Pages 12609–12664

FEDERAL REGISTER

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Contents

(Continued on next page)

Codification Guide

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

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Veterans Administration

Effective upon publication in the FEDERAL REGISTER, subparagraphs (1) and (2) of paragraph (a) of § 6.122 are revoked.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 62-12570; Filed, Dec. 19, 1962; 8:49 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Housing and Home Finance Agency

Effective upon publication in the FEDERAL REGISTER, subparagraphs (37) and (39) of paragraph (a) of § 6.342 are amended as set out below.

§ 6.342 Housing and Home Finance Agency.

(a) *Office of the Administrator.*

• • • • •

(37) Private Secretary to the Assistant Administrator (Transportation).

• • • • •

(39) Deputy Assistant Administrator (Transportation).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DAVID F. WILLIAMS,
Director,
Bureau of Management Services.

[F.R. Doc. 62-12569; Filed, Dec. 19, 1962; 8:49 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

[Administration Letter 777 (444)]

PART 308—NONDISCRIMINATION IN MULTIPLE-UNIT HOUSING

DECEMBER 14, 1962.

Subchapter A, Chapter III, Title 6, Code of Federal Regulations, is amended by adding Part 308 to read as follows:

Sec.
308.1 Purpose.
308.2 Scope.
308.3 Nondiscrimination in use and occupancy.
308.4 Mortgage covenant.
308.5 Violations.

AUTHORITY: §§ 308.1 to 308.5 issued under secs. 510, 514, 515, 63 Stat. 437, 75 Stat. 186, 76 Stat. 671, 42 U.S.C. 1480, 1484, 1485. E.O. 11063, 27 F.R. 11527. Orders of Sec. of Agr., 19 F.R. 74, 26 F.R. 8403, 27 F.R. 5005.

§ 308.1 Purpose.

The purpose of the regulations in this part is to put into effect provisions of Executive Order 11063, dated November 20, 1962, 27 F.R. 11527, in connection with housing loan programs of the Farmers Home Administration described in § 308.2.

§ 308.2 Scope.

The regulations in this part apply to loans of the following types to finance housing and related facilities of more than two living units:

(a) Domestic farm labor housing loans under section 514 of the Housing Act of 1949.

(b) Senior citizens rental housing loans under section 515 of the Housing Act of 1949.

§ 308.3 Nondiscrimination in use and occupancy.

In the case of every such loan closed after November 20, 1962, the borrower shall not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or ocupancy of the housing or related facilities because of race, color, creed, or national origin.

§ 308.4 Mortgage covenant.

In the case of every such loan closed after receipt by the County Supervisor of Administration Letter 777 (444), the mortgage or other security instrument shall contain the following covenant:

Borrower covenants and agrees that borrower will not discriminate, or permit discrimination by any agent, lessee, or other operator, in the use or occupancy of the housing or related facilities financed in whole or in part with the loan in connection with which this instrument is given, because of race, color, creed, or national origin.

§ 308.5 Violations.

Discrimination in violation of the regulations in this part shall constitute default under the mortgage or other security instrument held by the Government in connection with the loan.

Dated: December 14, 1962.

HOWARD BERTSCH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 62-12579; Filed, Dec. 19, 1962; 8:50 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

Subpart—1963–64 Marketing Year

PROCLAMATIONS AND DETERMINATIONS WITH RESPECT TO MARKETING QUOTAS AND NATIONAL ACREAGE ALLOTMENT FOR 1963 CROP, AND APPORTIONMENT OF 1963 NATIONAL ACREAGE ALLOTMENT AMONG THE SEVERAL STATES

Sec.
730.1401 Basis and purpose.
730.1402 Marketing quotas on 1963 crop rice.
730.1403 National acreage allotment of rice for 1963.
730.1404 Apportionment of 1963 national acreage allotment of rice among the several States.

AUTHORITY: §§ 730.1401 to 730.1404 issued under secs. 301, 352, 353, 354, 375, 52 Stat. 38, 60, 61, 66, as amended; 7 U.S.C. 1301, 1352, 1353, 1354, 1375.

§ 730.1401 Basis and purpose.

(a) (1) Section 730.1402 is issued under and in accordance with sections 301 and 354 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the total supply and normal supply of rice for the marketing year beginning August 1, 1962, and to proclaim that marketing quotas will be applicable to the 1963 crop of rice. Section 730.1403 is issued under and in accordance with sections 352 and 353 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the national acreage allotment of rice for the calendar year 1963. Section 353(c)(6) of the act, as amended by section 301 of Public Law 85-835, 72 Stat. 994, provides that the national acreage allotment of rice for 1963 shall be not less than the total acreage allotted in 1956.

(2) Section 730.1404 is issued under and in accordance with section 353 of the Agricultural Adjustment Act of 1938, as amended, to apportion among the several States the national acreage allotment of rice for 1963 as proclaimed in § 730.1403 hereof. Section 353 of the act provides that the national acreage allotment of rice for 1963, less a reserve of not to exceed one per centum for apportionment to farms receiving inadequate allotments, shall be apportioned among the States in the same proportion that they shared in the total acreage alloted in 1956.

(3) Section 353(b) of the act, as amended by Public Law 85-443, authorizes the Secretary of Agriculture under certain circumstances to divide any State into two administrative areas to be

designated "producer administrative area" and "farm administrative area", and provides that if any State is so divided into administrative areas the term "State acreage allotment" for the purposes of section 353 of the Agricultural Adjustment Act of 1938, as amended, shall be deemed to mean that part of the State acreage allotment apportioned to each administrative area.

(4) Section 353(c)(1) of the act, as amended by Public Law 85–443, provides that if any State is divided into administrative areas the allotment for each area shall be determined by apportioning the State acreage allotment among counties as provided in section 353(c) of the Agricultural Adjustment Act of 1938, as amended, and totaling the allotments for the counties in such area. The acreage allotments for the "farm administrative area" and "producer administrative area" in the State of Louisiana which are set out in § 730.1404 were determined by apportioning the State acreage allotment for Louisiana among the counties in the State in the same proportion which each such county shared in the total acreage allotted in the State in 1956, as provided in section 353(c)(1) of the Agricultural Adjustment Act of 1938, and totaling the allotments for the counties in each such area.

(b) The findings and determinations made in §§ 730.1402, 730.1403, and 730.1404 have been made on the basis of the latest available statistics of the Federal Government. The findings in § 730.1402 show that marketing quotas are required for the 1963 crop of rice. The determinations made in § 730.1403 indicate the amount of the 1963 national acreage allotment of rice.

(c) Prior to taking action herein, public notice (27 F.R. 9612) was given in accordance with the Administrative Procedure Act (5 U.S.C. 1003), that the Secretary was preparing to determine whether marketing quotas are required for the 1963 crop of rice, to determine and proclaim the national acreage allotment of rice for 1963, and to apportion among the States the 1963 national acreage allotment of rice. No data, views, or recommendations pertaining thereto were submitted pursuant to such notice.

(d) The Agricultural Adjustment Act of 1938, as amended, requires that the proclamation with respect to marketing quotas for the 1963 crop of rice be issued not later than December 31, 1962; that the referendum to determine whether farmers are in favor of or opposed to such quotas be held within 30 days after the issuance of the proclamation; and that insofar as practicable operators of farms be notified of their farm rice acreage allotments prior to the holding of the referendum. Therefore, it is necessary to waive the 30-day effective date provision of section 4 of the Administrative Procedure Act and such provision is hereby waived. Accordingly, the regulations in §§ 730.1401 to 730.1404, inclusive, shall become effective upon the date of their publication in the FEDERAL REGISTER.

§ 730.1402 Marketing quotas on 1963 crop of rice.

