated:

## NEW MEXICO PRINCIPAL MERIDIAN

UNIT 30-02-71

- T. 1 N., R. 12 W.,  
 Sec. 11, E $\frac{1}{2}$ ;  
 Sec. 15, NE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 20, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$   
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , and N $\frac{1}{2}$   
 S $\frac{1}{2}$ .
- T. 2 N., R. 12 W.,  
 Sec. 18, lots 2, 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and NE $\frac{1}{4}$   
 SW $\frac{1}{4}$ .
- T. 1 N., R. 13 W.,  
 Sec. 5, SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 7, lots 1, 2, NE $\frac{1}{4}$ , and E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 9;  
 Sec. 10, NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 11, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 12, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and  
 S $\frac{1}{2}$ ;  
 Sec. 13, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 14, S $\frac{1}{2}$ N $\frac{1}{2}$ , and N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 15, S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 17, S $\frac{1}{2}$ ;  
 Sec. 18, E $\frac{1}{2}$ ;  
 Sec. 20, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 21, N $\frac{1}{2}$ N $\frac{1}{2}$ ;  
 Sec. 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ .

T. 2 N., R. 13 W.,  
 Sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , and W $\frac{1}{2}$ SE $\frac{1}{4}$ .

T. 1 N., R. 14 W.,  
 Sec. 7, lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 13, N $\frac{1}{2}$ S $\frac{1}{2}$ .

T. 2 N., R. 14 W.,  
 Sec. 3, SE $\frac{1}{4}$ ;  
 Sec. 4, lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , and W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 9, NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
 Sec. 10, NE $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
 Sec. 14;  
 Sec. 15, N $\frac{1}{2}$ , and SE $\frac{1}{4}$ .

T. 1 N., R. 15 W.,  
 Sec. 7, lot 3;  
 Sec. 9, SE $\frac{1}{4}$ ;  
 Sec. 10, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , and N $\frac{1}{2}$   
 SE $\frac{1}{4}$ ;  
 Sec. 11, N $\frac{1}{2}$ SW $\frac{1}{4}$ .

T. 2 N., R. 15 W.,  
 Sec. 1, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ , and  
 W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 3, S $\frac{1}{2}$ ;  
 Sec. 9, S $\frac{1}{2}$ ;  
 Sec. 18, W $\frac{1}{2}$ E $\frac{1}{2}$ , and E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 20, S $\frac{1}{2}$ ;  
 Sec. 29, N $\frac{1}{2}$ .

T. 3 N., R. 15 W.,  
 Sec. 15, W $\frac{1}{2}$ SW $\frac{1}{4}$ .

T. 1 N., R. 16 W.,  
 Sec. 1, NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 10, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 12, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 13, NW $\frac{1}{4}$ ;  
 Sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$  and S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 15, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 23, W $\frac{1}{2}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 26, W $\frac{1}{2}$ E $\frac{1}{2}$ , and W $\frac{1}{2}$ ;  
 Sec. 29, SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 34, E $\frac{1}{2}$ SE $\frac{1}{4}$ .

T. 1 N., R. 20 W.,  
 Sec. 7, lots 1, 2, 3, 4, and E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 18, lots 1, 2, 3, 4, and E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 19, lots 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$   
 SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
 and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 29, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ , and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 30, lots 1, 2, 3, 4, and E $\frac{1}{2}$ ;  
 Sec. 31, lots 1, 2, 3, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$   
 SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ .

T. 1 N., R. 21 W.,  
 Sec. 1, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ ;  
 Sec. 3, lot 4 and SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 9, lots 1, 2, 3, 4, and W $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Sec. 10, SE $\frac{1}{4}$ ;  
 Sec. 11;  
 Sec. 12, lots 1, 2, 3, 4, W $\frac{1}{2}$ E $\frac{1}{2}$ , and E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 13, lots 1, 2, 3, 4, W $\frac{1}{2}$ E $\frac{1}{2}$ , and E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 14;  
 Sec. 15, E $\frac{1}{2}$ ;  
 Sec. 23, S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 24, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
 and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 25, W $\frac{1}{2}$ E $\frac{1}{2}$ , NW $\frac{1}{4}$  and S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 26, S $\frac{1}{2}$ NE $\frac{1}{4}$ , and SE $\frac{1}{4}$ ;  
 Sec. 28, lots 1, 4, and N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 33, lots 1, 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and W $\frac{1}{2}$   
 SE $\frac{1}{4}$ ;  
 Sec. 34, E $\frac{1}{2}$  and E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 35.

T. 1 S., R. 21 W.,  
 Sec. 1, lots 1 to 8, inclusive;  
 Sec. 3, lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 14, 15,  
 16, and E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 4, lots 3, 4, 5, 6, 11, 12, 13, 14, 17, 18,  
 and E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 9, lots 1, 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$  and  
 E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 10, W $\frac{1}{2}$ ;  
 Secs. 13, 14, and 15;  
 Sec. 21, lots 1, 2, 3, 4, E $\frac{1}{2}$ , and E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 22, W $\frac{1}{2}$ ;  
 Sec. 23, E $\frac{1}{2}$ ;  
 Sec. 24<sup>+</sup>

UNIT 30-02-72

T. 2 N., R. 7 W.,  
 Sec. 4, S $\frac{1}{2}$ ;  
 Sec. 6, lots 1 to 7, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$   
 NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , and SE $\frac{1}{4}$ .

T. 3 N., R. 8 W.,  
 Sec. 13;  
 Sec. 20, N $\frac{1}{2}$ , and SW $\frac{1}{4}$ ;  
 Sec. 22, N $\frac{1}{2}$ NW $\frac{1}{4}$ , and SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 30, lots 1, 2, 3, 4, NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ , and  
 N $\frac{1}{2}$ SE $\frac{1}{4}$ .

UNIT 30-02-74

T. 1 S., R. 2 W.,  
 Sec. 8, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 16, lot 1;  
 Sec. 17, lots 1 to 5, inclusive, and S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 19, lots 1 to 5, inclusive, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , and SW $\frac{1}{4}$   
 SW $\frac{1}{4}$ ;  
 Secs. 25, 27, 29, 31, 33, and 35.

T. 2 S., R. 2 W.,  
 Sec. 1;  
 Sec. 12, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Secs. 13, 14, 22, and 24;  
 Sec. 27, N $\frac{1}{2}$ .

T. 1 S., R. 3 W.,  
 Sec. 13, lots 1, 2, 3, 4, and S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 15, lots 1, 2, 3, 4, and S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 17, lots 1, 2, 3, 4, and S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 35, lots 7, 8, 9, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$   
 SE $\frac{1}{4}$ .

T. 2 S., R. 3 W.,  
 Sec. 3, lots 10 to 14, inclusive, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
 and SE $\frac{1}{4}$ ;  
 Sec. 4, lot 6;  
 Sec. 5, lots 3, 4, and S $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 9, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
 Sec. 35.

2. The lands described above are re-  
 lieved of the segregative effect at 10 a.m.  
 on the 30th day following publication  
 of this notice.

R. BUFFINGTON,  
*Acting State Director.*

[F.R. Doc. 69-858; Filed, Jan. 22, 1969;  
 8:49 a.m.]

**Fish and Wildlife Service**

[Docket No. S-453]

**EDWARD L. MILLS**

**Notice of Loan Application**

Edward L. Mills, 10014 Dibble Avenue  
 NW., Seattle, Wash. 98177, has applied  
 for a loan from the Fisheries Loan Fund  
 to aid in financing the purchase of a  
 used 44-foot registered length wood ves-  
 sel to engage in the fishery for salmon  
 and albacore.

Notice is hereby given pursuant to the  
 provisions of Public Law 89-85 and  
 Fisheries Loan Fund Procedures (50 CFR  
 Part 250, as revised) that the above-  
 entitled application is being considered  
 by the Bureau of Commercial Fisheries,  
 Fish and Wildlife Service, Department of  
 the Interior, Washington, D.C. 20240.  
 Any person desiring to submit evidence  
 that the contemplated operation of such  
 vessel will cause economic hardship or  
 injury to efficient vessel operators al-  
 ready operating in that fishery must sub-  
 mit such evidence in writing to the Di-  
 rector, Bureau of Commercial Fisheries,  
 within 30 days from the date of publica-  
 tion of this notice. If such evidence is  
 received it will be evaluated along with  
 such other evidence as may be available

before making a determination that the  
 contemplated operations of the vessel will  
 or will not cause such economic hard-  
 ship or injury.

WILLIAM M. TERRY,  
*Acting Director,*  
 Bureau of Commercial Fisheries.

[F.R. Doc. 69-818; Filed, Jan. 22, 1969;  
 8:46 a.m.]

**DEPARTMENT OF AGRICULTURE**

Office of the Secretary

IDAHO AND TEXAS

**Designation of Areas for Emergency  
 Loans**

For the purpose of making emergency  
 loans pursuant to section 321 of the Con-  
 solidated Farmers Home Administration  
 Act of 1961 (7 U.S.C. 1961), it has been  
 determined that in the hereinafter-  
 named counties in the States of Idaho  
 and Texas, natural disasters have caused  
 a need for agricultural credit not readily  
 available from commercial banks, co-  
 operative lending agencies, or other re-  
 sponsible sources.

	IDAHO
Teton.	
	TEXAS

Comanche.	Howard.
Dawson.	Red River.
Dickens.	Wilson.

Pursuant to the authority set forth  
 above, emergency loans will not be made  
 in the above-named counties after June  
 30, 1969, except to applicants who pre-  
 viously received emergency or special  
 livestock loan assistance and who can  
 qualify under established policies and  
 procedures.

Done at Washington, D.C., this 17th  
 day of January 1969.

ORVILLE L. FREEMAN,  
*Secretary.*

[F.R. Doc. 69-877; Filed, Jan. 22, 1969;  
 8:50 a.m.]

**LOUISIANA**

**Designation of Area for Emergency  
 Loans**

For the purpose of making emergency  
 loans pursuant to section 321 of the Con-  
 solidated Farmers Home Administration  
 Act of 1961 (7 U.S.C. 1961), it has been  
 determined that in the hereinafter-  
 named parish in the State of Louisiana,  
 natural disasters have caused a need for  
 agricultural credit not readily available  
 from commercial banks, cooperative  
 lending agencies, or other responsible  
 sources.

LOUISIANA

Pointe Coupee Parish.

Pursuant to the authority set forth  
 above, emergency loans will not be made  
 in the above-named parish after June

30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 17th day of January 1969.

ORVILLE L. FREEMAN,  
Secretary.

[F.R. Doc. 69-878; Filed, Jan. 22, 1969;  
8:50 a.m.]

### MISSISSIPPI

#### Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Mississippi, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

#### MISSISSIPPI

Choctaw.	Monroe.
Coahoma.	Pontotoc.
Grenada.	Union.
Itawamba.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 17th day of January 1969.

ORVILLE L. FREEMAN,  
Secretary.

[F.R. Doc. 69-879; Filed, Jan. 22, 1969;  
8:50 a.m.]

### ILLINOIS AND MISSISSIPPI

#### Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Illinois and Mississippi, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Livingston.	ILLINOIS
	MISSISSIPPI
Chickasaw.	Smith.
Lee.	Tishomingo.
Prentiss.	Tunica.

Pursuant to the authority set forth above, emergency loans will not be made

in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 16th day of January 1969.

ORVILLE L. FREEMAN,  
Secretary.

[F.R. Doc. 69-827; Filed, Jan. 22, 1969;  
8:47 a.m.]

#### Packers and Stockyards Administration.

#### HESS LIVESTOCK COMMISSION CO., INC. ET AL.

#### Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	Current name of stockyard and date of change in name
COLORADO	
Hess Livestock Commission Company, Inc., Pueblo, Mar. 7, 1957.	Melott Livestock Commission Co., Nov. 22, 1968.
KANSAS	
Winfield Livestock Auction, Winfield, Feb. 6, 1960.	Winfield Auction Company, Sept. 1, 1968.
MISSOURI	
Seneca Sale Barn, Seneca, May 22, 1959.	Seneca Community Sale, Aug. 25, 1968.
NEW YORK	
Cobleskill Commission Auction, Inc., Cobleskill, Aug. 14, 1963.	Bartholomew Commission Sales, Nov. 4, 1968.
OHIO	
Producers Livestock Association, Chillicothe, Mar. 12, 1954.	Scioto Livestock Sales Co., Nov. 29, 1968.

Done at Washington, D.C., this 13th day of January 1969.

G. H. HOPPER,  
Chief, Registrations, Bonds, and Reports  
Branch, Livestock Marketing Division.

[F.R. Doc. 69-813; Filed, Jan. 22, 1969; 8:46 a.m.]

## DEPARTMENT OF COMMERCE

### Business and Defense Services Administration

#### UNIVERSITY OF WASHINGTON ET AL.

#### Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER:

Regulations issued under cited Act, published in the February 4, 1967 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

A copy of each comment filed with the Director of the Scientific Instrument Evaluation Division must also be mailed or delivered to the applicant, or its authorized agent, if any, to whose application the comment pertains; and the comment filed with the Director must certify that such copy has been mailed or delivered to the applicant.

Docket No. 69-00272-33-46040. Applicant: University of Washington Medical School, Department of Pathology, Seattle, Wash. 98105. Article: Electron Microscope, Model EM 6B/801 and accessories. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article will be used for research and research training. Present projects requiring the highest resolution possible include studies of amyloid, collagen and elastic fibers by sectioning, negative staining procedures and shadowing procedures, as well as studies of morphologic variations of elementary particles of mitochondrial membranes after negative staining procedures. Projects requiring large numbers of low magnification, low distortion, high resolution

pictures include comparative studies of renal ultrastructure, studies of various disease tissues, of experimentally altered tissues, or of autoradiographic studies in which large areas of tissue must be examined. Application received by Commissioner of Customs: November 12, 1968.

Docket No. 69-00273-99-46040. Applicant: Northeastern University, 360 Huntington Avenue, Boston, Mass. 02115. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used for teaching and research. The teaching function will include:

(a) The continuation of our present intensive two week seminar-workshop for Ph.D.'s.

(b) A regular University course. Details depending on the academic year and schedules.

(c) Six-week courses with a total of 72 hours for the training of technicians.

Research programs include:

(a) Ultrastructure and function of heart muscle.

(b) Ultrastructure and function of Hypothalamus and Pituitary.

Application received by Commissioner of Customs: November 12, 1968.

Docket No. 69-00275-65-61060. Applicant: The University of Michigan, Purchasing Office, Ann Arbor, Mich. 48105. Article: Biaxial Stress Tester. Manufacturer: Mand Precision Engineering Co., Ltd., United Kingdom. Intended use of article: The article will be used in certain formal laboratory experiments where a comparison between strain hardening behavior due to uniaxial tension and balanced biaxial tension can be made by students. In addition, the tester will be used in formal research studies. Application received by Commissioner of Customs: November 12, 1968.

Docket No. 69-00277-25-34095. Applicant: Clarkson College of Technology, Potsdam, N.Y. 13676. Article: Generalised electrical machine set. Manufacturer: Mawdsley's Ltd., United Kingdom. Intended use of article: The article will be used for teaching and research pertaining to the theory of electrical rotating machines. Application received by Commissioner of Customs: November 14, 1968.

Docket No. 69-00278-33-46040. Applicant: Case Western Reserve University, Medical School, 2109 Adelbert Road, Cleveland, Ohio 44106. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for both teaching and research. The use of the electron microscope in medical and biological research will be taught to Medical Students as part of a special training project offered in the Basic Science portion of their medical education. The article will also be used in research projects concerning the following:

(1) Development of cardiac and skeletal muscle;

(2) Regeneration of nerve tissue;

(3) Structure of muscle in *in vitro* protein synthesis;

(4) The purity of fractions of contractile protein obtained from developing skeletal muscle;

(5) Structure of blood cells in various types of anemias;

(6) The structure of plant chloroplasts during photosynthesis;

(7) The structure of muscle in animals showing genetic defects leading to muscle atrophy refractoriness to insulin.

Application received by Commissioner of Customs: November 14, 1968.

Docket No. 69-00279-33-77030. Applicant: University of Pittsburgh, Fifth Avenue and Bigelow Boulevard, Pittsburgh, Pa. 15213. Article: Nuclear magnetic resonance spectrometer, Model HFX-3. Manufacturer: Bruker-Physik AG, West Germany. Intended use of article: The article will be used for the following studies:

(1) To investigate the electronic structure and environment of the heme groups in both normal and abnormal human hemoglobins by means of  $^1\text{H}$  resonance;

(2) To investigate the chemical nature of the phosphorus atoms in phosphoproteins and phosphorylated biomolecules (such as  $\alpha$ -casein, phosytin, pepsin, phospholipids, etc.) by means of  $^{31}\text{P}$  resonance;

(3) To study the binding of  $^{24}\text{Mg}$  ions to proteins and nucleic acids by  $^{24}\text{Mg}$  resonance;

(4) To study the mechanism of formation and structure of the hydrated metal complexes of biological interests in aqueous solutions by  $^{17}\text{O}$  resonance;

(5) To study the  $^{13}\text{C}$  chemical shifts in amino acids, peptides, proteins, nucleotides, and nucleic acids;

(6) To study the  $^{14}\text{N}$  chemical shifts in amino-acids, peptides, proteins, nucleotides, and nucleic acids;

(7) To use  $^{19}\text{F}$  resonance to study protein conformations and to study the enzyme binding sites.

Application received by Commissioner of Customs: November 14, 1968.

CHARLEY M. DENTON,  
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 69-800; Filed, Jan. 22, 1969; 8:45 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 20600]

### SKYCHARTER AIRCRAFT SALES LTD.

#### Notice of Hearing

Application for a foreign air carrier permit issued pursuant to section 402 of the Federal Aviation Act of 1958, as amended, to perform operations of a casual, occasional or infrequent nature, in common carriage, from Canada into the United States.

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing on the above-entitled application is assigned to be held on January 29, 1969, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner John E. Faulk.

Dated at Washington, D.C., January 16, 1969.

[SEAL]

THOMAS L. WRENN,  
Chief Examiner.

[F.R. Doc. 69-864; Filed, Jan. 22, 1969; 8:49 a.m.]

## FEDERAL MARITIME COMMISSION

### ATLANTIC PASSENGER STEAMSHIP CONFERENCE

#### Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. R. M. L. Duffy, Secretary General, Atlantic Passenger Steamship Conference, 139, Sandgate Road, Folkstone, Kent, England.

Agreement No. 7840-74 of the Atlantic Passenger Steamship Conference provides for the modification of Agreement 7840, as amended, to increase the basic contribution of the Lines towards Conference expenses from 200 British pounds to 300 British pounds per annum.

Dated: January 17, 1969.

By order of the Federal Maritime Commission,

THOMAS LIST,  
Secretary.

[F.R. Doc. 69-859; Filed, Jan. 22, 1969; 8:49 a.m.]

### HAMBURG-AMERIKA LINIE ET AL.

#### Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1405 I Street NW.,

Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Hamburg-Amerika Linie, Norddeutscher Lloyd, and Lykes Bros. Steamship Co., Inc.:

Notice of agreement filed for approval by:

Mr. R. J. Finnan, Analyst Rates and Tariffs, Lykes Bros. Steamship Co., Inc., Post Office Box 50998, New Orleans, La. 70150.

Agreement No. 9768 provides for the interchange of cargo containers and related equipment between Hamburg-Amerika Linie, Norddeutscher Lloyd, and Lykes Bros. Steamship Co., Inc., operating in the trades between U.S. ports and various foreign countries, in accordance with the terms and conditions set forth therein.

Dated: January 17, 1969.

By order of the Federal Maritime Commission.

THOMAS LIST,  
Secretary.

[F.R. Doc. 69-860; Filed, Jan. 22, 1969;  
8:49 a.m.]

#### JAPAN-PUERTO RICO AND VIRGIN ISLANDS FREIGHT CONFERENCE

##### Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. D. P. Gillette, Chairman, Japan-Puerto Rico and Virgin Islands Freight Conference, Second Floor, Sumitomo Seimei Yaesu Building, 3, 4-Chome Yaesu, Chuo-Ku, Tokyo, Japan.

Agreement No. 8190-9 between the member lines of the Japan-Puerto Rico and Virgin Islands Freight Conference amends Article 1 of the basic agreement (8190, as amended) to permit the member lines to serve Puerto Rico and the Virgin Islands "by ways of transshipment". The modification will eliminate present restrictions as to specific ports where transshipment of cargoes may take place by the member lines.

Dated: January 17, 1969.

By order of the Federal Maritime Commission.

THOMAS LIST,  
Secretary.

[F.R. Doc. 69-861; Filed, Jan. 22, 1969;  
8:49 a.m.]

#### LINEA AMAZONICA S.A. AND BOOTH-LAMPORT JOINT SERVICE

##### Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Harold E. Mesirov, Esquire, Hydeman and Mason, 1001 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 9769, between Linea Amazonica S.A., and The Booth Steamship Co., Ltd., and Lamport & Holt Line, Ltd., parties to the Booth-Lamport Joint Service provides for the spacing of sailings and the establishment of rates by the parties in the trade between U.S. Atlantic and Gulf ports and the ports of the Leeward & Windward Islands, Barbados, Trinidad, Guyanas and Brazilian and River Amazon, in accordance with the terms and conditions set forth in the agreement.

Dated: January 17, 1969.

By order of the Federal Maritime Commission.

THOMAS LIST,  
Secretary.

[F.R. Doc. 69-862; Filed, Jan. 22, 1969;  
8:49 a.m.]

[Docket No. 69-5, Agreement T-2227]

#### SAN FRANCISCO PORT AUTHORITY AND STATES STEAMSHIP CO.

##### Order of Investigation and Hearing

On November 15, 1968, the San Francisco Port Authority and States Steamship Co. filed for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814), Agreement No. T-2227. The agreement provides for the lease and use of certain marine terminal properties at San Francisco, Calif.

The Commission has received a protest against approval of Agreement No. T-2227 from the Port of Oakland, Calif., urging that the agreement should not be approved because the rentals contained in the agreement are noncompensatory in violation of section 15 of the Shipping Act, 1916.

The Commission has considered the comments of Oakland regarding the agreement and is of the opinion that the agreement should be made the subject of a formal investigation to determine whether the rentals under the agreement are noncompensatory resulting in unlawful discrimination to other ports or terminals.

Now therefore, it is ordered, That the Commission on its own motion, enter upon an investigation and hearing pursuant to section 22 of the Shipping Act, 1916 to determine whether Agreement No. T-2227 should be approved, modified, or disapproved pursuant to section 15 of the said Act;

It is further ordered, That the issues in this proceeding be confined to whether the rentals contained in Agreement No. T-2227 are noncompensatory resulting in unlawful discrimination to other ports or terminals.

It is further ordered, That the San Francisco Port Authority and States Steamship Co. are hereby made respondents in this proceeding; and the Port of Oakland, Calif., is hereby designated as petitioner;

It is further ordered, That the proceeding herein ordered be assigned for hearing before an examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the Chief Examiner;

It is further ordered, That this proceeding be expedited;

It is further ordered, That notice of this order and notice of hearing be published in the FEDERAL REGISTER, and copy of such order and notice of hearing be served upon respondents and petitioner;

It is further ordered, That persons other than respondents, petitioner, and Hearing Counsel who desire to become

parties in this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, promptly, with copy to all parties as listed in Appendix A hereto; 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 shall be mailed directly to all parties of record.

By the Commission.

[SEAL] THOMAS LIST,  
Secretary.

APPENDIX A

States Steamship Co., Lillick, McHose, Wheat, Adams & Charles, 311 California Street, San Francisco, Calif. 94104.

San Francisco Port Authority, Miriam E. Wolf, Chief Counsel, World Trade Center, Room 228, Ferry Building, San Francisco, Calif. 94111.

Port of Oakland, J. Kerwin Rooney, Port Attorney, 66 Jack London Square, Oakland, Calif. 94607.

[F.R. Doc. 69-863; Filed, Jan. 22, 1969; 8:49 a.m.]

## FEDERAL RESERVE SYSTEM

### FIRST BANKSHARE ASSOCIATION

#### 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 Bankshare Association, Lewiston, Maine, for prior approval of the Board of action whereby Applicant would become a bank holding company through the acquisition of not less than 80 percent of the voting shares of each of the following banks: First-Manufacturers National Bank of Lewiston and Auburn, Lewiston, Maine, and The Peoples National Bank of Farmington, Farmington, Maine.

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 Boston.

Dated at Washington, D.C., this 15th day of January 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,  
Assistant Secretary.

[F.R. Doc. 69-815; Filed, Jan. 22, 1969; 8:46 a.m.]

## INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

### CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN POLAND

#### Entry and Withdrawal From Warehouse for Consumption

JANUARY 17, 1969.

On March 15, 1967, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Poland concerning exports of cotton textiles and cotton textile products from Poland to the United States over a 3-year period beginning March 1, 1967. Among the provisions of the agreement are those which permit the Government of Poland, within the aggregate and applicable group limits, to exceed by not more than 5 percent any specific category limit. The Government of Poland has advised the U.S. Government of its desire to exercise this provision with respect to cotton textile products in Categories 42 and 43.

Accordingly, there is published below a letter of January 17, 1969 from the Chairman of the Interagency Textile Administrative Committee to the Commissioner of Customs, directing that as soon as possible and for the period beginning March 1, 1968, and extending through February 28, 1969, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 42 and 43, produced or manufactured in Poland and exported to the United States on or after March 1, 1968, be limited to the designated levels.

STANLEY NEHMER,  
Chairman, Interagency Textile Administrative Committee,  
and Deputy Assistant Secretary for Resources.

## THE ASSISTANT SECRETARY OF COMMERCE INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COMMISSIONER OF CUSTOMS,  
Department of the Treasury,  
Washington, D.C. 20226.

JANUARY 17, 1969,

DEAR MR. COMMISSIONER: On February 19, 1968, the Chairman of the President's Cabinet Textile Advisory Committee, directed you to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Poland and exported to the United States during the period which began on March 1, 1968, and extends through February 28, 1969, in excess of the designated levels of restraint. The Chairman further advised you that in the event that there were any adjustments<sup>1</sup> in the levels of restraint you would be so informed by letter from the Chairman of the Interagency Textile Administrative Committee.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of March 15, 1967, between the Governments of the United States and Poland, in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, and under the terms of the aforementioned directive of February 19, 1968, the levels of restraint provided in that directive for cotton textiles and cotton textile products in Categories 42 and 43, produced or manufactured in Poland and exported to the United States during the period which began on March 1, 1968 and extends through February 28, 1969, are hereby amended, to be effective as soon as possible, as follows:

Category	Amended 12-month level of restraint
42 -----dozen-----	27, 563
43 -----do-----	49, 613

The actions taken with respect to the Government of Poland and with respect to imports of cotton textiles and cotton textile products from Poland have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. II, 1965-66). This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,  
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[F.R. Doc. 69-857; Filed, Jan. 22, 1969; 8:49 a.m.]

<sup>1</sup>The term "adjustments" refers to those provisions of the bilateral cotton textile agreement of March 15, 1967, between the Governments of the United States and Poland which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; and for administrative arrangements.

# SECURITIES AND EXCHANGE COMMISSION

[812-2371]

## CONNECTICUT GENERAL LIFE INSURANCE CO. AND CG VARIABLE ANNUITY ACCOUNT I

### Notice of Amended Application for Exemptions From Various Provisions of the Act

JANUARY 16, 1969.