The total supply of rice in the United States for the marketing year beginning August 1, 1962, is determined to be 69,229 thousand hundredweight (rough basis). The normal supply of rice for such marketing year is determined to be 66,344 thousand hundredweight. Since the total supply of rice for the 1962–63 marketing year exceeds the normal supply for such marketing year, marketing quotas shall be in effect on the 1963 crop of rice.

§ 730.1403 National acreage allotment of rice for 1963.

The normal supply of rice for the marketing year commencing August 1, 1963, is determined to be 69,029 thousand hundredweight (rough basis). The carryover of rice on August 1, 1963, is determined to be 8,175 thousand hundredweight. Therefore, the production of rice needed in 1963 to make available a total supply of rice for the 1963–64 marketing year equal to the normal supply for such marketing year is 60,854 thousand hundredweight. The national average yield of rice for the five calendar years, 1958 through 1962 is determined to be 3,347 pounds per planted acre. The national acreage allotment of rice for 1963 computed on the basis of the production of rice needed in 1963 and the national average yield per planted acre of rice for the five calendar years, 1958 through 1962, is 1,818,166 acres. Since this amount is more than the total acreage allotted in 1956, which is the minimum for 1963 provided by law, the national acreage allotment of rice for the calendar year 1963 shall be 1,818,166 acres.

§ 730.1404 Apportionment of 1963 national acreage allotment of rice among the several States.

The national acreage allotment proclaimed in § 730.1403, less a reserve of 200 acres, is hereby apportioned among the several rice-producing States as follows:

State:	*Acres*
Arizona	252
Arkansas	439,019
California	329,822
Florida	1,053
Illinois	22
Louisiana:	
Producer administrative area	18,651
Farm administrative area	503,984
State total	522,635
Mississippi	51,354
Missouri	5,245
North Carolina	42
Oklahoma	164
South Carolina	3,132
Tennessee	569
Texas	464,657

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on December 13, 1962.

CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 62–12585; Filed, Dec. 19, 1962; 8:50 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 5]

PART 105—STANDARDS OF CONDUCT

Miscellaneous Amendments

In Part 105, §§ 105.2 (26 F.R. 8447), 105.3–1, as amended (26 F.R. 8447, 27 F.R. 4833), 105.3–2 (26 F.R. 8447), 105.3–3 (26 F.R. 8447), 105.4–2, as amended (26 F.R. 8447, 27 F.R. 5653) and 105.4–3, as amended (26 F.R. 8447, 27 F.R. 5653) are revised to read as follows:

§ 105.2 Definitions.

As used in this part:

(a) "Administration" shall mean the Small Business Administration.

(b) "Administrator" shall mean the Administrator of the Small Business Administration.

(c) "Employee" shall mean an employee of the Small Business Administration, regardless of his or her grade, status, tenure or place of employment, including employees on leave with pay or on leave without pay other than extended military leave.

(d) "Special employee" shall mean an officer or employee of the Small Business Administration, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full time or intermittent basis. Members of Small Business Advisory Councils are not included in this definition.

(e) "Department" shall mean any department, agency, independent establishment or wholly owned corporation of the United States Government.

§ 105.3–1 Former employees.

(a) No employee, or special employee, shall, within one year after his employment has ceased with the Administration, appear personally before any court or department as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, involving a specific party or parties, in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an officer or employee of the Administration at any time within a period of one year prior to the termination of such responsibility. 18 U.S.C. 207 makes such an act a criminal offense.[1]

(b) No employee or special employee shall ever, after his employment has ceased, knowingly act as agent or attorney for anyone other than the United

[1] 18 U.S.C. 201, 203, 205, 207, and 208 (Public Law 87–849) informationally cited in this Amendment 5 to Part 105 take effect on January 21, 1963.

States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, involving a specific party or parties, in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed. 18 U.S.C. 207 makes such an act a criminal offense.[1]

(c) A former employee or a former special employee, who has outstanding scientific or technological qualifications, may, paragraphs (a) and (b) of this section notwithstanding, act as attorney or agent or appear personally in connection with a particular matter within the Administration in a scientific or technological field provided the Administrator first certifies in writing, published in the FEDERAL REGISTER, that the national interest would be served by such action or appearance by the former employee.

(d) A former employee who occupied a position or engaged in activities involving discretion with respect to the granting of assistance under the Small Business Act, as amended, or the Small Business Investment Act of 1958, as amended, is disqualified from accepting any employment with or being retained by any business concern which has been given assistance by the Administration, for a period of two years following the date of such assistance, if such date falls within the period of his employment with the Administration or within a year after such employment has ceased. All clerical employees of the Administration and all non-clerical employees of the Office of Information Services, Office of Organization and Management, Office of Personnel, Office of Program Analysis, Office of Finance and Accounts, and Office of Budget, do not occupy positions and are not engaged in activities involving discretion with respect to the granting of assistance under the Small Business Act, as amended, and the Small Business Investment Act of 1958, as amended. The discretionary nature of the position and activities of other employees shall be determined by the Administrator at such time as the employee terminates his employment with the Small Business Administration.

§ 105.3–2 Present employees and claims against or business with the Government.

(a) No employee, otherwise than in the proper discharge of his official duties, shall act as agent or attorney for prosecuting any claim against the United States or receive any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; nor shall he act as agent or attorney for anyone before any department, agency, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the United States is a party or has a direct and substantial interest; nor shall he ask for nor receive any compensation, otherwise than as provided by law for the proper discharge of official duties, for any services rendered or to be rendered by himself or another in relation to such matters. 18 U.S.C. 203 and 205 make such activity a criminal offense.[1]

(b) A special employee shall be subject to paragraph (a) of this section only in relation to a particular matter, involving a specific party or parties,

(1) In which he has at any time participated personally and substantially as an employee or as a special employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or

(2) Which is pending in the Administration while he is serving as such special employee. 18 U.S.C. 205 provides criminal penalties for such activities.[1]

(c) A special employee who has served no more than 60 days in the Administration during the immediately preceding period of 365 consecutive days is subject to all the limitations of paragraph (b) of this section except subparagraph (2) of paragraph (b) of this section.

(d) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this section,

(1) If the Director of Personnel or with respect to regional employees occupying non-technical positions grade GS–7 or below, the Regional Director for the region to which such employee is assigned, approves, employees and special employees may act, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as an employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility. Prior to granting such approval the Director of Personnel or the Regional Director, as the case may be, shall obtain the advice of the Ad Hoc Committee concerning the propriety of granting the approval.

(2) An employee, if not inconsistent with the faithful performance of his duties, may act without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

(e) A special employee may act as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States provided that

(1) The approval of such employment is received from the Assistant Administrator (Management).

(2) The head of the department concerned with the grant or contract certifies in writing that the national interest so requires, and

(3) Such certification is published in the FEDERAL REGISTER.

(f) No employee shall participate in any business transaction with the Administration, directly or indirectly, as an agent, representative, attorney, partner or principal, except as may be authorized by this section and § 105.4–3 of this part.

(g) No employee shall recommend or suggest the use of any individual, firm, corporation, or other non-governmental entity offering any service as consultant, agent, representative, attorney, expediter, or "specialist," for the purpose of assisting in any negotiations, transactions, or other business with the Administration or with any other Government department.

§ 105.3–3 Gratuities or compensation from non-Government sources.

(a) No employee shall accept any present, decoration or other thing from any foreign government except as authorized by Act of Congress or otherwise authorized by law.

(b) No employee shall receive any salary, contribution to or supplementation of salary, as compensation for his services as an employee of the Administration from any source other than the United States Government except as may be authorized by law. 18 U.S.C. 209 provides criminal penalties for doing so.[1]

(c) Special employees and employees serving without compensation are exempt from the provisions of paragraph (b) of this section.