The Commission on September 26, 1968, issued a notice (Investment Company Act Release No. 5498) upon application by Connecticut General Life Insurance Co. ("CG Life") and CG Variable Annuity Account I ("Separate Account"), Hartford, Conn. 06115 (hereinafter collectively called "Applicants"), for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Separate Account, a unit investment trust registered under the Act, from the provisions of sections 12(d) (1), 22(d), 22(e), 26(a), 27(c) (1) and 27(c) (2) of the Act. On December 30, 1968, the Commission issued a notice of amended application (Investment Company Act Release No. 5567). The prior notices are incorporated herein by reference. Notice is hereby further given that on January 8, 1969, Applicants again amended their application to include a request for exemption from section 27(a) (3) of the Act, which is summarized below. All interested persons are referred to the application on file with the Commission for a statement of the representations therein.

Section 27(a) (3) of the Act provides that it shall be unlawful for any registered investment company issuing periodic payment plan certificates to sell any such certificate if the sales charges deducted from any one of the first 12 monthly payments exceed proportionately the amount deducted from any other such payment or if the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

The group variable annuity contracts to be offered by CG Life will provide for a sales charge of 9 percent of the first \$1,000 of payments under the contract and 3 percent for payments in excess of the first \$1,000. The 3 percent sales charge will apply on the basis of aggregate amounts paid in to both a variable and a fixed annuity contract which are issued in conjunction with one another. Applicants request exemption from section 27(a) (3) of the Act to the extent necessary to permit the reduction of sales charges, as proposed.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with

the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 24, 1969 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in such matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 69-823; Filed, Jan. 22, 1969;  
8:46 a.m.]

## ELECTROGEN INDUSTRIES, INC.

### Order Suspending Trading

JANUARY 16, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of Electro-Gen Industries, Inc. (formerly Jodmar Industries, Inc.) (may be known as American Lima Corp.), 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 17, 1969, through January 26, 1969, both dates inclusive.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 69-823; Filed, Jan. 22, 1969;  
8:46 a.m.]

[812-2424]

## SCHRODERS INC.

### Notice of Filing of Application for Exemption

JANUARY 16, 1969.

Notice is hereby given that Schroders Inc. ("Schroders"), 57 Broadway, New York, N.Y., has filed an application pursuant to section 6(c) of the Investment Company Act of 1940, for an order of exemption from the provisions of section 15 of the Act. All interested persons are referred to the application on file with the Commission for a complete statement of applicant's representations, a summary of which is set forth immediately below.

Schroders, a Delaware corporation, proposes to acquire the investment advisory business of Naess & Thomas ("N&T"), a New York partnership, on January 31, 1969. N&T serves as an investment adviser to the following six registered investment companies, i.e., Naess & Thomas Special Fund, Inc., American Insurance Investors Stock Fund, Inc., Mid-America Mutual Fund, Inc., Industry Fund of America, Inc., First Investors Fund for Growth, Inc., and First Investors Fund, Inc. ("Funds"). In the case of Naess & Thomas Special Fund, Inc., N&T's services are performed pursuant to an investment advisory contract with the Fund. In the case of each other Fund, such services are performed pursuant to an investment advisory contract with the manager or principal investment adviser to the Fund.

The proposed acquisition will constitute an assignment of the above-mentioned investment advisory contracts. Schroders intends to enter into new investment advisory contracts with each of the Funds. It is anticipated that prior to January 31, 1969, these contracts will have been approved by the Board of Directors of each of the Funds. In addition, when the contract with respect to services to be rendered to any of the Funds is entered into by Schroders and the manager or investment adviser to the Fund, then it is anticipated that the Board of Directors of such manager or investment adviser will also approve the contract.

Of the six Funds, two have scheduled annual shareholder meetings in February 1969, two in March 1969, and two in April 1969.

Because of the expense involved in calling special shareholder meetings to approve the aforementioned contracts, and because of the administrative difficulties that would be involved in holding such meetings prior to January 31, 1969, the stockholders of the Funds will not be asked to approve the contracts prior to January 31, 1969, but will be asked to give such approval at the respective annual meetings thereof, next succeeding such date.

Section 15(a) of the Act provides, in part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company except pursuant to a written contract, which contract, whether with such

registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company.

Schroders seeks an order, pursuant to section 6(c) of the Act, exempting Schroders from the provisions of section 15 of the Act to the extent said provisions would prevent Schroders from acting as investment adviser to any of the Funds under a contract relating to such Fund, from January 31, 1969, until such time as such contract is approved or disapproved by the vote of a majority of the outstanding voting securities of such Fund, at the next annual meeting thereof, or May 1, 1969, whichever first occurs.

Substantially the same individuals who now provide the investment advisory services to the Funds will continue to do so after January 31, 1969. Schroders will establish a separate division which will engage in the investment advisory business. The division will be managed by its own board of directors and its own officers. Persons who are presently partners of N&T will constitute a majority of such board of directors; the three senior officers of the division will be the present three senior partners of N&T; all the present partners of N&T will be officers of the division; and all the present employees of N&T will become employees of the division.

Each contract provides for a fee schedule which is identical with those currently in effect under the investment advisory agreements with N&T, except that Schroders will perform investment advisory services approximately at cost during the period between the effective date of the contract and the next meeting of shareholders.

The terms of each contract are identical to the existing investment advisory agreements with N&T except for the foregoing provision and provisions dealing with the effective dates and termination dates. Each contract provides that it will become effective upon the acquisition by Schroders of the investment advisory business of N&T except that, if such acquisition date precedes the approval of the contract by the shareholders of the Fund to which it relates, such contract will become effective (a) upon approval by such stockholders or (b) upon the granting by the Commission of the requested exemption with respect to such contract, whichever first occurs. In addition to the termination provisions contained in the investment advisory agreements now in force, each contract provides for its automatic termination, on the date of the next meeting of stockholders of the Fund to which it relates, if it is not approved by a majority of the stockholders at such meeting, or on May 1, 1969, if a stockholder meeting has not been held prior to that date.

Schroders represents that unless the exemption is granted the Funds will be without the investment advisory services heretofore rendered by N&T. Schroders also represents that it will render substantially similar services to that pro-

vided by N&T and that such services will be rendered, until stockholder approval, approximately at cost and therefore without profit.

Section 6(c) of the Act provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 30, 1969, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 69-824; Filed, Jan. 22, 1969;  
8:47 a.m.]

## UNITED AUSTRALIAN OIL, INC.

### Order Suspending Trading

JANUARY 16, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of United Australian Oil, Inc., Dallas, Tex., and all other securities of United Australian Oil, Inc., 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 16, 1969, through January 25, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 69-825; Filed, Jan. 22, 1969;  
8:47 a.m.]

[Release 35-16253]

## FIRST MORTGAGE BONDS ISSUED AND SOLD UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

### Extension of Comment Period

The Securities and Exchange Commission has extended to January 31, 1969, the period within which views and comments may be submitted by interested persons pursuant to the Commission's invitation for comments on the question whether it should relax its policy respecting the redemption provisions of first mortgage bonds issued and sold pursuant to provisions of the Public Utility Holding Company Act of 1935. In its invitation of November 20, 1968 (Release 35-16211) (33 F.R. 17817 (Nov. 28, 1968)), the Commission had requested that the comments be filed not later than December 20, 1968.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

DECEMBER 23, 1968.

[F.R. Doc. 69-821; Filed, Jan. 22, 1969;  
8:46 a.m.]

## TARIFF COMMISSION

[337-I-35]

### FREEZE DRIED COFFEE

#### Notice of Complaint Received

The U.S. Tariff Commission hereby gives notice of the receipt on December 19, 1968, of a complaint under sections 1337 and 1337a of title 19 of the United States Code, filed by the Struthers Scientific and International Corporation of New York, N.Y., alleging unfair methods of competition and unfair acts in the importation and sale of freeze dried coffee, which have the effect or tendency to substantially injure, or prevent the establishment of, an industry in the United States. The unfair method or act is alleged to be the continued importation and sale in the United States of imported freeze dried coffee by General Foods Corp. of White Plains, N.Y., which coffee has been made in accordance with the claims of U.S. Letters Patent No. 3,381,302 and No. 3,404,007 owned by the complainant.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the allegations of the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation, and if so whether the Commission should recommend to the President the issuance of a temporary order of exclusion from entry under section 337(f) of the tariff act (19 U.S.C. 1337(f)).

A copy of the complaint is available for public inspection at the office of The Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than March 1, 1969. Such information should be sent to The Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436. A signed original and nineteen (19) true copies of each document must be filed.

Issued: January 16, 1969.

By order of the Commission.

[SEAL] DONN N. BENT,  
Secretary.

[F.R. Doc. 69-826; Filed, Jan. 22, 1969;  
8:47 a.m.]

## INTERSTATE COMMERCE COMMISSION

[Notice 534]

### MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 17, 1969.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

### MOTOR CARRIERS OF PROPERTY

No. MC 10343 (Deviation No. 15), CHURCHILL TRUCK LINES, INC., U.S. Highway 36 West, Post Office Box 250, Chillicothe, Mo. 64601, filed January 10, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Princeton, Mo., over U.S. Highway 65 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 63, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Princeton, Mo., over U.S. Highway 65 to junction U.S. Highway 36, thence over U.S. Highway 36 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction Interstate Highway 80, and return over the same route.

No. MC 22229 (Deviation No. 13), TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316, filed July 1, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 41 and Interstate Highway 75 south of Chattanooga, Tenn., over Interstate Highway 75 to junction Tennessee Highway 153, thence over Tennessee Highway 153 to junction U.S. Highway 27 north of Chattanooga, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Atlanta, Ga., over U.S. Highway 41 to Chattanooga, Tenn., thence over U.S. Highway 27 to Cincinnati, Ohio, and return over the same route.

No. MC 22229 (Deviation No. 14), TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, Ga. 30316, filed January 6, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Adams, Tenn., over U.S. Highway 41 to Vincennes, Ind., thence over U.S. Highway 50 to East St. Louis, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Nashville, Tenn., over U.S. Highway 41 to Adams, Tenn., thence over Tennessee Highway 76 to junction Alternate U.S. Highway 41, thence over Alternate U.S. Highway 41 to Clarksville, Tenn., thence over U.S. Highway 79 to junction Tennessee Highway 69, thence over Tennessee Highway 69 to Paris, Tenn., thence over U.S. Highway 641 (formerly Tennessee Highway 54) via Puryear, Tenn., to the Tennessee-Kentucky State line, thence continue over U.S. Highway 641 (formerly Kentucky Highway 95) to junction U.S. Highway 68, thence over U.S. Highway 68 to Paducah, Ky.; and

(2) from St. Louis, Mo., across the Mississippi River to East St. Louis, Ill., thence over Illinois Highway 13 to Pickneyville, Ill., thence over Illinois Highway 37 to Boles (formerly West Vienna), Ill., thence over Illinois Highway 146 to Vienna, Ill., thence over U.S. Highway 45 to Paducah, Ky., and return over the same routes.

No. MC 46829 (Deviation No. 2), ALLARD EXPRESS, INC., 806 Elm Street, Watertown, Wis. 53094, filed January 8, 1969. Carrier's representative: Michael J. Wyngaard, 125 West Doty Street, Madison, Wis. 53703. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Wisconsin Highway 23 and U.S. Highway 41, at or near Fond du Lac, Wis., over U.S. Highway 41 to junction Interstate Highway 94 at Milwaukee, Wis., thence over Interstate Highway 94 to Chicago, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Wautoma, Wis., over Wisconsin Highway 73 to Princeton, Wis., thence over Wisconsin Highway 23 to Fond du Lac, Wis., thence over U.S. Highway 45 to Chicago, Ill., and return over the same route.

No. MC 108185 (Deviation No. 13), JACK COLE—DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, Minn. 55114, filed January 6, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Elizabethtown, Ky., over Kentucky Tollway (Blue Grass Parkway) to Lexington, Ky., thence over Interstate Highway 75 to Cincinnati, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Elizabethtown, Ky., over U.S. Highway 31W to Louisville, Ky., thence over U.S. Highway 42 to Cincinnati, Ohio, and return over the same route.

No. MC 108185 (Deviation No. 14), JACK COLE—DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, Minn. 55114, filed January 6, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Greensboro, N.C., over Interstate Highway 85 (U.S. Highway 1) to Petersburg, Va., thence over Interstate Highway 95 to Richmond, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Greensboro, N.C., over U.S. Highway 29 to Danville, Va., thence over U.S. Highway 360 to Richmond, Va., and return over the same route.

No. MC 108473 (Deviation No. 16), ST. JOHNSBURY TRUCKING COMPANY,

INC., 38 Main Street, St. Johnsbury, Vt. 05819, filed January 6, 1969. Carrier's representative: Francis P. Barrett, 60 Adams St., Milton (Boston), Mass. 02187. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Vermont Highway 105 and Interstate Highway 89 at or near St. Albans, Vt., over Interstate Highway 89 to junction Interstate Highway 93 at or near Concord, N.H., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Richford, Vt., over Vermont Highway 105 to St. Albans, Vt., thence over U.S. Highway 7 to Burlington, Vt., thence over U.S. Highway 2 to Montpelier, Vt., thence over U.S. Highway 302 to Barre, Vt., thence over Vermont Highway 14 to White River Junction, Vt., thence over U.S. Highway 5 to Acutey, Vt., thence across the Connecticut River and over New Hampshire Highway 103 to Bradford, N.H., thence over New Hampshire Highway 114 to Manchester, N.H., thence over U.S. Highway 3 to Boston, Mass.; and (2) from Boston, Mass., over U.S. Highway 3 to Concord, N.H., thence over U.S. Highway 202 to Hopkinton, N.H., thence over New Hampshire Highway 103 to West Claremont, N.H., thence across the Connecticut River to Acutey, Vt., thence over U.S. Highway 5 to White River Junction, Vt., and return over the same routes.

#### MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Deviation No. 502) (Cancels Deviation No. 455), GREY-ROUND LINES, INC. (Eastern Division) 1400 West Third Street, Cleveland, Ohio 44113 filed January 3, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction U.S. Highway 21 and Ohio Highway 82 over Ohio Highway 82 to junction Interstate Highway 77 thence over Interstate Highway 77 to junction Ohio Highway 176, southeast of Ghent, Ohio; (2) from Akron, Ohio, over Interstate Highway 77 to Canton, Ohio; (3) from Canton, Ohio, over Interstate Highway 77 to junction Tuscarawas County Road 53, thence over Tuscarawas County Road 53 to junction U.S. Highway 21 at Stone Creek, Ohio; (4) from Strasburg, Ohio, over U.S. Highway 21 to junction Interstate Highway 77; (5) from Dover, Ohio, over Ohio Highway 39 to junction Interstate Highway 77; (6) from New Philadelphia, Ohio, over U.S. Highway 21 to junction Interstate Highway 77; (7) from junction Ohio Highway 541 and U.S. Highway 21, over Ohio Highway 541 to junction Interstate Highway 77, thence over Interstate Highway 77 to junction U.S. Highway 21, 3 miles north of Pocatlico, W. Va.; (8) from Cambridge, Ohio, over U.S. Highway 22 to junction Interstate Highway 77; (9) from Cambridge, Ohio, over U.S. High-

way 40 to junction Interstate Highway 77; (10) from junction Interstate Highway 70 and U.S. Highway 21 south of Cambridge, Ohio, over Interstate Highway 70 to junction Interstate Highway 77; (11) from junction Ohio Highway 313 and U.S. Highway 21 over Ohio Highway 313 to junction Interstate Highway 77; (12) from junction U.S. Highway 21 and Interstate Highway 77, north of Caldwell, Ohio, over U.S. Highway 21 to Caldwell, Ohio;

(13) From junction Ohio Highway 78 and U.S. Highway 21 just south of Caldwell, Ohio, over Ohio Highway 78 to junction Interstate Highway 77; (14) from Macksburg, Ohio, over Washington County Road 301 to junction Interstate Highway 77; (15) from Marietta, Ohio, over U.S. Alternate Highway 50 to junction Interstate Highway 77; (16) from Parkersburg, W. Va., over U.S. Highway 50 to junction Interstate Highway 77; (17) from Ripley, W. Va., over U.S. Highway 33 to junction Interstate Highway 77, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From Cleveland over Ohio Highway 8 via Bedford and Akron, Ohio, to Dover, Ohio, thence over U.S. Highway 250 to New Philadelphia, Ohio; (2) from Cleveland over Ohio Highway 176 to junction Rockside Road, thence over Rockside Road to junction U.S. Highway 21, thence over U.S. Highway 21 to junction Ohio Highway 176, thence over Ohio Highway 176 to junction Ohio Highway 18, thence over Ohio Highway 18 to Akron, Ohio, thence over Ohio Highway 5 to junction U.S. Highway 21, and thence over U.S. Highway 21 via Navarre, Dover, and New Philadelphia, Ohio, to Marietta (also from Cleveland over Ohio Highway 176 to junction U.S. Highway 21); (3) from Massillon, Ohio, over U.S. Highway 30 to Canton; (4) from Richfield, Ohio, over Ohio Highway 303 to junction Ohio Highway 176; (5) from junction Ohio Highway 176 and Oaks Road over Oaks Road to junction U.S. Highway 21; (6) from Massillon, Ohio, over Ohio Highway 241 via Greensburg to Akron, Ohio; (7) from Cleveland over New U.S. Highway 21 (Willow Freeway) to junction Rockside Road just north of Independence; and (8) from Bridgeport, Ohio, over Ohio Highway 7 to Belpre, Ohio, thence across the Ohio River to Parkersburg, W. Va., thence over U.S. Highway 21 to Ripley, W. Va., thence over relocated U.S. Highway 21 to Fairplain, W. Va., thence over U.S. Highway 21 via Oak Hill and Glen Jean to Beckley, W. Va., and return over the same routes.

No. MC 13028 (Deviation No. 14), THE SHORT LINE, INC., 27 Sabin Street, Post Office Box 1116, Annex Station, Providence, R.I. 02901, filed January 10, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Highway 95 and Interstate Highway 295

at North Attleboro, Mass., over Interstate Highway 295 to junction Rhode Island Highway 146 near Albion, R.I., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Boston, Mass., over U.S. Highway 1 (also over Alternate U.S. Highway 1) to Providence, R.I., and return over the same routes.

By the Commission.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-866; Filed, Jan. 22, 1969;  
8:49 a.m.]

[Notice 1260]

#### MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 17, 1969.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

#### APPLICATIONS ASSIGNED FOR ORAL HEARING

##### MOTOR CARRIERS OF PROPERTY

No. MC 116653 (Sub-No. 1) (Republication), filed September 3, 1968, published FEDERAL REGISTER issue of September 19, 1968, and republished this issue. Applicant: GORDON BEDORE, 1303 South Avenue, Niagara Falls, N.Y. 14305. Applicant's representative: Clarence E. Rhoney, 55 16th Avenue, North Tonawanda, N.Y. 14120. By application filed September 3, 1968, applicant seeks a certificate of public convenience and necessity authorizing operation in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of passengers and their baggage, in special operations, in round-trip sightseeing or pleasure tours, limited to the transportation of not more than eight passengers in any one vehicle, but not including the driver thereof and not including children under 10 years of age who do not occupy a seat or seats, beginning and ending at Niagara Falls, N.Y., and points in Niagara County, N.Y., within 6 miles thereof, and extending to ports of entry on the international boundary line between the United States and Canada located at Niagara Falls and Lewiston, N.Y. An order of the Commission, Operating Rights Board dated November 29, 1968, and served December 27, 1968, finds that the present and

future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes of *passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sight-seeing and pleasure tours, in vehicles with a seating capacity not to exceed eight passengers, beginning and ending at points in Niagara County, N.Y., west of a line extending from junction New York Highway 270 and the Niagara-Erie County line, over New York Highway 270 to junction New York Highway 31, thence over New York Highway 31 to junction New York Highway 425, and thence over New York Highway 425 to end of highway, and extending to ports of entry on the international boundary line between the United States and Canada, at Niagara Falls and Lewiston, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 127730 (Sub-No. 1) (Republication), filed October 6, 1966, published in the FEDERAL REGISTER issue of October 20, 1966, and republished this issue. Applicant: A. A. CARTAGE, INC., 8636 West Harrison Avenue, Milwaukee, Wis. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. By application filed October 6, 1966, as amended, applicant seeks a permit authorizing operation in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of general commodities (with usual exceptions), restricted to the transportation of shipments having an immediately prior or subsequent movement by air, between O'Hare Air Field, Cook County, Ill., on the one hand, and, on the other, points in Milwaukee, Racine, and Kenosha Counties, Wis., under a continuing contract with North Central Airlines, Inc. The application was referred to Joint Board No. 13 for hearing and the recommendation of an appropriate order thereon. The Joint Board recommended that a permit be issued authorizing service under contract with the named carrier, between General Mitchell Field, Milwaukee, on the one hand, and, on the other, O'Hare International Airport, Chicago, restricted to the transportation of shipments moving

on a through air bill of lading and having an immediately prior and subsequent movement by air. Consideration of the matters and things involved in No. MC 127730 (Sub-No. 1), a Report of the Commission, decided November 18, 1968, and served December 16, 1968, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of *general commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between General Mitchell Field, Milwaukee, Wis., on the one hand, and, on the other, O'Hare International Airport, Chicago, Ill., restricted to the transportation of traffic moving on through air bills of lading and having an immediately prior or subsequent movement by air; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128254 (Sub-No. 2) (Republication), filed April 5, 1967, published in the FEDERAL REGISTER issues of April 20, 1967, August 17, 1967, and April 24, 1968, and republished this issue. Applicant: THEODORE SAVAGE, 16061 Warren Lane, Huntington Beach, Calif. 92647. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. By application filed April 5, 1967, as amended, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of general commodities, limited to traffic having a prior or subsequent movement by air, between the terminal of WTC Air Freight located in Los Angeles, Calif., on the one hand, and, on the other, points in Orange County, Calif., located south of a line running east and west through El Toro and Newport Beach (including service at El Toro, and restricted against service at Newport Beach), and points in San Diego County, Calif., under a continuing contract with WTC Air Freight. A report of the Commission, Review Board Number 4, decided April 3, 1968, and served April 12, 1968, to whom the matter was assigned under modified procedure granted the application substantially as sought, and authorized the issuance to appli-

cant of an appropriate permit. No consideration in No. MC 128254 (Sub-No. 2), a Report of the Commission, decided November 18, 1968, and served December 16, 1968, finds that the present and future public convenience and necessity, require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *general commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between the terminal of WTC Air Freight, at Los Angeles, Calif., on the one hand, and, on the other, points in San Diego County, Calif., and those in Orange County, Calif., south and east of a line extending east and north from Newport Beach, Calif., over California Highway 55 to junction California Highway 91 to the Orange County-Riverside County, Calif., line, restricted against service at Newport Beach, Calif., and further restricted to the transportation of traffic having an immediately prior or subsequent movement by air; that applicant is fit, willing and able properly to perform the operations and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128540 (Sub-No. 1) (Republication), filed February 9, 1968, published in the FEDERAL REGISTER issue of February 21, 1968, and republished this issue. Applicant: LEWIS C. HOWARD, doing business as HOWARD MOTOR FREIGHT CO., 3931 Moreland Avenue, Kalamazoo, Mich. 49001. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. By application filed February 9, 1968, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of general commodities, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Ross Field, Benton Harbor, Mich., and Kalamazoo Airport, Kalamazoo, Mich., on the one hand, and, on the other, O'Hare Field and Midway Airport, Chicago, Ill., restricted to the transportation of shipments moving on air bills of lading and having an immediately prior or subsequent movement by air, under a continuing contract with North Central Airlines, Inc. The application has been

handled under the Commission's modified procedure and is pending for initial decision following the filing of applicant's and protestant's verified statements. Consideration of the matters and things involved in MC 128540 (Sub-No. 1), a report of the Commission, decided November 18, 1968, and served December 16, 1968, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *general commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Ross Field, Benton Harbor, Mich., and Kalamazoo Airport, Kalamazoo, Mich., on the one hand, and, on the other, O'Hare Field and Midway Airport, Chicago, Ill., restricted to the transportation of traffic having an immediately prior or subsequent movement by air; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

**APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE**

No. MC 19311 (Sub-No. 20), filed December 2, 1968. Applicant: CENTRAL TRANSPORT, INC., 3399 East McNichols Road, Detroit, Mich. 48212. Applicant's representative: Walter N. Biene-man, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: Regular routes: (A) *General commodities*, except those of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment; (1) between Flint and Lake Orion, Mich., from Flint, over Davison Road to Davison, Mich. south on State Road to Lapeer Road, west on Lapeer Road to Vassar Road, south on Vassar Road to Atherton Road, west on Atherton Road to Belsey Road, south on Belsey Road to Maple Road, east on Maple Road to Irish Road, south on Irish Road to Perry Road, east on Perry Road to Atlas, east on Perry Road to Michigan Highway 15, south on Michigan

State Road to Ortonville, east from Ortonville on the Oakwood Road to Michigan Highway 24, south on Michigan Highway 24 to Oxford, south on Michigan Highway 24 to Lake Orion, north on Michigan Highway 24 to Oakwood Road, west on Oakwood Road to county road (R9E), north on county road (R9E) to Hadley, west from Hadley, on Hadley Road to State Road, north on State Road to Cartwright Road, west on Cartwright Road to Atlas Road, south on Atlas Road to Atherton Road, west on Atherton Road to Flint, and return over the same route, serving all intermediate points;

(2) Between Flint and Imlay City, Mich., from Flint, to Imlay City, Mich., over Michigan Highway 21 and return over the same route, serving all intermediate points; (3) between Grand Blanc and Clarkston, Mich., from Grand Blanc over Perry Road through Atlas, Mich., to junction Michigan Highway 15, thence over Michigan Highway 15 to Ortonville, thence east on county road through Oakwood to junction with Michigan Highway 24, thence south on Michigan Highway 24 to Lake Orion, thence west on county road through Clarkston to junction with U.S. Highway 10 and return over the same route, serving all intermediate points; (4) between Davison and Metamora, Mich., from Davison south over Michigan Highway 15 to Goodrich, thence east on county road through Hadley to Metamora and return over the same route, serving all intermediate points; (5) between Lapeer and Detroit, Mich., from Lapeer, over Michigan Highway 24 to junction with Orion Road at Lake Orion, thence over Orion Road to Rochester, thence over Michigan Highway 150 to junction with Michigan Highway 59, and thence over Michigan Highway 59 to Detroit; also from junction Michigan Highway 59 and John R. Road over John R. Road to Detroit, and return over the same route, serving all intermediate points; (6) between Detroit and Gibraltar, Mich., from Detroit over Wayne County Road 379 (Jefferson Avenue) to junction with West Road, thence over West Road to junction with Interstate Highway 75, thence over Interstate Highway 75 to junction with Gibraltar Road, thence over Gibraltar Road to Gibraltar, Mich., thence over Jefferson Avenue to Detroit, and return over the same route, serving all intermediate points;

(7) Between Detroit and Willow Run, Mich., from Detroit, Mich., over Michigan Highway 17 to junction with U.S. Highway 12, thence west on U.S. Highway 12 to junction with Interstate Highway 94, thence east on Interstate Highway 94 to Detroit; also from Detroit over U.S. Highway 12 to Willow Run; also from Detroit over Michigan Highway 85 to Goddard Road, thence over Goddard Road to Middlebelt Road, thence south on Middlebelt Road to Eureka Road, thence west on Eureka Road to Wayne Road, thence north on Wayne Road to Michigan Highway 17, thence west on Michigan Highway 17 to Willow Run, and return over the same routes, serving all intermediate points and the off-route point of Westland; (8) between