(d) Employees may, notwithstanding the provisions of paragraph (b) of this section, continue to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer; provided that, in respect to profit-sharing and stock bonus participation, the Ad Hoc Committee determine that such participation by the employee will not interfere with the performance of his duties.

(e) No employee, or special employee, shall ask, demand, exact, solicit, seek, accept, receive or agree to receive anything of value for himself or for any other person or entity, in return for being influenced in his performance of any official act, for being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States or for being induced to do or omit to do any act in violation of his official duty. 18 U.S.C. 201 provides criminal penalties for such actions.[1]

(f) No employee, or special employee, shall accept any gratuity, or favor of any nature whatsoever, directly or indirectly, from any person, firm, corporation or other entity, which has or is doing business or proposes to do business with the Administration.

(g) No employee shall solicit or receive a bribe of any kind to support or influence decisions for the hiring of any person as an employee in the United States Government. 18 U.S.C. 211 makes such activity a criminal offense.

[1] See footnote on p. 12612.

(h) No employee shall, under color or pretense of his office, commit or attempt to commit an act of extortion. 18 U.S.C. 872 makes such an act a criminal offense.

§ 105.4–2 Interest in firms receiving SBA assistance and other firms.

(a) No employee, his spouse, nor members of his immediate household shall purchase or otherwise acquire any interest, as a stockholder or otherwise, in any concern while an application of such concern for assistance from the Small Business Administration is pending and for a period of two years after such assistance is granted, regardless of whether the concern is a publicly held corporation.

(b) No employee, or special employee, shall participate personally and substantially as an Administration employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest without

(1) Making a full disclosure of the facts to the Ad Hoc Committee and

(2) Obtaining a written determination by the Administrator that such financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Administration may expect from such employee. 18 U.S.C. 208 makes noncompliance a criminal offense.[1]

§ 105.4–3 Assistance by the Administration to businesses owned by or employing officers, employees or special employees of the Federal Government or members of Small Business Advisory Councils.

No assistance, other than disaster loans, shall be furnished to a business enterprise when the sole proprietor, a partner, an officer or director thereof, or a stockholder with a ten or more percent interest therein:

(a) Is (1) an employee of the Administration or an employee in GS–13 or its equivalent, or higher, of any other department in the executive branch, or (2) an officer of the rank of major or lieutenant commander or its equivalent, or higher, in the Armed Services of the United States, or (3) an appointed consultant or special employee of the Administration, or a member of a Small Business Advisory Council, or (4) a spouse of any of the above,

without the prior approval of the Ad Hoc Committee, or

(b) Is (1) an employee in Grade GS–12 or its equivalent or lower, of any other department in the executive branch, or (2) a member of the Armed Services of the United States of the rank of captain or lieutenant senior grade, or its equivalent, or lower, or (3) a spouse of any of the above,

without a prior written statement of no objection by the pertinent department or Armed Service of the United States.

Effective date: December 17, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62–12567; Filed, Dec. 19, 1962; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER A—CIVIL AIR REGULATIONS

[Reg. Docket No. 1160; Amdt. No. 60–30]

PART 60—AIR TRAFFIC RULES

Avoidance of Disaster Areas

On April 6, 1962, notice was given in Draft Release No. 62–17 (27 F.R. 3818), that the Federal Aviation Agency (FAA) had under consideration the addition of § 60.28, "Avoidance of disaster areas," to Part 60 of the Civil Air Regulations. The rule would prohibit the flight of nonessential aircraft within disaster areas designated to encompass certain types of aircraft and train accidents, forest fires, earthquakes, floods and similar disasters. The reasons for the proposed amendment were outlined in detail in the draft release.

To ensure that the views of interested persons were fully considered, an informal conference was held in Washington, D.C., on November 14, 1961, prior to the issuance of the notice of proposed rule making. The majority of the user organizations were represented, as were agencies concerned with search and rescue activities and many news organizations. The comments received at the conference proved extremely valuable in development of the rule proposed in the draft release.

In commenting on the draft release, the news media groups stressed the time critical nature of news reporting. They recommended that the rule or the implementing FAA procedures provide for immediate recourse to higher authority in the event they are denied permission to operate at altitudes which they consider necessary. Denial of entry at altitudes being used by relief aircraft must be based on the objective determination of the person responsible for relief activities. His decision, based on a firsthand knowledge of the situation, should not be open to debate at that point. The Agency will, however, in the course of development of the implementing procedures, recommend guidelines as to when entry should be granted or denied. We will stress the responsibility which news organizations have to the public and will provide for all practicable assistance and cooperation.

One free-lance writer interpreted the proposal as requiring advance accreditation for news media aircraft and suggested that in-flight notification be permitted. The proposal did permit in-flight notification and approval, as does the rule adopted herein. We also recognize that most news organizations secure aircraft on an immediate rental basis to cover news incidents. Therefore, all that the rule requires is carriage of accredited newsmen on a bona fide newsgathering mission.

The intent of the proposed rule was supported by most of the aircraft user groups which replied. However, some did recommend certain modification. The Air Transport Association and the Helicopter Association of America were concerned that pilots might not have Notices to Airmen (NOTAMs) available in all cases and might inadvertently enter a disaster area. The latter group felt that the rule should specifically exempt those pilots who unknowingly enter a disaster area. They said that even though no penalties were assessed for such violations, it would be unfair even to cause the pilot technically to be in violation. The Agency recognizes the possibility of inadvertent entry but considers it undesirable to include these occurrences as exceptions to the rule. All the circumstances would, of course, be weighed in such an event. Certainly, proper discretion and prompt departure of the disaster area when the facts become known to the pilot would serve to mitigate his unintentional entry of the area.

The Aircraft Owners and Pilots Association contends that a disaster area should be established only when aerial relief operations are actually in progress or are imminent. AOPA considers that designation in other cases would be an unwarranted restriction of airspace. The draft release preamble stressed the collision potential that exists even though relief aircraft are not being used. Curiosity seekers often congregate over a disaster site and become a hazard to each other.

There was some comment that such a rule would be self-defeating since it would focus attention on an area which might otherwise go virtually unnoticed. Presently, most pilots voluntarily avoid disaster areas after an informational NOTAM has been issued. Their cooperation has made these voluntary procedures effective to a certain degree. While we recognize that attention will be focused on these disaster sites, we consider that the legal prohibition on entering the disaster area will prove to be a strong deterrent and will result in greater effectiveness.

Two forestry groups recommended that the ceiling of disaster areas be raised to as high as 2,000 feet above the essential air activity. They maintain that greater vertical separation from airborne fire fighting activities is required because of the reduction in visibility from the smoke. A pilot operating under such conditions would still be governed by the visibility minimums of Part 60. Therefore, we consider that the current regulations plus the rule adopted herein will amply prohibit imprudent operations in such areas.

[1] See footnote on p. 12612.

The forestry groups also recommended that disaster areas be designated for all forest fires. The draft release preamble discussed the manner in which a disaster area would be established around a forest fire. That is, the Fire Air Officer would forward his recommendation to the appropriate FAA air route traffic control center which would then establish the area by NOTAM. Decision as to whether a disaster area is warranted would rest with the Fire Air Officer. An area could, therefore, be established around any forest fire where the circumstances justified.

Two comments discussed disasters on or near an airport having a control tower. One suggestion was that the control tower operator be given authority to impose conditions comparable to those proposed in the rule even though a disaster area was not designated. The particular circumstances would dictate whether a disaster area should be created. However, the specific authority is not required in this rule because basically the same results would be obtained through the use of § 60.18, "Operation on and in the vicinity of an airport." Section 60.18, among other things, requires aircraft to avoid the five-mile airport traffic area unless operating to or from an airport within the area, requires two-way radio communications with federally operated control towers, imposes a speed limit, and establishes a left-hand traffic pattern direction for fixed-wing aircraft. The control tower can authorize deviation from any of these requirements. Even if the accident should occur on the airport itself, the airport would be kept open to the extent practicable.