Detroit, and Bay City, Mich., from Detroit over U.S. Highway 10 and U.S. Highway 23 to Bay City, and return over the same route; also, from Detroit over U.S. Highway 10 to junction with Michigan Highway 54 west of Clarkston, thence north on Michigan Highway 54 to junction with U.S. Highway 10 near Bridgeport, thence north on U.S. Highway 10 to Bay City, and return over the same route; also, from Detroit over Interstate Highway 75 to Bay City and return over the same route, serving all intermediate points; (9) between Saginaw and Corunna, Mich., from Saginaw over Michigan Highway 47 to Owosso, thence over Michigan Highway 71 to Corunna and return over the same route, serving all intermediate points; (10) between Pontiac and Wyandotte, Mich., from Pontiac over U.S. Highway 24 to junction with Eureka Road, thence over Eureka Road to Wyandotte, and return over the same route, serving all intermediate points;

(11) Between Pontiac and Detroit, Mich., from Pontiac over U.S. Highway 24 to junction with Interstate Highway 696, thence over Interstate Highway 696 to Detroit, and return over the same route, serving all intermediate points; (12) between Saginaw, Mich., and junction Michigan Highway 57 with Michigan Highway 47, from Saginaw south over Michigan Highway 13 to junction unnumbered county road, thence over unnumbered county road south to Layton Corners, thence west on Michigan Highway 57 to junction with Michigan Highway 47, and return over the same route, serving all intermediate points; (13) between Flint and Lansing, Mich., from Flint over Michigan Highway 21 to junction with U.S. Highway 27 at St. Johns, thence over U.S. Highway 27 to Lansing and return over the same route; also, from junction U.S. Highway 27 and county road south on county road to junction with Michigan Highway 78, thence west on Michigan Highway 78 to Lansing and return over the same routes, serving all intermediate points; (14) between Flint and Lansing, Mich., from Flint over Michigan Highway 78 to Lansing, and return over the same route, serving only those intermediate and off-route points otherwise authorized; (15) between Owosso, Mich., and junction Michigan Highway 47 with Michigan Highway 78, from Owosso over Michigan Highway 47 to junction with Michigan Highway 78, and return over the same route, serving all intermediate points;

(16) Between Flint and Ann Arbor, Mich., from Flint over U.S. Highway 23 to Ann Arbor and return over the same route, serving all intermediate points and the off-route points of Linden, Fenton, Brighton, and Whitmore Lake; (17) between Bay City, and Essexville, Mich., from Bay City over Michigan Highway 25 to Essexville and return over the same route, serving all intermediate points; (18) between Corunna, Mich., and junction Michigan Highway 71 with Michigan Highway 78, from Corunna over Michigan Highway 71 to junction with Michigan Highway 78, and return over

the same route, serving all intermediate points; (19) between Saginaw, Mich., and junction Michigan Highway 13 with Michigan Highway 78, from Saginaw south over Michigan Highway 13 to junction with Michigan Highway 78, and return over the same route, serving all intermediate points; (20) between Grand Blanc and Durand, Mich., from Grand Blanc over Grand Blanc Road to Durand, thence over Saginaw Street to junction Michigan Highway 78, and return over the same route, serving all intermediate points; (21) between Litchfield and Detroit, Mich., from Litchfield over Michigan Highway 99 to junction with U.S. Highway 12, thence over U.S. Highway 12 to Detroit and return over the same route, serving no intermediate points except those otherwise authorized; (22) between Litchfield and Jackson, Mich., from Litchfield over Michigan Highway 99 to junction with Michigan Highway 60, thence over Michigan Highway 60 to Jackson and return over the same route, serving no intermediate points; (23) between Jackson, Mich., and junction Michigan Highway 36 with U.S. Highway 23, from Jackson over Michigan Highway 106 to junction with Michigan Highway 36 at Gregory, thence over Michigan Highway 36 to junction with U.S. Highway 23, and return over the same route, serving all intermediate points;

(24) Between Pinckney and Dexter, Mich., from Pinckney over Dexter-Pinckney Road to Dexter, and return over the same route, serving all intermediate points; (25) between junction U.S. Highway 23 with North Territorial Road in Washtenaw County and junction McGregor Road with Dexter-Pinckney Road, from junction U.S. Highway 23 and North Territorial Road in Washtenaw County over North Territorial Road to junction Dexter-Pinckney Road, thence over Dexter-Pinckney Road to junction Darwin Road, thence over Darwin Road to McGregor Road, thence over McGregor Road southwesterly to Dexter-Pinckney Road, and return over the same route, serving all intermediate points; (26) between junction North Territorial Road with Huron River Drive in Washtenaw County and junction Eight Mile Road with U.S. Highway 23, from junction North Territorial Road and Huron River Drive in Washtenaw County over Huron River Drive and Strawberry Lake Road to Hamburg Road, thence over Hamburg Road to Eight Mile Road, thence over Eight Mile Road to junction with U.S. Highway 23, and return over the same route, serving all intermediate points; (27) between junction North Territorial Road in Washtenaw County with Mast Road and junction Mast Road with Strawberry Lake Road, from junction of North Territorial Road and Mast Road over Mast Road to Strawberry Lake Road and return over the same route, serving all intermediate points;

(28) Between junction Dexter-Pinckney Road with Darwin Road in Washtenaw County and junction McGregor Road with Darwin Road, from the junction of Dexter-Pinckney Road and Darwin Road, northerly over Dexter-Pinck-

ney Road to junction Michigan Highway 36, thence easterly over Michigan Highway 36 to junction Merrill Road, thence southerly over Merrill Road to Strawberry Lake Road, thence over Strawberry Lake Road to McGregor Road, thence McGregor Road to Darwin Road and return over the same route, serving all intermediate points; (29) between Adrian and Lansing, Mich., from Adrian to Lansing over U.S. Highway 223 to junction with U.S. Highway 12, thence over U.S. Highway 12 to junction with U.S. Highway 127, thence over U.S. Highway 127 to Lansing and return over the same route, serving no intermediate points; (30) between Tecumseh and Adrian, Mich., from Tecumseh to Adrian over Michigan Highway 50 to junction with county highway 459A, thence over county highway 459A to junction county highway 320-1, thence over county highway 320-1 to Adrian, and return over the same route, serving all intermediate points; (31) between Adrian and Morenci, Mich., from Adrian to Morenci over Michigan Highway 34 to junction with Michigan Highway 156, thence over Michigan Highway 156 to Morenci, and return over the same route, serving no intermediate points; (32) between Adrian and Tecumseh, Mich., from Adrian to Tecumseh over Michigan Highway 52 to junction with Michigan Highway 50, thence over Michigan Highway 50 to Tecumseh and return over the same route, serving no intermediate points;

(33) Between Detroit, Mich., and junction Interstate Highway 96 with U.S. Highway 23, from Detroit over Interstate Highway 96 to junction with U.S. Highway 23 and return over the same route, serving only those points otherwise authorized and restricted against traffic having either an origin or destination in Washtenaw or Livingston Counties; (34) between Pontiac and Walled Lake, Mich., from Pontiac over Michigan Highway 218 to Walled Lake and return over the same route, serving all intermediate points; (35) serving off-route points in connection with authorized regular routes as follows: (a) In the vicinity of Detroit, Mich., the plant of Ford Motor Co. on Mound Road at 23 Mile Road; Troy; Sterling Heights; Lincoln-Mercury plant of Ford Motor Co. near Wixom; parts and equipment plant of Ford Motor Co. near Rawsonville; plant of Kelsey-Hayes Corp. at intersection of North Line Highway and Huron River Drive in Romulus Township; Site of the R. C. Schmidt Industrial Park on 23 Mile Road between U.S. Highway 25 and Fairchild Road in Macomb County; plantsite of Devilbiss Co. in Van Buren Township, Wayne County, Mich.; (b) in the vicinity of Saginaw the points of Bridgeport; Fosters, Burt, Fergus, Henderson, Zilwaukee, Carrollton, Benninton, Birch Run, and Swan Creek; (c) in the vicinity of Flint the points of Duffield, Juddville, Bancroft, Montrose, Clio, Swartz Creek, Byron, Argentine, and Davisburg; (d) in the vicinity of Lansing the points of Ovid, Haslett, East Lansing, Rose Lake

Wildlife Experimental Station near Bath, Perry, and Morrice;

(e) In the vicinity of Ann Arbor the points of Scio, Cherry Hill, plantsite of Phillips Products Co., Inc. on North Territorial Road, Washtenaw County (approximately 1.2 miles east of U.S. Highway 23); plantsite of the Brighton N.C. Machine Corp. at 3400 Swarthout Road in Hamburg Township, Livingston County (approximately 2 miles north of Michigan Highway 36); (f) in the vicinity of Jackson the point of Rives Junction; (g) in the vicinity of Meredith the point of Higgins Lake. B. *Products and supplies* of the Redman Co. between Ithaca and Owosso, Mich., from Ithaca over U.S. Highway 27 to junction with Michigan Highway 21, thence over Michigan Highway 21 to Owosso, and return over the same route, serving no intermediate points. C. *Forgings and steel* between Lansing and Port Huron, Mich., from Lansing over Michigan Highway 78 to junction with Michigan Highway 21, thence over Michigan Highway 21 to Port Huron and return over the same route, serving only those intermediate points otherwise authorized: Irregular routes: Specified commodities over irregular routes between the points described below, as follows: (1) *New automobiles* between Detroit, Mich., and various Michigan points and *new and used automobiles* between Grand Rapids, Mich., and various Michigan points. (2) *New and used automobiles, and automobile parts* between Highland Park, Mich., and Dearborn, Mich., and various Michigan points.

*Provided*, That in the transportation of automobile parts, carrier shall only use equipment designed for and used in the transportation of automobiles; and that the transportation of automobile parts be limited to the transportation thereof between Highland Park and Dearborn, Mich., and points within a radius of 50 miles of Grand Rapids. (3) *Ford tractors and auxiliary farm equipment in connection with the tractors, and Ford trucks* between Detroit, Grand Rapids, Highland Park, and Dearborn, Mich., and various Michigan points. (4) *New automobiles* between Detroit and Grand Rapids, Mich., and vicinity, and *used automobiles and automobile parts* between Grand Rapids, Mich., and vicinity and Detroit, Mich. For the purpose of this authority, the term (vicinity) shall be construed to mean distance of not more than 8 miles from the boundaries of said municipality. (5) *Automobile parts* from the plantsite of Chase Manufacturing, Inc., at or near Douglas, Mich., to authorized regular route points, but restricted against the movement of any traffic having an immediately prior or subsequent movement by air. (6) *Butter, salt, creamery supplies, hardware, and hardware supplies* between Litchfield, Mich., and various Michigan points. NOTE: (1) By this instant application, applicant seeks to "convert" its certificates of registration to a certificate of public convenience and necessity; and (2) this application is a matter directly related to MC-F-10318, published in FEDERAL REGISTER issue of December 11,

1968. If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 106051 (Sub-No. 40), filed December 2, 1968. Applicant: OLD COLONY TRANSPORTATION CO., INC., 676 Dartmouth Street, South Dartmouth, Mass. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Utica and Oneida, N.Y., (1) from Utica over New York Highway 49 to Vienna, N.Y., thence over New York Highway 49 and New York Highway 13 to Sylvan Beach, N.Y., thence over New York Highway 13 and New York Highway 31 to Oneida Valley, N.Y., thence over New York Highway 316 and New York Highway 46 to Oneida, and return to Utica over New York Highway 365 and New York Highway 69, serving all intermediate points, and off-route points of New York, Mills, Yorkville, Marcy, Stanwix, Lowell, Stacy Basin, Higginsville, State Bridge, Durhamville, and Vernon Center, and all intermediate and off-route points in the commercial zones of Utica and Oneida; and, (2) between Oneida and Utica, N.Y., as an alternate route for operating convenience only, from Oneida over New York Highway 46 and New York Highway 5 to Oneida Castle, thence over New York Highway 5 to Utica and return over the same routes. **NOTE:** Applicant states that the commercial zones of Utica and Oneida, N.Y., are defined as the city of Utica and the towns of Schuyler, Frankfort, New Hartford, Marcy, Whitestown, and Deerfield. The cities of Oneida and Sherrill and the towns of Lenox, Lincoln and that portion of the town of Verona bounded on the west and south by the town line and on the north and east as follows: Commencing at the boundary line between the towns of Verona and Lenox at the hamlet of Oneida Valley, thence easterly along State Route 234 to the Hamlet of Verona Station thence southerly continuing along said State Route No. 234 to the village of Vernon, thence southeasterly along State Route No. 5 to its junction with said State Route No. 26, thence southerly along said State Route No. 26 to the southerly town line of the town of Verona, and the village of Vernon. Each of the said zones shall include all villages lying within any of the designated towns. The above proposed authority is directly related to MC-F-10325, which was published in the FEDERAL REGISTER issue of December 11, 1968. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor

carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 C.F.R. 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-9699. (Supplement) (MC-LEOD TRUCKING, INC.—Control and Merger—CARSON VALLEY FREIGHT LINES, INC.), published in the March 22, 1967, issue of the FEDERAL REGISTER, on page 4387. By supplemental application filed January 6, 1968, FRANK N. BENDER, 520 Evans Street, Reno, Nev., seeks to join as a party applicant in control of McLEOD TRUCKING, INC. **NOTE:** This notice does not alter the scheduled hearing date of February 10, 1969, at Carson City, Nev., before Examiner Shoup.

No. MC-F-9950 (Petition) (WATSON-WILSON TRANSPORTATION SYSTEM, INC.—Purchase (portion)—PACIFIC EXPRESS TRANSPORTATION), published in the November 29, 1967, issue of the FEDERAL REGISTER, on page 16300. By petition filed December 31, 1968, Watson-Wilson Transportation System, Inc., and Yellow Freight System, Inc., successor, seek to substitute YELLOW FREIGHT SYSTEM, INC., as Applicant, in lieu of WATSON-WILSON TRANSPORTATION SYSTEM, INC.

No. MC-F-10266. (Amendment) (WRIGHT MOTOR LINES, INC.—Purchase (portion)—BEN HAMRICK, INC.), published in the October 9, 1968, issue of the FEDERAL REGISTER, on page 15092. By petition filed January 2, 1969, Bray Lines Inc., seek to substitute BRAY LINES INCORPORATED as Applicant in lieu of WRIGHT MOTOR LINES, INC. Petitioner states that in MC-F-10247 (EARL BRAY, INC.—Merger—WRIGHT MOTOR LINES, INC.) the transaction was granted December 11, 1968, the corporate name will be changed to BRAY LINES INCORPORATED.

No. MC-F-10309. (Amendment) (TRI-STATE MOTOR TRANSIT CO.—Lease—U.S.A.C. TRANSPORT, INC., & HUGHES TRANSPORTATION, INC.), published in the November 27, 1968, issue of the FEDERAL REGISTER, on page 17711. By amendment filed January 6, 1969, Applicants seek to merge the operating rights and property of U.S.A.C. TRANSPORT, INC., and HUGHES TRANSPORTATION, INC., into TRI-STATE MOTOR TRANSIT CO., in lieu of lease. Amended application has been filed for temporary authority under section 210a(b).

No. MC-F-10355. Authority sought for continuance in control by MOLLERUP VAN LINES, INC., 2900 South Main, Salt Lake City, Utah 84111, of (1) MOLLERUP MOVING & STORAGE CO., INC., 2900 South Main, Salt Lake City, Utah, and (2) MOLLERUP VAN & STORAGE CO., INC., OF OGDEN, UTAH, East 11 Freepoint Center, Clearfield, Utah, and for acquisition by M. J. MOLLERUP, 1708 Ivenhoe Way, Las Vegas, Nev., of control of MOLLERUP MOVING & STORAGE CO., INC., and MOLLERUP VAN & STORAGE CO., INC., OF OGDEN, UTAH, through the

acquisition by MOLLERUP VAN LINES, INC. Applicants' attorney: Richard H. Moffat, 1311 Walker Bank Building, Salt Lake City, Utah 84111. Operating rights sought to be controlled: (1) Temporary authority under Docket MC-129155 TA, to operate as a common carrier, used household goods, over irregular routes, between points in Utah, with restrictions; and (2) temporary authority under Docket MC-129154 TA to operate as a common carrier, used household goods, over irregular routes, between points in Weber County, Utah, with restrictions. (The permanent authority applications in MC-129155 Sub-1 and MC-129154 Sub-1 are presently pending petitions for reopening). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10358. Authority sought for control by HERMAN A. LUEKING, SR., LESTER L. LUEKING, LEWIS L. LUEKING, HERMAN A. LUEKING, JR., and ALLAN C. KNABE, all of 1531 East 14th Street, St. Louis, Mo. 63106, of (1) LUEKING TRANSFER COMPANY, INCORPORATED, 1531 East 14th St., St. Louis, Mo. 63106, and (2) BLAIR MOTOR SERVICE, INCORPORATED, 1531 East 14th Street, St. Louis, Mo. 63106. Applicants' attorney: Gregory M. Rebman, 1230 Boatmen's Bank Building, St. Louis, Mo. 63102. Operating rights sought to be controlled: (1) *Empty malt beverage containers*, as a *contract carrier*, over regular routes, from St. Louis, Mo., to Belleville, Ill., serving no intermediate points; *window glass, brick, tile, sand, and cement*, over irregular routes, between St. Louis, Mo., on the one hand, and, on the other, points in Illinois within 25 miles of East St. Louis, Ill.; *dairy supplies and dairy equipment*, between St. Louis, Mo., on the one hand, and, on the other, certain specified points in Illinois; *iron, steel, and foundry supplies*, between St. Louis, Mo., on the one hand, and, on the other, certain specified points in Illinois as immediately above; *such merchandise* as is dealt in by wholesale dry goods houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, from St. Louis, Mo., to Belleville, Ill., between St. Louis, Mo., on the one hand, and, on the other, Alton and Freeburg, Ill.; and *compressed industrial gases, medicinal gases*, not included in compressed industrial gases, *carbon dioxide* (in liquid, solid or gaseous form) not included in compressed industrial gases; *calcium carbide apparatus, and supplies* used for the installation and maintenance of facilities for the utilization of the above commodities, and *empty gas containers*, between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission, on the one hand, and, on the other, points in Illinois within 150 miles of St. Louis, Mo.; and (2) in pending Docket No. MC-129827 Sub-1, seeking a certificate of public convenience and necessity, to operate as a common carrier, shoes, shoe findings, and shoe materials, over irregular routes, from the plantsite of Brown Shoe Company at

Trenton, Tenn., to St. Louis, Mo. (This authority pursuant to the Order by the Operating Rights Board, dated November 22, 1968, is contingent upon approval of the control section 5(2) application.) Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10359. Authority sought for purchase by ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223, of a portion of the operating rights of RAY THOMAS TRANSFER AND STORAGE, INC., 206 Merchant Street, Fairmont, W. Va. 26554, and for acquisition by R. J. DORAN, R. E. DORAN, and C. M. DORAN, all also of Cincinnati, Ohio, of control of such rights through the purchase. Applicants' attorneys: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215, and Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Operating rights sought to be transferred: *Heavy commodities*, requiring special equipment, as a *common carrier*, over irregular routes, between Clarksburg, W. Va., and points within 50 miles of Clarksburg, on the one hand, and, on the other, points in Pennsylvania east of U.S. Highway 15 and those in Maryland, Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10360. Authority sought for purchase by RISS & COMPANY, INC., 903 Grand Avenue, Kansas City, Mo. 64106, of the operating rights of PHILADELPHIA DRAYAGE & EXPRESS CORPORATION, 3719 East Thompson Street, Philadelphia, Pa. 19137, and for acquisition by ROBERT B. RISS, and RICHARD R. RISS, both also of Kansas City, Mo., of control of such rights through the purchase. Applicants' attorneys: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109, and Ivan E. Moody, 903 Grand Avenue, Kansas City, Mo. 64106. Operating rights sought to be transferred: *General commodities*, except those of unusual value and except high explosives, household goods (when transported as separate and distinct service in connection with so-called "household movings"), commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, Camden, N.J., and points in that part of Delaware County, Pa., south of Westchester Pike, and east of Landsdowne Avenue. Vendee is authorized to operate as a *common carrier* in Missouri, Kansas, Texas, Colorado, Iowa, Illinois, Nebraska, Oklahoma, Michigan, Iowa, West Virginia, Massachusetts, New Jersey, Connecticut, Pennsylvania, Maryland, Virginia, New York, Ohio, Indiana, Rhode Island, Delaware, Kentucky, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10361. Authority sought for purchase by BULK TRANSPORT, INC.,

U.S. Highway 190, Post Office Box 89, Port Allen, La. 70767, of a portion of the operating rights of WESTERN-COMMERCIAL TRANSPORT, INC., Post Office Box 270, Fort Worth, Tex. 76101. Applicants' attorney: John Schwab, Post Office Box 3036, Baton Rouge, La. 70821. Operating rights sought to be transferred: *Salt and salt products*, as a *common carrier*, over irregular routes, from the plant site of Cargill, Inc., at Chalmette, La., to points in Arkansas, Mississippi, and Texas. Vendee is authorized to operate as a *common carrier* in Texas, Louisiana, Mississippi, Alabama, Florida, Arkansas, Tennessee, Georgia, North Carolina, South Carolina, and Oklahoma. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10362. Authority sought for purchase by WILSON FREIGHT COMPANY, 3636 Follett Avenue, Cincinnati, Ohio 45223, of the operating rights of WOONSOCKET PICKUP & DELIVERY SERVICE, INC., 743 North Main Street, Woonsocket, R.I. 02895, and for acquisition by LEONARD S. SHORE, DAVID M. GANTZ, S. DAVID SHOR, and JOSEPH M. GANTZ, all also of Cincinnati, Ohio, of control of such rights through the purchase. Applicants' attorneys: Harry C. Ames, Transportation Building, Washington, D.C. 20406, and Milton H. Bortz, 3636 Follett Avenue, Cincinnati, Ohio 45223. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-99792 Sub-1, covering the transportation of general commodities, as a *common carrier*, in intrastate commerce within the State of Rhode Island. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, Connecticut, Pennsylvania, Maryland, Ohio, Massachusetts, West Virginia, North Carolina, Kentucky, Tennessee, Rhode Island, Indiana, Virginia, Minnesota, Wisconsin, Illinois, Iowa, Maine, New Hampshire, Delaware, Vermont, Kansas, and Missouri. Application has not been filed for temporary authority under section 210a(b). Note: MC-13123 Sub-53 is a matter directly related.

No. MC-F-10363. Authority sought for purchase by STERNBERGER MOTOR CORPORATION, 44-55 Pearson Street, Long Island City, N.Y. 11101, of a portion of the operating rights of FURNITURE EXPRESS, INC., Fluvanna Road, Rural Delivery No. 1, Jamestown, N.Y. 14701, and for acquisition by MICHAEL GLUCK, also of Long Island City, N.Y., of control of such rights through the purchase. Applicants' attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N.Y. 14701. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities which because of size or length require special equipment, as a *common carrier*, over regular routes, between Jamestown, N.Y., and New York, N.Y., serving no intermediate points; *new furniture*, over irregular routes, from points in Chautauqua and Cattaraugus Counties, N.Y., to points in Pennsylvania

and those in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, from Warren and Youngsville, Pa., to points in Ohio, Pennsylvania, those in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, and those in that part of New York on and west of U.S. Highway 15, from Jamestown, N.Y., and points within 30 miles thereof, to points in Virginia, and West Virginia, from Warren and Youngsville, Pa., to points in that part of New York on and south of New York Highway 17, but excluding New York, N.Y., from points in Chautauqua and Cattaraugus Counties, N.Y., to points in Connecticut, Massachusetts, and Rhode Island, from points in Chautauqua and Cattaraugus Counties, N.Y., to New York, N.Y.;

From Warren and Youngsville, Pa., to points in Chautauqua and Cattaraugus Counties, N.Y., to certain specified points in New Jersey, from North Bennington and East Arlington, Vt., to points in West Virginia and Virginia; *new furniture*, uncrated, from Clifton, N.J., to certain specified points in New York; from points in Chautauqua and Cattaraugus Counties, N.Y., to points in Delaware, traversing Pennsylvania for operating convenience only; from Salamanca, N.Y., to Washington, D.C., and points in Maryland, from certain specified points in New York, to points in Maryland, except Baltimore, from Jamestown and Salamanca, N.Y., to points in Maine and New Hampshire, from Jamestown, N.Y., to points in Nassau and Suffolk Counties, N.Y.; *household goods*, between Jamestown and Buffalo, N.Y., and points in New York within 25 miles of Jamestown, on the one hand, and, on the other, points in Ohio and Pennsylvania, between points in McKean County, Pa., on the one hand, and, on the other, points in New Jersey, New York, and West Virginia; *voting machines*, between Jamestown, N.Y., on the one hand, and, on the other, New York, N.Y., and points on Long Island, N.Y., west of a line extending south from Hempstead Harbor through Roslyn, Hempstead, and Baldwin, N.Y., to the Atlantic Ocean, including the points specified, from certain specified points in New York, and Warren and Youngsville, Pa., to New York, N.Y., and points in Maryland, New Jersey, Pennsylvania, and the District of Columbia; *wood finishing supplies and materials*, from New York, N.Y., to certain specified points in New York, traversing New Jersey and Pennsylvania for operating convenience only;

*Radio, television, and electrical booster cabinets and sets*, uncrated, from points in Chautauqua and Cattaraugus Counties, N.Y., to New York, N.Y., and points in New Jersey, traversing Pennsylvania for operating convenience only; *radio, television, and electrical booster cabinets and sets*, from points in Chautauqua County, N.Y., to New York, N.Y., and points in New Jersey, traversing Pennsylvania for operating convenience only; *new furniture* (uncrated) as defined in Appendix 11 to the Commission's report in Ex Parte No. MC-45, *Description in Motor Carrier Certificates*, 61 M.C.C.

209, 273, from New York, N.Y., to points in Cattaraugus and Chautauqua Counties, N.Y.; *new furniture and new household equipment*, from certain specified points in New York, and Warren and Youngsville, Pa., to New York, N.Y., and points in Maryland, New Jersey, Pennsylvania, and the District of Columbia; *millwork, hardware, and mechanic's hand tools*, from Jamestown, N.Y., to Scranton and Easton, Pa., Jersey City, N.J., and New York, N.Y.; *vener and plywood, loose*, from certain specified points in New York, to points in Maryland, New Jersey, Pennsylvania, Virginia, and the District of Columbia; *voting machines*, uncrated, between Jamestown, N.Y., on the one hand, and, on the other, points in Delaware, from Jamestown, N.Y., to points in Virginia and West Virginia; *used voting machines*, uncrated, from points in Virginia and West Virginia, to Jamestown, N.Y.; *rough pine blocks and veneer*, from Louisville, Ky., to points in that part of Kentucky east of U.S. Highway 31W, and points in West Virginia, Virginia, Maryland, and New Jersey to Jamestown and Falconer, N.Y.;

*Plywood, plywood specialties, and doors*, between points in Chautauqua County, N.Y., on the one hand, and, on the other, certain specified points in New York; *particle board*, from the Town of Carroll, Chautauqua County, N.Y., to points in New York (except points in Kings, Queens, Nassau, and Suffolk Counties, N.Y.), Pennsylvania (except points in Chester, Delaware, Montgomery, Philadelphia, and Bucks Counties, Pa.), New Jersey, Ohio, Maryland (except Baltimore, Md.), and points within 8 miles thereof), Illinois, Indiana, Wisconsin, Michigan, Delaware, Massachusetts, Rhode Island, Connecticut, Virginia, West Virginia, Tennessee, New Hampshire, Vermont, South Carolina, North Carolina, Missouri, Kansas, Kentucky, and the District of Columbia; *chairs*, uncrated, from Syracuse, N.Y., to points in Pennsylvania, Virginia, West Virginia, Connecticut, Massachusetts, and Rhode Island; and *curtain wall panels*, uncrated, from Jamestown, N.Y., to points in New York, Pennsylvania, New Jersey, Maryland, Delaware, Massachusetts, Rhode Island, Connecticut, Virginia, West Virginia, New Hampshire, Vermont, South Carolina, Maine, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in New Jersey, Connecticut, Delaware, Massachusetts, Maryland, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE: See also No. MC-F-10365 (BLODGETT FURNITURE SERVICE INC.—PURCHASE (PORTION)—FURNITURE EXPRESS, INC.) published this same issue.