Two comments suggested that the Federal Aviation Agency immediately send traffic controllers to the disaster scene to provide air traffic control service. This course has been studied, however, personnel and equipment considerations presently make this impractical in most instances. The Federal Aviation Agency has recently entered into a Memorandum of Agreement entitled, "Airspace Control in Search and Rescue and Disaster Relief Areas" with the Department of Defense, the United States Coast Guard, the Forest Service, and the Office of Emergency Planning. The Agreement sets forth certain actions which will be taken by the signatories in development of the over-all plan. The Federal Aviation Agency has agreed to determine the feasibility of providing airport traffic control personnel and equipment to designated operating bases when requested by appropriate disaster control authorities.

In consideration of the foregoing, Part 60 of the Civil Air Regulations is amended to add:

§ 60.28 Avoidance of disaster areas.

(a) Whenever the Administrator determines it to be necessary, the airspace below 2,000 feet above the surface over and within five statute miles of an aircraft or train accident, forest fire, earthquake, flood, or other disaster of substantial magnitude will be designated a disaster area. Designation will be made in a Notice to Airmen.

(b) Aircraft may not be flown within a disaster area except under the following conditions:

(1) Aircraft participating in airborne relief activities may be operated under the direction of the Agency responsible for relief activities.

(2) Aircraft may be operated to or from an airport within the area if they do not hamper or endanger relief activities.

(3) When flight around or above the area is impractical due to weather, terrain, or other considerations, aircraft may be operated en route through the area if they do not hamper or endanger relief activities and prior notice is given to the Air Traffic Service facility specified in the Notice to Airmen.

(4) Aircraft may be operated through the area when specifically authorized under an IFR air traffic control clearance.

(5) Aircraft carrying properly accredited news representatives or persons on official business pertaining to the disaster may be operated within the area. However, they shall be operated in accordance with § 60.17 and other applicable Civil Air Regulations and they may not be operated at or below altitudes being used by relief aircraft unless they have the specific approval of the Agency responsible for relief activities. Such approval, together with any special instructions, will normally be obtained through the Air Traffic Service facility specified in the Notice to Airmen. A flight plan containing the following shall be filed for news media and official business aircraft prior to operating in a disaster area:

(i) Aircraft identification, type, and color;

(ii) Radio communications frequencies to be used;

(iii) Proposed time of entry and exit of the disaster area;

(iv) Name of news media or other purpose of flight, and

(v) Any other information deemed necessary by air traffic control.

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

This regulation is effective on March 20, 1963.

Issued in Washington, D.C., on December 13, 1962.

N. E. HALABY,
Administrator.

[F.R. Doc. 62-12542; Filed, Dec. 19, 1962; 8:45 a.m.]

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 62-EA-75]

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

Alteration of Federal Airways and Reporting Points; Amendment

On November 24, 1962, Federal Register Document 62-11613 was published in the FEDERAL REGISTER (27 F.R. 11531) which amended §§ 71.123, 71.143, 71.203 and 71.205 of the Federal Aviation Regulations by changing the name of the Tower City, Pa., VORTAC to the Ravine, Pa., VORTAC.

Due to an oversight an amendment to § 71.191 was inadvertently omitted. This amendment would change the terminating point of V-1516 Positive Control Route Segment from Tower City, Pa., to Ravine, Pa.

Since this change is editorial in nature and will not assign or reassign the use of navigable airspace, notice and public procedure hereon are unnecessary and the effective date of the final rule as initially adopted may be retained.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), effective immediately, Federal Register Document 62-11613 (27 F.R. 11531) is altered as follows:

Item 5 is added.

5. Section 71.191 (27 F.R. 220-156, November 10, 1962).

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

Issued in Washington, D.C., on December 13, 1962.

CLIFFORD P. BURTON,
Chief,
Airspace Utilization Division.

[F.R. Doc. 62-12545; Filed, Dec. 19, 1962; 8:45 a.m.]

[Airspace Docket No. 62-AL-13]

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

Revocation and Designation of Federal Airway

The purpose of these amendments to Part 71 (New) of the Federal Aviation Regulations is to revoke the north alternate of VOR Federal airway No. 440 and to designate a new VOR airway in the Anchorage, Alaska, area.

Parts 600 and 601 of the regulations of the Administrator have been consolidated and recodified into a new Part 71 of the Federal Aviation Regulations which will become effective December 12, 1962 (27 F.R. 10352, 220-2). The airspace actions taken herein reflect the new format and numbering system adopted for these Parts.

The north alternate of Victor 440 extends from the Anchorage VOR to the Puntilla Lake, Alaska, RBN via the Skwentna, Alaska, RR. Due to the lack of VOR navigational guidance for the Skwentna to Puntilla Lake segment of this alternate airway, this north alternate of Victor 440 is being revoked. To retain the advantages of the terminal routing afforded by the Anchorage to Skwentna segment of this alternate airway, it is being redesignated as Victor 463. Since this segment of the north alternate being redesignated transverses Restricted Area R-2201, it is necessary to delete the reference to R-2201 in the description of Victor 440 and add it to the description Victor 463.

Since these amendments impose no additional burden on any person, and do not involve the designation of addi-

tional controlled airspace, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than thirty days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) the following actions are taken:

1. In § 71.125 (27 F.R. 220–36, November 10, 1962) V–440 "RBN including an N alternate from Anchorage to Puntilla Lake RBN via Skwentna, Alaska, RR." is deleted and "RBN." is substituted therefor; and "The airspace within R–2201 shall be used only after obtaining prior approval from appropriate authority." is deleted.

2. In § 71.125 (27 F.R. 220–36, November 10, 1962) the following is added:

V–463 From Anchorage, Alaska, to Skwentna, Alaska, RR. The airspace within R–2201 shall be used only after obtaining prior approval from appropriate authority.

These amendments shall become effective 0001, e.s.t., February 7, 1963.

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

Issued in Washington, D.C., on December 13, 1962.

CLIFFORD P. BURTON,
Chief,
Airspace Utilization Division.

[F.R. Doc. 62–12546; Filed, Dec. 19, 1962; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1494; Amdt. 520]

PART 507—AIRWORTHINESS DIRECTIVES

Douglas Model DC–8 Aircraft

Pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), an airworthiness directive was adopted on November 21, 1962, and made effective immediately because of the safety emergency involved as to all known United States operators of Douglas Model DC–8 aircraft. The directive requires inspection of the upper inboard spar cap structure of the outboard pylons and repair of any found cracked.

Since it was found that immediate corrective action was required in the interest of safety, notice and public procedure thereon were impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Douglas Model DC–8 aircraft by individual telegrams dated November 21, 1962. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 507.10(a) of Part 507 (14 CFR Part 507), to make it effective as to all persons.

DOUGLAS. Applies to DC–8 standard leading edge aircraft powered with JT3C, JT4A or Conway engines.

NOTE: Does not apply to aircraft with extended leading edge and to JT3D powered aircraft with standard leading edge.

Compliance required as indicated.

As a result of failure of the upper inboard spar cap structure of the outboard pylons, accomplish the following:

(a) Unless already accomplished within the last 425 hours' time in service, within the next 25 hours' time in service, inspect upper inboard spar cap structure of the outboard pylon for evidence of cracks. Gain access to the area to be inspected by removing the pylon leading edge nose cap between Stations YOP 214 and 244 and access doors numbers 110, 113, 411, and 414. Using close visual or dye penetrant methods, inspect the upper inboard cap and adjacent structure for cracks in the area of Station YOP 230 and at the edges of support fitting P/N 3647306–501.

(b) If cracks are found, repair in accordance with Douglas Drawing 5776811 or FAA-approved equivalent, prior to further flight.