No. MC-F-10364. Authority sought for control and merger by BLODGETT UNCRATED FURNITURE SERVICE, INC., 845 Chester Street SW., Grand Rapids,

Mich. 49500, of the operating rights and property of GRAND RAPIDS STORAGE COMPANY, 3801 36th Street SE., Grand Rapids, Mich. 49508, and for acquisition by FREDERICK W. WIERSUM, also of 845 Chestnut Street SW., Grand Rapids; Mich. 49500, of control of such rights and property through the transaction. Applicants' attorney: Kenneth T. Johnston, Bank of Jamestown Building, Jamestown, N.Y. 14701. Operating rights sought to be controlled and merged: *Church furniture, school desks, theatre seats, and folding chairs*, as a *common carrier*, over irregular routes, from Grand Rapids, Mich., Atlanta, Ga., and Dallas, Tex., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Delaware, Maryland, Virginia, West Virginia, Kentucky, North Carolina, South Carolina, Georgia, Florida, Texas, Oklahoma, Tennessee, and Iowa; *bus seats, and boat and airplane seats*, from Atlanta, Ga., and Dallas, Tex., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Delaware, Maryland, Virginia, West Virginia, Kentucky, North Carolina, South Carolina, Georgia, Florida, Texas, Oklahoma, Tennessee, and Iowa; *vehicle, boat, and airplane seats, and parts thereof and accessories* therefor, uncrated, from Grand Rapids, Mich., to points in Missouri, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, New York, New Jersey, Connecticut, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Delaware, Maryland, Virginia, West Virginia, Kentucky, North Carolina, South Carolina, Georgia, Florida, Texas, Oklahoma, Tennessee, Iowa, and the District of Columbia;

*Pianos*, from Cincinnati, Ohio, Chicago, Ill., and Fort Wayne and Richmond, Ind., to certain specified points in Michigan; *new furniture*, between Grand Rapids, Mich., on the one hand, and, on the other, points in Missouri, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, New York, New Jersey, Connecticut, and the District of Columbia; *new furniture*, uncrated, from certain specified points in Michigan, to points in California, Colorado, Oklahoma, Texas, New Mexico, Utah, Arizona, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, Nevada, North Carolina, South Carolina, Virginia, Iowa, and Kansas, from Sparta, Mich., to points in Colorado, California, and Nevada, from Charlotte, Mich., to points in Oklahoma, Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, and Tennessee; *new store fixtures*, uncrated, from Grand Rapids, Mich., to points in California, Colorado, Oklahoma, Texas, New Mexico, Utah, Arizona, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, Nevada, North Carolina, South Carolina, Virginia, Iowa, and Kansas; *shuffleboards*, uncrated, and *parts thereof*, from Grand Rapids and Ionia, Mich., to points in the United States (except Alaska and Hawaii). BLODGETT UNCRATED FURNITURE SERVICE, INC., is authorized to operate as a *common carrier* in Michigan, Missouri, Illinois, Indiana,

Ohio, Pennsylvania, New York, Maryland, Iowa, Minnesota, New Jersey, Connecticut, Massachusetts, Rhode Island, Delaware, Wisconsin, Virginia, Kentucky, West Virginia, Kansas, Nebraska, New Hampshire, Maine, Vermont, Georgia, Texas, Colorado, Tennessee, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10365. Authority sought for purchase by BLODGETT UNCRATED FURNITURE SERVICE, INC., 845 Chestnut Street, SW., Grand Rapids, Mich. 49500, of a portion of the operating rights of FURNITURE EXPRESS, INC., Fluvanna Road, Rural Delivery No. 1, Jamestown, N.Y. 14701, and for acquisition by FREDERICK W. WIERSUM, also of Grand Rapids, Mich., of control of such rights through the purchase. Applicants' attorney: Kenneth T. Johnston, Bank of Jamestown Building, Jamestown, N.Y. 14701. Operating rights sought to be transferred: *New furniture*, as a *common carrier*, over irregular routes, from points in Chautauqua and Cattaraugus Counties, N.Y., to points in Ohio, from North Bennington and East Arlington, Vt., to points in Ohio, Michigan, Indiana, Kentucky, that part of New York on and west of a line beginning at Oswego, N.Y., and extending along N.Y. Highway 57 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pennsylvania State line, and points in Pennsylvania (except points in Philadelphia, Delaware, Chester, Bucks, and Montgomery Counties, Pa.); *voting machines*, between Jamestown, N.Y., on the one hand, and, on the other, points in Illinois, Indiana, Ohio, Michigan, and Wisconsin, from certain specified points in New York, and Warren and Youngsville, Pa., to Chicago, Ill., and points in Ohio (except from Jamestown, N.Y., to Chicago, Ill.); *radio, television and electrical booster cabinets and sets*, uncrated, from points in Chautauqua and Cattaraugus Counties, N.Y., to points in Ohio and Indiana, from points in Chautauqua County, N.Y., to points in Indiana and those in Ohio, except those in Ashtabula, Lake, Cuyahoga, Summit, Trumbull, Mahoning, Portage, and Columbiana Counties, Ohio;

*New furniture*, whether crated or uncrated, as described in Appendix 11 to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209, from Salamanca and Randolph, N.Y., to Jamestown, N.Y.; *new furniture and new household equipment*, from certain specified points in New York, and Warren and Youngsville, Pa., to Chicago, Ill., and points in Ohio; *vener and plywood*, loose, from certain specified points in New York, to points in Ohio; *vener and plywood*, from points in Chautauqua County, N.Y., to points in Tennessee, Michigan, Indiana, and Illinois; *new furniture*, uncrated, from Jamestown and Salamanca, N.Y., to points in Vermont; *voting machines*, uncrated, and *voting machine accessories*, between Jamestown, N.Y., on the one hand, and, on the other, points in South Carolina; *voting machines*, uncrated, between

Jamestown, N.Y., on the one hand, and, on the other, points in North Carolina; *voting machines*, uncrated but protected with wooden or corrugated fiberboard hoods and *accessories thereto* when shipped therewith, between Jamestown, N.Y. on the one hand, and, on the other, points in Missouri and Kansas; *rough pine blocks and veneer*, from Louisville, Ky., to points in that part of Kentucky east of U.S. Highway 31W, and points in Michigan, Ohio, Indiana, and Illinois, to Jamestown and Falconer, N.Y.; *automobile driver training devices and accessories therefor*, between Jamestown, N.Y., on the one hand, and, on the other, points in Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin; *household goods*, as defined by the Commission, between points in McKean County, Pa., on the one hand, and, on the other, points in Ohio; *caskets*, uncrated, from Syracuse, N.Y., to points in Ohio;

*Curtain wall panels*, uncrated, from Jamestown, N.Y., to points in Ohio, Illinois, Indiana, Wisconsin, Michigan, Tennessee, North Carolina, Missouri, Kansas, Kentucky, Iowa, and Minnesota; and *voting machines*, uncrated but protected with wooden or corrugated fiberboard hoods, between points in Marion County, S.C., on the one hand, and, on the other, points in New York, Illinois, Indiana, Ohio, Michigan, Maryland, New Jersey, Pennsylvania, Delaware, North Carolina, Virginia, Missouri, West Virginia, Kansas, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Michigan, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New York, Maryland, Iowa, Minnesota, New Jersey, Connecticut, Massachusetts, Rhode Island, Delaware, Wisconsin, Virginia, Kentucky, West Virginia, Kansas, Nebraska, New Hampshire, Maine, Vermont, Georgia, Texas, Colorado, Tennessee, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: See also No. MC-F-10363 (STERNBERGER MOTOR CORP.—Purchase (portion)—FURNITURE EXPRESS, INC.), published this same issue.

No. MC-F-10366. Authority sought for control and merger by CLINTON TRUCKING CO., INC., 623 Main Street, Clinton, Mass., of the operating rights and property of KERN'S TRUCKING, INC., 86 Daytona Avenue, Pittsfield, Mass., and for acquisition by PETER R. VEIT, 76 Thompson Street, New York, N.Y., and FREDERICK J. HARRIS, also of Clinton, Mass., of control of such rights and property through the transaction. Applicants' attorneys: Francis E. Barrett, 60 Adams Street, Milton, Mass. 02187, and Anthony J. Ruberto, 184 North Street, Pittsfield, Mass. 01201. Operating rights sought to be controlled and merged: Under a certificate of registration in Docket No. MC-120928 Sub-1, covering the transportation of furniture and property as a common carrier, in intrastate commerce within the State of Massachusetts. CLINTON TRUCKING CO., INC., is authorized to operate as a *common carrier* in Massachusetts,

New Jersey, and Connecticut. (This authority was granted pursuant to FC-70360, by order by the Transfer Board, dated August 9, 1968). Application has been filed for temporary authority under section 210a(b). NOTE: MC-59918 Sub-1 is a matter directly related.

No. MC-F-10367. Authority sought for purchase by ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, Smyrna, Del. 19977, of the operating rights of RICHARD L. HEILMAN, doing business as HI-CUBE TRANSPORTATION COMPANY, 1451 South 108th Street, West Allis, Wis. 53214, and for acquisition by ARLINGTON JOHN WILLIAMS, also of Smyrna, Del., of control of such rights through the purchase. Applicants' attorney: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Operating rights sought to be transferred: *Water heaters* (except those the transportation of which because of size or weight requires the use of special equipment), as a *contract carrier*, over irregular routes, from Kankakee, Ill., to Washington, D.C., New York, N.Y., and points in Nassau, Suffolk, Orange, Putnam, Westchester, Rockland, and Dutchess Counties, N.Y., points in Philadelphia, Delaware, Chester, Montgomery, Bucks, Lancaster, Berks, Lehigh, and Northampton Counties, Pa., and points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, Maryland, Delaware, and New Jersey, with restrictions. Vendee is authorized to operate as a *contract carrier* in Delaware, Georgia, Alabama, California, Ohio, Illinois, Maryland, Virginia, New York, Tennessee, North Carolina, South Carolina, Kansas, New Jersey, Missouri, Texas, West Virginia, Louisiana, Mississippi, Wisconsin, and Nevada. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-867; Filed, Jan. 22, 1969;  
8:49 a.m.]

#### NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JANUARY 17, 1969.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or

filed with the Interstate Commerce Commission.

State Docket No. 3266 (Sub-No. 1), filed December 30, 1968. Applicant: FRANK C. MARTIN, doing business as TULLAHOMA FREIGHT COMPANY, Post Office Box 717, Tullahoma, Tenn. 37388. Applicant's representative: Clarence Evans, 1800 Third National Bank Building, Nashville, Tenn. 37219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of General commodities, between Tullahoma, Tenn., and all points within a radius of 10 miles thereof on the one hand, and Chattanooga, Tenn., on the other, over the following routes: from Tullahoma via U.S. Highway 41-A to junction with U.S. Highway 64, thence via U.S. Highway 64 to Chattanooga and return over the same route; and also via Tennessee Highway 55 to junction with Interstate Highway 24, thence via Interstate Highway 24 to Chattanooga and return over the same route; and also via Tennessee Highway 50 to junction with Interstate Highway 24 and return over the same route; serving no intermediate points, with this authority to be used in conjunction with all authority held by applicant except restricted against the transportation of through traffic moving between Nashville, Tenn., and Chattanooga, Tenn. Both intrastate and interstate authority sought.

HEARING: Thursday, February 27, 1969, at 9:30 a.m., at the Commission's Court Room, C-1 Cordell Hull Building, Nashville, Tenn. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

State Docket No. 10383 filed December 26, 1968. Applicant: STEVE D. THOMPSON, Winnsboro, La. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between Monroe, La., and including Monroe, along Louisiana Highway No. 15 south and all intermediate points to Sicily Island, La. Two points off Louisiana Highway No. 15 are Louisiana Highway No. 17 to Crowville, La., and Louisiana Highway No. 4 to Fort Necessity, La. Points to be served are as follows: Monroe, Alto, Archibald, Mangham, Baskin, Winnsboro, Chase, Gilbert, Wisner, Sicily Island, Peck, Crowville, and Fort Necessity. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Louisiana Public Service Commission, Baton Rouge, La., and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-868; Filed, Jan. 22, 1969;  
8:49 a.m.]

[Notice 763]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 16, 1969.

The following are notices of filing of applications for temporary authority under the Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

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

### MOTOR CARRIERS OF PROPERTY

No. MC 106278 (Sub-No. 31 TA), filed January 3, 1969. Applicant: E. B. LAW AND SON, INC., Post Office Box 1360, Las Cruces, N. Mex. 88001. Applicant's representative: Jerry R. Murphy, 708 La Veta Drive NE, Albuquerque, N. Mex. 87107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon dioxide*, in bulk, in tank vehicles, and in solid form (dry ice) in both carrier-owned and shipper owned vehicles, from points in Harding County, N. Mex., to points in Arizona, Colorado, Kansas, Montana, Nebraska, New Mexico, Oklahoma, Texas, and Wyoming, and of empty trailers on return, for 180 days. Supporting shipper: SEC Corporation, Post Office Box 9737, El Paso, Tex. 79987. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10515 Federal Building, U.S. Courthouse, Albuquerque, N. Mex. 87101.