(c) If no cracks are found the inspections outlined above must be repeated at periods not to exceed 450 hours' time in service from the last inspection.

(d) The repetitive inspections may be discontinued on aircraft repaired in accordance with Douglas Drawing 5776811 and on aircraft modified to incorporate preventative rework accomplished in accordance with FAA engineering approved technical data.

(Douglas DC–8 Alert Service Bulletin A54–33 covers this same subject.)

This amendment shall become effective upon publication in the FEDERAL REGISTER for all persons except those to whom it was made effective immediately by telegram dated November 21, 1962.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 13, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62–12541; Filed, Dec. 19, 1962; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

PART 121—FOOD ADDITIVES

Zoalene in Feed for Chickens and Turkeys

Correction

In F.R. Doc. 62–11584, appearing at page 11546 of the issue for Saturday, November 24, 1962, a section heading reading "§ 121.207 *Zoalene.*" should be inserted as the second line of the second paragraph of the document.

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.486]

PART 92—NOTARIAL AND RELATED SERVICES

Miscellaneous Amendments

By virtue of the authority vested in the Secretary of State by the Act of May 26, 1949, as amended, 5 U.S.C. 151c, and by virtue of authority vested in me by section 310 of the Department's Organization Manual, Title 22 of the Code of Federal Regulations is amended as follows:

1. Section 92.3 is amended to read as follows:

§ 92.3 Consular districts.

Where consular districts have been established, the geographic limits of the district determine the area in which notarial acts can be performed by the consular officer. See § 92.41(b) regarding authentication of the seals and signatures of foreign officials outside the consular district.

2. Section 92.4(a) is amended to read as follows:

§ 92.4 Authority of officers of the Foreign Service under the Federal law.

(a) Every secretary of embassy or legation is authorized, whenever he is required or deems it necessary or proper so to do, at the post, port, place, or within the limits of his embassy or legation, and every consular officer of the United States is required whenever application is made to him therefor within the limits of his consulate, to administer to or take from any person any oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to do within the United States (R.S. 1750; secs. 3 and 7 of act of April 5, 1906, 34 Stat. 99; 22 U.S.C. 1195, 1203). The language "within the limits of his consulate" is construed to mean within the geographic limits of his consular district. With respect to notarial acts performed away from his office, see § 92.7. Notarial acts shall be performed only if their performance is authorized by treaty provisions or is permitted by the laws or authorities of the country wherein the officer is stationed.

3. Paragraphs (b) through (e) of § 92.4 are retained in force unchanged.

Section 92.7 is amended to read as follows:

§ 92.7 Responsibility of officers of the Foreign Service.

(a) As a rule notarial acts should be performed at the consular office. Where required by the circumstances of a particular case and subject to the reasonableness of the request, notarial acts may be performed elsewhere within the limits of the consulate subject to the assessment of the applicable fees under subheading "Services Rendered Outside of Office" of the Tariff of Fees (§ 22.1(a) of this chapter), as well as to payment by the interested party of the officer's expenses in going to the place where the service is performed and returning to his office (§ 22.1(b) of this chapter).

(b) As indicated in §§ 92.4, 92.5, and 92.6, the authority of secretaries of embassy or legation as well as consular officers to perform notarial acts is generally recognized. However, the function is essentially consular, and notarial powers are in practice exercised by diplomatic officers only in the absence of a consular officer. Performance of notarial acts by an officer assigned in dual diplomatic and consular capacity shall be under his consular commission, ex-

cept in special circumstances. For ease of reference, the term "consular officer" is used in this part in discussing the notarial function of the Foreign Service.

4. Section 92.67 is amended to read as follows:

§ 92.67 Taking of depositions in United States pursuant to foreign letters rogatory.

(a) *Answering inquiries.* A person who inquires regarding the taking of depositions in the United States in pursuance of foreign letters rogatory may be given the information which appears in this section and in § 92.71.

(b) *Authority and procedure.* The taking of depositions by authority of State courts for use in the courts of foreign countries is governed by the laws of the individual States. As respects Federal practice, the deposition of any witness within the United States for use in any judicial proceeding pending in any court in a foreign country with which the United States is at peace may be taken before a person authorized to administer oaths who is designated by the district court of the United States of any district where the witness resides or may be found (28 U.S.C. 1782). Procedure in the taking of depositions in Federal practice is in accordance with the Rules of Civil Procedure for the United States District Courts (United States Code, Appendix to Title 28, rules 26 through 37).

(c) *Formulation of letters rogatory.* A letter rogatory customarily states the nature of the judicial assistance sought by the originating court, prays that this assistance be extended, incorporates an undertaking of future reciprocity in like circumstances, and makes some provision for payment of fees and costs entailed in its execution. As respects Federal practice, it is not required that a letter rogatory emanating from a foreign court be authenticated by a diplomatic or consular officer of the United States or that it be submitted through the diplomatic channel; the seal of the originating court suffices. When testimony is desired, the letter rogatory should state whether it is intended to be taken upon oral or written interrogatories. If the party on whose behalf the testimony is intended to be taken will not be represented by counsel, written interrogatories should be attached. Except where manifestly unneeded (e.g., a Spanish-language letter rogatory intended for execution in Puerto Rico) or dispensed with by arrangement with the court, letters rogatory and interrogatories in a foreign language should be accompanied by English translations.

(d) *Addressing letters rogatory.* To avert uncertainties and minimize possibilities for refusal of courts to comply with requests contained in letters rogatory in the form in which they are presented, it is advisable that counsel for the parties in whose behalf testimony is sought ascertain in advance if possible, with the assistance of correspondent counsel in the United States or that of a consular representative or agent of his nation in the United States, the exact title of the court, Federal or State as the case may be, which will be prepared to entertain the letter rogatory. In Federal practice the following form of address is acceptable:

The United States District Court for the _____ District of _____
(e.g. Northern, Southern) (State)
_____, _____
(City) (State)

In instances where it is not feasible to ascertain the correct form of address at the time of preparation of the letter rogatory, and it will be left for counsel in the United States, or a consul or agent in the United States of the nation of origin of the letter rogatory to effect its transmission to an appropriate court, the following form may be used: "To the Appropriate Judicial Authority at (name of locality)".

(e) *Submitting letters rogatory to courts in the United States.* A letter rogatory may be submitted to the clerk of the court of which assistance is sought, either in person or by mail. This may be direct by international mail from the originating foreign court. Alternatively, submission to the clerk of court may be effected in person or by mail by any party to the action at law or his attorney or agent, or by a consular officer or agent in the United States of the foreign nation concerned. To the extent that it can, the Department of State will extend procedural guidance to foreign diplomatic representatives in these matters, and will forward communications on their behalf to appropriate Federal authorities in the executive branch, and to executive authorities in the States. However, the Department of State is without authority to compel courts to comply with requests embodied in letters rogatory, review the conditions which courts may attach to fulfillment of requests, or override their findings on points of reciprocity, public order, costs, and the like.

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the provisions thereof involve foreign affairs functions of the United States.

For the Secretary of State.

WILLIAM H. ORRICK, JR.,
Deputy Under Secretary for Administration.

NOVEMBER 26, 1962.

[F.R. Doc. 62-12568; Filed, Dec. 19, 1962; 8:49 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 291-62]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Under and by virtue of the authority vested in me by section 161 of the Revised Statutes (5 U.S.C. 22) and section 2 of Reorganization Plan No. 2 of 1950 (64 Stat. 1261), it is hereby ordered as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

SECTION 1. a. Subpart H of Part 0 (relating to the organization of the Department of Justice, Order No. 271-62) of Title 28 of the Code of Federal Regulations is hereby amended to read as follows:

Subpart H—Antitrust Division

Sec.
0.40 General functions.
0.41 Special functions.
0.42 Authority to furnish certain reports relating to proposed mergers of banks.

AUTHORITY: §§ 0.40 to 0.42 issued under R.S. 161; 5 U.S.C. 22; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949-1953 Comp., 64 Stat. 1261.

§ 0.40 General functions.

Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Antitrust Division:

(a) General enforcement, by criminal and civil proceedings, of the Federal antitrust laws and other laws relating to the protection of competition and the prohibition of restraints of trade and and monopolization, including conduct of surveys of possible violations of antitrust laws, conduct of grand jury proceedings, issuance and enforcement of civil investigative demands, civil actions to obtain orders and injunctions, civil actions to recover forfeitures or damages for injuries sustained by the United States as a result of antitrust law violations, proceedings to enforce compliance with final judgments in antitrust suits, and negotiation of consent judgments in civil actions; criminal actions to impose penalties including actions for the imposition of penalties for conspiring to defraud the Federal Government by violation of the antitrust laws; participation as amicus curiae in private antitrust litigation; and prosecution or defense of appeals in antitrust proceedings.

(b) Intervention or participation before administrative agencies functioning wholly or partly under regulatory statutes in administrative proceedings which require an accommodation between the purposes of the antitrust laws and the purposes of such statutes, including such agencies as the Federal Trade Commission, Federal Reserve Board, Interstate Commerce Commission, Civil Aeronautics Board, Federal Communications Commission, Federal Maritime Commission, and Federal Power Commission, except proceedings referred to any agency by a Federal court as an incident to litigation being conducted under the supervision of another division in this Department.

(c) Developing procedures to implement, receiving information, maintaining records, and preparing reports by the Attorney General to the President as re-

quired by Executive Order No. 10936 of April 25, 1961 (26 F.R. 3555), relating to identical bids submitted to Federal and State departments and agencies.

(d) As the delegate of the Attorney General, furnishing reports and summaries thereof, respecting the competitive factors involved in proposed mergers or consolidations of insured banks, required by subsection (c) of section 18 of the Federal Deposit Insurance Act (64 Stat. 891), as amended (12 U.S.C. 1828 (c)), and furnishing the advice regarding the proposed disposition of surplus Government property required by section 207 of the Federal Property and Administrative Services Act (63 Stat. 391), as amended (40 U.S.C. 488).

(e) Preparing the approval or disapproval of the Attorney General whenever such action is required by statute from the standpoint of the antitrust laws as a prerequisite to the development of Defense Production Act voluntary programs or agreements and small business production or raw material pools or the national defense program or atomic energy matters, and advising the Attorney General with respect to the disposal of property formerly held by enemy aliens.

(f) Assembling information and preparing reports required or requested by the Congress or the Attorney General as to the effect upon the maintenance and preservation of competition under the free enterprise system of various Federal laws or programs, including the Defense Production Act, the Small Business Act, the joint resolution of July 28, 1955, giving consent to the Interstate Compact to Conserve Oil and Gas, and the program for the disposal of Government-owned synthetic rubber facilities.

(g) Preparing for transmittal to the President, Congress, or other departments or agencies views or advice as to the propriety or effect of any action, program or practice upon the maintenance and preservation of competition under the free enterprise system.

(h) Representing the Attorney General on interdepartmental or interagency committees concerned with the maintenance and preservation of competition generally and in various sections of the economy and the operation of the free enterprise system and when authorized, participating in conferences and committees with foreign governments and treaty organizations concerned with competition and restrictive business practices in international trade.

§ 0.41 Special functions.

Subject to the general supervision and direction of the Attorney General, the following-described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Antitrust Division:

(a) Institution of proceedings to impose penalties for violations of section 202(a) of the Communications Act of 1934 (48 Stat. 1070), as amended (47 U.S.C. 202(a)), which prohibits common carriers by wire or radio from unjustly or unreasonably discriminating among persons, classes of persons, or localities.

(b) Upon appropriate certification by the Federal Trade Commission, and except as assigned to the Criminal Division by § 0.55(d), the institution of civil or criminal proceedings to impose penalties arising from violations of the Federal Trade Commission Act.

(c) Representing the United States in suits before three-judge district courts under section 2321–2325 of title 28 of the United States Code, to enforce, suspend, enjoin, annul, or set aside, in whole or in part, any order of the Interstate Commerce Commission.

(d) Representing the United States in proceedings before courts of appeal to review orders of the Federal Communications Commission, the Federal Maritime Commission, the Maritime Administration and the Atomic Energy Commission (5 U.S.C. 1031–1042).

(e) Representing the Civil Aeronautics Board, the Administrator of the Federal Aviation Agency, and the Secretary of the Treasury or his delegates under the Federal Alcohol Administration Act, in courts of appeal reviewing their respective administrative orders.

(f) Defending the Administrator of the Federal Aviation Agency, the Secretary of the Treasury or his delegates under the Federal Alcohol Administration Act, and the agencies named in paragraph (c), (d), and (e) of this section or their officers against the injunctive actions brought in Federal courts when the matter which is the subject of the actions will ultimately be the subject of review under paragraph (c), (d), (e), or (g) of this section, or of an enforcement action under paragraph (b) of this section.

(g) Seeking review of or defending judgments rendered in proceedings under paragraphs (a) through (f) of this section and judgments rendered upon review of Federal Trade Commission orders by courts of appeal.

§ 0.42 Authority to furnish certain reports relating to proposed mergers of banks.

The Assistant Attorney General in charge of the Antitrust Division is authorized to exercise the authority vested in the Attorney General by subsection (c) of section 18 of the Federal Deposit Insurance Act (64 Stat. 891; 12 U.S.C. 1828(c)), as amended by the act of May 13, 1960, 74 Stat. 129, relating to the furnishing of reports, and summaries thereof, with respect to the competitive factors involved in proposed mergers or consolidations of insured banks.

§ 0.45 [Amendment]

(b) Paragraph (d) of § 0.45 of Subpart I (relating to the Civil Division) of Part 0 is hereby amended to read as follows:

(d) Fraud Cases—civil claims arising from fraud on the Government (other than antitrust, land, and tax frauds), including alleged claims under the False Claims Act, the Surplus Property Act, the Anti-Kickback Act, the Contract Settlement Act, and common law fraud.

c. The first parenthetical phrase in paragraph (i) of § 0.45 is hereby amended to read as follows: "(except defense of injunctive proceedings assigned to the Antitrust Division by Subpart H of this part and proceedings involving fines and bail-bond forfeitures assigned to the Criminal Division by Subpart K of this part)."

§ 0.55 [Amendment]

d. Paragraph (b) of § 0.55 of Subpart K (relating to the Criminal Division) is hereby amended to read as follows:

(b) Cases involving criminal frauds against the United States except cases assigned to the Antitrust Division by § 0.40(a) involving conspiracy to defraud the Federal Government by violation of the antitrust laws, tax fraud cases assigned to the Tax Division by Subpart N of this part and false statement or perjury cases assigned to the Internal Security Division by § 0.60(a).

§ 0.45 [Amendment]

SEC. 2. Paragraph (g) of § 0.45 of Subpart I (relating to the Civil Division) of Part 0 is hereby amended to read as follows:

(g) Tort Cases—defense of tort suits against the United States arising under the Federal Tort Claims Act and special acts of Congress; similar litigation against cost-plus Government contractors and Federal employees whose official conduct is involved (except actions against Government contractors and Federal employees which are assigned to the Lands Division by § 0.65 (a) and (c)); prosecution of tort claims for damage to Government property; and actions for the recovery of medical expenses under Public Law 87–693 and Part 43 of this title.

SEC. 3. a. Paragraph (i) of § 0.45 of Subpart I (relating to the Civil Division) of Part 0 is hereby further amended by deleting the phrase "actions affecting property on which the United States has liens under section 2410 of title 28 of the United States Code," and inserting in lieu thereof the following: "except as provided in § 0.70(c)(2) of this part, defense of actions arising under section 2410 of title 28 of the United States Code whenever the United States is named as a party as the result of the existence of a Federal lien against property,".