No. MC 108393 (Sub-No. 16 TA) (Correction), filed December 23, 1968, published FEDERAL REGISTER, issue of January 8, 1969, and republished as corrected this issue. Applicant: SIGNAL DELIVERY SERVICE, INC., 782 Industrial Drive, Elmhurst, Ind. 60126. Applicant's representative: J. A. Kundtz, 1050 Union Commerce Building, Cleveland, Ohio 44115. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is dealt in by retail department stores, and mail order houses, and related advertising material: (1) Between King of Prussia, Pa., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, those in Berks, Bucks, Chester, Dauphin, Dela-

ware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, and York Counties, Pa., and the District of Columbia; (2) between Wilmington, Del., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, those in Berks, Bucks, Dauphin, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, and York Counties, Pa., and the District of Columbia, for 180 days. Note: The purpose of this republication is to include the point of "District of Columbia" omitted from territorial description under (2) in previous publication. Applicant states that no duplicating authority is sought. Under contract with, and supported by: Sears Roebuck and Co., Administrative Office—Eastern Territory, Post Office Box 6742, Philadelphia, Pa. 19132. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 114533 (Sub-No. 180 TA), filed January 3, 1968. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies* (except motion picture films and materials and supplies used in connection with commercial and television motion pictures) between Aurora, Ill., on the one hand, and, on the other, points in the States of Indiana, Michigan, and Wisconsin, for 180 days. Supporting shipper: Dynacolor Corp. (Subsidiary of Minnesota Mining & Mfg.), Box 66488, Chicago, Ill. 60666. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street—Room 1086, Chicago, Ill. 60604.

No. MC 118282 (Sub-No. 18 TA), filed January 3, 1969. Applicant: JOHNNY BROWN'S, INC., 6801 Northwest 74th Avenue, Miami, Fla. 33166. Applicant's representative: Guy H. Postell, 1273 West Peachtree Street NE., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* as defined by the Commission in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 279; (2) *new furniture* (uncrated) as defined by the Commission in Appendix II to report in *Descriptions in Motor Carrier Certificates*, M.C.C. 209, 279; (3) *carpets and carpeting*; (4) *tools*, for use in installing furnishings in (2) and (3) above; (5) *new furniture*, crated; and (6) the transportation of commodities named in (1) thru (5) above when moving in the same vehicle with commodities exempt under the provisions of section 203(b) (6) of the Act, over irregular routes, from points in Dade County, Fla., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia (except Atlanta), Iowa,

Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New York, New Jersey, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee (except Chattanooga and Nashville), Texas, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shippers: There are approximately (19) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 127193 (Sub-No. 2 TA), filed January 6, 1969. Applicant: LEONARD BROS. VAN & STORAGE CO., 7060 West Fort Street, Detroit, Mich. 48209. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, over irregular routes between all points in Macomb, Oakland, Wayne, Washtenaw, Monroe, Jackson, Lenawee, and Hillsdale Counties, Mich., provided that the authority be limited; (1) to the transportation of used household goods, (2) to the transportation of traffic having a prior or subsequent movement, in containers, and (3) further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, as a *common carrier* by motor vehicle in interstate or foreign commerce, for 150 days. Supporting shipper: Department of Air Force, First Transportation Squadron, Selfridge Air Force Base, Mich. 48045. Send protests to: District Supervisor Gerald J. Davis, Bureau of Operations, Interstate Commerce Commission, 1110 Broderick Tower, Detroit, Mich. 48226.

No. MC 128196 (Sub-No. 4 TA) (Correction), filed December 27, 1968, published in the FEDERAL REGISTER, issue of January 8, 1969, and republished as corrected this issue. Applicant: KARL ARTHUR WEBER, 2408 North 20th Drive, Phoenix, Ariz. 85009. Applicant's representative: Milton W. Flack, 1813 Wilshire Boulevard, Los Angeles, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, including lumber, lumber products, gypsum, gypsum products and materials and accessories* in connection therewith, from Sigurd, Utah, and Acme, Tex., to points in California and Nevada, and *refused and damaged shipments*, on return, for 180 days. Note: The purpose of this republication is to include gypsum to the commodity description which was omitted from previous publication. Supporting shipper: Georgia-Pacific Corp.,

Commonwealth Building, Portland, Oreg. 97204. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 128909 (Sub-No. 9-TA), filed January 6, 1969. Applicant: COMMODORE CONTRACT CARRIERS, INC., 8712 West Dodge Road, Suite 4000, Omaha, Nebr. 68114. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *House trailers* designed to be drawn by passenger automobiles, *buildings in sections* mounted on wheeled undercarriages with hitchball connectors, and (2) *unrelated parts, appliances, furniture and accessories* when moving in the commodities described in (1) above, between Thomasville, Ga., on the one hand, and, on the other, points in Alabama, Florida, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia, for 150 days. Supporting shipper: Commodore Corp., 8712 West Dodge Road, Suite 4000, Omaha, Nebr. 68114. Send protests to: Keith P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 133340 (Sub-No. 1 TA) (Correction), filed December 30, 1968, published FEDERAL REGISTER, issue of January 8, 1969, and republished as corrected this issue. Applicant: CLITES GRAIN, INC., 110 Surrey Avenue, Council Bluffs, Iowa 51501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tankage and meat scraps*, in bulk, in dump vehicles, from Omaha, Nebr., to Des Moines, Iowa, for 150 days. NOTE: The purpose of this republication is to correct spelling of applicant's name. Supporting shipper: Mid-America Milling Co., 34th and Grover Streets, Post Office Box 1048, Omaha, Nebr. 68101. Send protests to: Keith P. Kohrs, Interstate Commerce Commission, District Supervisor, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 133349 (Sub-No. 1 TA) (Correction), filed December 23, 1968, published in the FEDERAL REGISTER issue of January 3, 1969, under MC 133353 TA, and republished as corrected, this issue. Applicant: UNITED CONTAINER SERVICES, INC., Foot of Grace Street, Secaucus, N.J. 07094. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers and trailers which have a prior or subsequent movement by water in foreign commerce, between points in the New York, N.Y., Commercial Zone, as defined by the Interstate Commerce Commission, for 150 days. Supporting shipper: United States Lines, Inc., 1 Broadway, New York, N.Y. NOTE: The purpose of this republication

is to reflect the correct docket number assigned as MC 133349 (Sub-No. 1 TA) in lieu of MC 133353 TA shown in the previous publication. Send protests to: District Supervisor Walter J. Grossman, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07012.

No. MC 133374 TA, filed January 3, 1969. Applicant: CARTER TRANSFER, INC., Acline Street, Lake City, S.C. 29560. Applicant's representative: Leroy Nettles, Lake City, S.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Produce containers, produce baskets, produce tubs, wooden pallets and, (2) Lumber, and wooden shipping containers* from (a) points in Florence and Colleton Counties, S.C., to points in Maryland, Virginia, Tennessee, North Carolina, Georgia, Florida, and (b) North Carolina to points in Florence and Colleton Counties, S.C., for 180 days. Supporting shipper: Carter Manufacturing Company, Lake City, S.C. Send protests to Arthur B. Abercrombie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 601A Federal Building, 901 Sumter Street, Columbia, S.C. 29201.

By the Commission.

[SEAL]

H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-869; Filed, Jan. 22, 1969;  
8:49 a.m.]

[Notice 764]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 17, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

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

#### MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 361 TA), filed January 14, 1969. Applicant: KENOSHA AUTO TRANSPORT CORPORATION,

4200 39th Avenue, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor truck seat cabs*, in truckaway service, from Detroit, Mich., to Clintonville, Wis., for 180 days. Supporting shipper: FWD Corp., Clintonville, Wis. 54929 (Donald Pearson, Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 32702 (Sub-No. 3 TA), filed January 10, 1969. Applicant: McKIBBEN MOTOR SERVICE, INC., 415 John Street, Arlington Heights, Cincinnati, Ohio 45215. Applicant's representative: Aubrey Eaton, 415 John Street, Arlington Heights, Cincinnati, Ohio 45215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, in cans and bottles, from Cincinnati, Ohio, to Detroit, Mich., and *empty bottles and pallets* on the return, from Detroit, Mich., to Cincinnati, Ohio, for 180 days. Supporting shipper: The Burger Brewing Company, Central Parkway at Liberty Street, Cincinnati, Ohio 45214. Send protests to: Emil P. Schwab, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1010 Federal Building, 500 Main Street, Cincinnati, Ohio 45202.

No. MC 98945 (Sub-No. 6 TA), filed January 9, 1969. Applicant: THOMAS CARTAGE, INC., 303 North Wilson, Box 2301, Amarillo, Tex. 79105. Applicant's representative: Alvin A. Thomas, 303 North Wilson, Box 2301, Amarillo, Tex. 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, from Amarillo, Tex., and commercial zone to Keyes, Okla., and Bureau of Mines Helium Plant, 4 miles northeast of Keyes, serving Channing, Hartley, Dalhart, Conlen, and Kerrick, Tex., and Boise City and Keyes, Okla., and all intermediate points as follows: U.S. Highways 87-287 to 4 Way (34 miles north of Amarillo); thence Texas Highway 385 to Hartley; thence U.S. Highway 87 to Dalhart; thence U.S. Highway 54 to Stratford; thence U.S. Highway 287 to Boise City, Okla.; thence U.S. Highway 56 to Keyes and Keyes Helium Plant, and return over the same route. Also service route U.S. Highway 87 from Dumas to Hartley, Tex., for 180 days. NOTE: Applicant intends to tack to MC-98945 Sub-No. 5 and to interline at Amarillo, Tex., and Guymon, Okla. Supporting shippers: There are approximately 53 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce

Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 108068 (Sub-No. 74 TA), filed January 2, 1969. Applicant: U.S.A.C. TRANSPORT, INC., Post Office Box "G", Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, Morgan, Dykeman & Williamson, 450 American National Building, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aerospace craft*, fully assembled or partially dismantled, *aerospace craft parts*, *blasting supplies*, *explosives and other dangerous articles* as defined in the Department of Transportation regulations governing the transportation of explosives and other dangerous articles, *ordnance and quartermaster supplies*: (1) Between points in the United States east of a line beginning at the mouth of the Mississippi River extended along the Western Boundary of Itasca and Koochiching Counties, Minn., to the United States-Canadian Boundary Line; (2) between points above described, on the one hand, and, on the other, points in that part of the United States west of the above described line; (3) between points in Missouri, Arkansas, Louisiana, Texas, Oklahoma, and Kansas, on the one hand, and, on the other, points in Washington, California, Utah, Nevada, and Arizona, for 150 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119880 (Sub-No. 27 TA), filed January 14, 1969. Applicant: DRUM TRANSPORT INC., Box 2056, Office: 616 Chicago Street, East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk in tank vehicles from Pekin, Ill., to Williamson, Pa., for 180 days. Supporting shipper: Joseph E. Seagram & Sons, Inc., 375 Park Avenue, New York, N.Y. 10022. Send protests to: District Supervisor Raymond E. Mauk, Interstate Commerce Commission, Bureau of Operations, U.S. Court House, FOB Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 127834 (Sub-No. 25 TA), filed January 9, 1969. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, Tenn. 37203. Applicant's representative: Bryan Stanley (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Skylights*, *fire domes and parts and accessories* used in the installation thereof; from Dallas and Garland, Tex., to points in the United States except Alaska and Hawaii, for 180 days. Supporting shipper: Naturalite, Inc., 3233 W. Kingsley Road, Garland, Tex. 75040. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Bureau of

Operations, 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 133382 TA, filed January 8, 1969. Applicant: JACQUES POULIOT, doing business as POULIOT TRANSPORT, St. Camille, Belle Chase County, Quebec, Canada. Applicant's representative: Albert L. Bernier, 44 Elm Street, Waterville, Maine 04901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the international boundary, between Canada, and the United States with ports of entry at Jackman, Maine, and West Stewartstown, N.H., to points in New York, New Jersey, Connecticut, and Massachusetts, for 180 days. Supporting shipper: Clermont Pelletier, 295 De Chateauguay, Longueuil, Chambly County, Quebec. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 133402 TA, filed January 13, 1969. Applicant: W. A. HOPPING, 20 South Buffalo, North Platte, Nebr. 69101. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confections*, from St. Paul, Minn., to Los Angeles and San Francisco, Calif., for 180 days. Supporting shipper: Pearson Candy Co., West Seventh Street, St. Paul, Minn. 55116. Send protests to: District Supervisor Johnston, Interstate Commerce Commission, Bureau of Operations, 315 Post Office Building, Lincoln, Nebr. 68508.

By the Commission.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-870; Filed, Jan. 22, 1969;  
8:50 a.m.]

[Notice 1262]

### MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 17, 1969.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

#### APPLICATIONS ASSIGNED FOR ORAL HEARING

##### MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of

filing as here published in each proceeding. All of the proceedings are subject to the Special Rules of Procedure for Hearing outlined below:

#### SPECIAL RULES OF PROCEDURE FOR HEARING

(1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statements as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 109994 (Sub-No. 27) (Clarification), filed December 26, 1968, published in the FEDERAL REGISTER issue of January 15, 1969, and republished as clarified, this issue. Applicant: SIZER TRUCKING, INC., Box 97, East Highway 94, Rochester, Minn. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Duluth, Minn. to points in North Dakota, South Dakota, Nebraska, Iowa, Missouri, Wisconsin, Illinois, Indiana, Kentucky, Michigan, Ohio, Pennsylvania, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, District of Columbia, Tennessee, North Carolina, South Carolina, Alabama, Georgia, Florida, Arkansas, Mississippi, and Louisiana. NOTE: The purpose of this republication is to reflect the information concerning Special Rules of Procedure for Hearing, which was inadvertently omitted in the previous publication.

HEARING: Remains as assigned, February 3, 1969, in Room B-29, Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn., before Examiner Joseph M. May.

By the Commission.

[SEAL] H. NEIL GARSON,  
Secretary.

[F.R. Doc. 69-871; Filed, Jan. 22, 1969;  
8:50 a.m.]

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