§ 0.70 [Amendment]

b. Paragraph (c) of § 0.70 of Subpart N (relating to the Tax Division) of Part 0 is hereby amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following subparagraph:

(2) Defense of actions arising under section 2410 of title 28 of the United States Code whenever the United States is named as a party to an action as the result of the existence of a Federal tax lien, including the defense of other actions arising under section 2410, if any, involving the same property whenever a tax-lien action is pending under that section.

§ 0.95 [Amendment]

SEC. 4. Section 0.95 of Subpart Q (relating to the Bureau of Prisons) of Part 0 is hereby amended by adding at the end thereof the following three new parargaphs:

(h) Conduct of studies and the preparation and submission of reports and recommendations to committing courts respecting disposition of cases in which defendants have been committed for such purposes pursuant to section 4208 (b) of title 18 of the United States Code.

(i) Conduct of studies and the preparation and submission of reports and recommendations to committing courts respecting disposition of cases in which juvenile delinquents have been committed pursuant to section 5034 of title 18 of the United States Code.

(j) Observation, conduct of studies, and preparation of reports in cases in which youth offenders have been committed by the courts for such purposes pursuant to section 5010(e) of title 18 of the United States Code.

PART 21—WITNESS FEES

SEC. 5. Section 21.4 of Part 21 of Title 28 of the Code of Federal Regulations is hereby amended to read as follows:

§ 21.4 Use of table of distances.

Regardless of the mode of travel actually employed, mileage payable to witnesses under section 1821 of Title 28 of the United States Code, as amended by the act of August 1, 1956, 70 Stat. 798, shall be computed on the basis of highway distances as stated in the Rand McNally Standard Highway Mileage Guide or in any other generally accepted highway mileage guide which contains a short-line nationwide table of distances and which is designated by the Administrative Assistant Attorney General for such purpose: *Provided*, That with respect to travel in areas for which no such highway mileage guide exists, mileage payable under the said section 1821 shall be computed on the basis (a) of the mode of travel actually employed, (b) of a usually-traveled route, and (c) of distances as generally accepted in the locality.

PART 30—TRAVEL AND OTHER CONDUCT OF ALIENS OF ENEMY NATIONALITIES

SEC. 6. a. Part 30 of Title 28 of the Code of Federal Regulations is obsolete and is hereby revoked.

PART 31—CLAIM FOR LOSS OR DAMAGE TO PROPERTY DEPOSITED BY ALIEN ENEMIES

b. Part 31 of Title 28 of the Code of Federal Regulations is obsolete and is hereby revoked.

SEC. 7. Order No. 281–62 of September 28, 1962, is hereby amended by deleting the reference to "§ 0.55" and inserting in lieu thereof "§ 0.60".

The amendments made by this order shall become effective upon the date of the publication of this order in the FEDERAL REGISTER.

(R.S. 161; 5 U.S.C. 22; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp. 64 Stat. 1261)

ROBERT F. KENNEDY,
Attorney General.

DECEMBER 13, 1962.

[F.R. Doc. 62–12571; Filed, Dec. 19, 1962; 8:49 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

[CGFR 62–48]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Dangerous Cargoes

Correction

In F.R. Doc. 62–12130, appearing at page 12133 of the issue for Friday, December 7, 1962, the following changes are made:

1. In § 146.04–5, table, first column, the first line should read "Methyl chloride-methylene chloride" instead of "Methyl chloride-methylene";

2. On page 12134, third column, fourth line, the parenthetical phrase should read "(ICC–12P)" instead of "(ICC–12B)";

3. On page 12134, third column, fifteenth line from bottom, the parenthetical phrase should read "(ICC–17H, 37A)" instead of "(ICC–17A, 37A)".

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

National Wildlife Refuges, North Dakota

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

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

NORTH DAKOTA

ARROWWOOD NATIONAL WILDLIFE REFUGE

Sport fishing on the Arrowwood National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2,900 acres or 89 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: December 15, 1962, through March 11, 1963; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18-inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

(1) No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks. Tip-ups may be used, but fishermen must be in attendance within 100 feet of fishing equipment. Spearing or snagging is illegal.

(e) Other provisions:

(1) 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.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to March 12, 1963.

LAKE ILO NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Ilo National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to fishing. This open area, comprising 1,300 acres or 100 percent of the total water area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: December 15, 1962, through March 11, 1963; daylight hours only.

(c) Daily creel limits. Northern pike—3, walleyes—5, or a combination of five (5), 18-inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

(1) No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks. Tip-ups may be used, but fishermen must be in attendance within 100 feet of fishing equipment. Spearing or snagging is illegal.

(e) Other provisions:

(1) 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.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to March 12, 1963.

LONG LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Long Lake National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 10,000 acres or 100 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: December 15, 1962, through March 11, 1963; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18-inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

(1) No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks. Tip-ups may be used, but fishermen must be in attendance within 100 feet of fishing equipment. Spearing or snagging is illegal.

(e) Other provisions:

(1) 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.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to March 12, 1963.

LOWER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Lower Souris National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 8,000 acres or 70 percent of the total water area of the refuge, are delineated on a map and described in a leaflet available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: December 15, 1962, through March 11, 1963; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18-inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

(1) No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks. Tip-ups may be used, but fishermen must be in attendance within 100 feet of fishing equipment. Spearing or snagging is illegal.

(e) Other provisions:

(1) 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.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to March 12, 1963.

TEWAUKON NATIONAL WILDLIFE REFUGE

Sport fishing on the Tewaukon National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 1,400 acres or 85 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: December 15, 1962, through March 11, 1963; daylight hours only.

(c) Daily creel limits: Northern pike—3, Walleyes—5, or a combination of five (5), 18-inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

(1) No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks. Tip-ups may be used, but fishermen must be in attendance within 100 feet of fishing equipment. Spearing or snagging is illegal.

(e) Other provisions:

(1) 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.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to March 12, 1963.

UPPER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Upper Souris National Wildlife Refuge, North Dakota, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 6,000 acres or 39 percent of the total water area of the refuge, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, walleyes, yellow perch, bullheads, and other minor species permitted by State regulations.

(b) Open season: December 15, 1962, through March 11, 1963; daylight hours only.

(c) Daily creel limits: Northern pike—3, walleyes—5, or a combination of five (5), 18-inch size limit on northerns; yellow perch and bullheads—no limit; other minor species limits as prescribed by State regulations.

(d) Methods of fishing:

(1) No more than two poles with a single hook or lure attached to each may be used by each fisherman. Artificial lures are considered as single hooks. Tip-ups may be used, but fishermen must be in attendance within 100 feet of fishing equipment. Spearing or snagging is illegal.

(2) The use of minnows or any other fish, or part thereof, for bait is prohibited in all waters which lie north of the Lake Darling Dam. Minnows may be used in areas which are south of the Dam.

(e) Other provisions:

(1) 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.

(2) A Federal permit is not required to enter the public fishing area.

(3) The provisions of this special regulation are effective to March 12, 1963.

W. A. ELKINS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

DECEMBER 12, 1962.

[F.R. Doc. 62-12551; Filed, Dec. 19, 1962; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Proposed Rule Making

Amendment of Income Tax Regulations (26 CFR Part 1) to conform to Title II, Social Security Amendments of 1956, the Act of August 30, 1957 (Public Law 85–239), Title IV, Social Security Amendments of 1958, Title I, Social Security Amendments of 1960, and Title II, Social Security Amendments of 1961.

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

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the amendments made to the Internal Revenue Code of 1954 by Title II of the Social Security Amendments of 1956 (70 Stat. 839), the Act of August 30, 1957 (Public Law 85–239, 71 Stat. 521), Title IV of the Social Security Amendments of 1958 (72 Stat. 1041), Title I of the Social Security Amendments of 1960 (74 Stat. 924), and Title II of the Social Security Amendments of 1961, such regulations are amended as follows:

PARAGRAPH 1. Sections 1.1401 to 1.1403–1, inclusive, are deleted, and the following regulations are substituted therefor:

§ 1.1401 Statutory provisions; rate of tax on self-employment income.

SEC. 1401. *Rate of tax.* In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

(1) In the case of any taxable year beginning after December 31, 1961, and before January 1, 1963, the tax shall be equal to 4.7 percent of the amount of the self-employment income for such taxable year;

(2) In the case of any taxable year beginning after December 31, 1962, and before January 1, 1966, the tax shall be equal to 5.4 percent of the amount of the self-employment income for such taxable year;

(3) In the case of any taxable year beginning after December 31, 1965, and before January 1, 1968, the tax shall be equal to 6.2 percent of the amount of the self-employment income for such taxable year; and

(4) In the case of any taxable year beginning after December 31, 1967, the tax shall be equal to 6.9 percent of the amount of the self-employment income for such taxable year.

[Sec. 1401 as amended by sec. 208(a) Social Security Amendments 1954 (68 Stat. 1093); sec. 202(a), Social Security Amendments 1956 (70 Stat. 845); sec. 401(a), Social Security Amendments 1958 (72 Stat. 1041); sec. 201(a), Social Security Amendments 1961 (75 Stat. 140)]

§ 1.1401–1 Tax on self-employment income.

(a) There is imposed, in addition to other taxes, a tax upon the self-employment income of every individual at the rates prescribed in section 1401. (See paragraph (b) of this section.) This tax shall be levied, assessed, and collected as part of the income tax imposed by subtitle A of the Code and, except as otherwise expressly provided, will be included with the tax imposed by section 1 or 3 in computing any deficiency or overpayment and in computing the interest and additions to any deficiency, overpayment, or tax. Since the tax on self-employment income is part of the income tax, it is subject to the jurisdiction of the Tax Court of the United States to the same extent and in the same manner as the other taxes under subtitle A of the Code. However, this tax is not required to be taken into account in computing any estimate of the taxes required to be declared under section 6015.

(b) The rates of tax on self-employment income are as follows:

Taxable year	*Percent*
Beginning before Jan. 1, 1957	3
Beginning after Dec. 31, 1956 and before Jan. 1, 1959	3.375
Beginning after Dec. 31, 1958 and before Jan. 1, 1960	3.75
Beginning after Dec. 31, 1959 and before Jan. 1, 1962	4.5
Beginning after Dec. 31, 1961 and before Jan. 1, 1963	4.7
Beginning after Dec. 31, 1962 and before Jan. 1, 1966	5.4
Beginning after Dec. 31, 1965 and before Jan. 1, 1968	6.2
Beginning after Dec. 31, 1967	6.9

(c) In general, self-employment income consists of the net earnings derived by an individual (other than a nonresident alien) from a trade or business carried on by him as sole proprietor or by a partnership of which he is a member, including the net earnings of certain employees as set forth in § 1.1402(c)–3, and of crew leaders, as defined in section 3121(o) (see such section and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)). See, however, the exclusions, exceptions, and limitations set forth in §§ 1.1402(a)–1 through 1.1402(g)–1.

§ 1.1402(a) Statutory provisions; definitions; net earnings from self-employment.

SEC. 1402. *Definitions*—(a) *Net earnings from self-employment.* The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(9) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) There shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity;

(2) There shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest (other than interest described in section 35) are received in the course of a trade or business as a dealer in stocks or securities;

(3) There shall be excluded any gain or loss—

(A) Which is considered as gain or loss from the sale or exchange of a capital asset,

(B) From the cutting of timber, or the disposal of timber or coal, if section 631 applies to such gain or loss, or

(C) From the sale, exchange, involuntary conversion, or other disposition of property if such property is neither—

(i) Stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor

(ii) Property held primarily for sale to customers in the ordinary course of the trade or business;

(4) The deduction for net operating losses provided in section 172 shall not be allowed;

(5) If—

(A) Any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife; and

(B) Any portion of a partner's distributive share of the ordinary income or loss from a trade or bluisness carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(6) A resident of Puerto Rico shall compute his net earnings from self-employment in the same manner as a citizen of the United States but without regard to section 933;

(7) The deduction for personal exemptions provided in section 151 shall not be allowed;

(8) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121(h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States); and

(9) The term "possession of the United States" as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa.

If the taxable year of a partner is different from that of the partnership, the distributive share which he is required to include in computing his net earnings from self-employment shall be based on the ordinary income or loss of the partnership for any taxable year of the partnership ending within or with his taxable year. In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g)—

(i) In the case of an individual, if the gross income derived by him from such trade or business is not more than $1,800, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be 66⅔ percent of such gross income; or

(ii) In the case of an individual, if the gross income derived by him from such trade or business is more than $1,800 and the net earnings from self-employment derived by him from such trade or business (computed under this subsection without regard to this sentence) are less than $1,200, the net earnings from self-employment derived by him from such trade or business may, at his option, be deemed to be $1,200; and

(iii) In the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than $1,800, his distributive share of income described in section 702(a)(9) derived from such trade or business may, at his option, be deemed to be an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been so reduced); or

(iv) In the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than $1,800 and his distributive share (whether or not distributed) of income described in section 702(a)(9) derived from such trade or business (computed under this subsection without regard to this sentence) is less than $1,200, his distributive share of income described in section 702(a)(9) derived from such trade or business may, at his option, be deemed to be $1,200.

For purposes of the preceding sentence, gross income means—

(v) In the case of any such trade or business in which the income is computed under a cash receipts and disbursements method,

the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

(vi) In the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

[Sec. 1402(a) as amended by sec. 201 (a) and (c)(4), Social Security Amendments 1954 (68 Stat. 1087, 1089); sec. 201 (e)(2), (g), and (i), Social Security Amendments 1956 (70 Stat. 840–842); sec. 5(b), Act of Aug. 30, 1957 (Pub. Law 85–239, 71 Stat. 523); sec. 103(k), Social Security Amendments 1960 (74 Stat. 938)]

Sec. 201. [*Social Security Amendments of 1956*]. * * *

(m) *Effective dates.* (1) * * *

(2)(A) Except as provided in subparagraph (B), the amendment made by subsection (g) shall apply only with respect to taxable years ending after 1956.

(B) Any individual who, for a taxable year ending after 1954 and prior to 1957, had income which by reason of the amendment made by subsection (g) would have been included within the meaning of "net earnings from self-employment" (as such term is defined in section 1402(a) of the Internal Revenue Code of 1954), if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402(e) of such Code, may elect to have the amendment made by subsection (g) apply to his taxable years ending after 1954 and prior to 1957. No election made by any individual under this subparagraph shall be valid unless such individual has filed a waiver certificate under section 1402(e) of such Code prior to the making of such election or files a waiver certificate at the time he makes such election.

(C) Any individual described in subparagraph (B) who has filed a waiver certificate under section 1402(e) of such Code prior to the date of enactment of this Act, or who files a waiver certificate under such section on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957, must make such election on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957, or before April 16, 1957, whichever is the later.

(D) Any individual described in subparagraph (B) who has not filed a waiver certificate under section 1402(e) of such Code on or before the due date of his return (including any extension thereof) for his last taxable year ending prior to 1957 must make such election on or before the due date of his return (including any extension thereof) for his first taxable year ending after 1956. Any individual described in this subparagraph whose period for filing a waiver certificate under section 1402(e) of such Code has expired at the time he makes such election may, notwithstanding the provisions of paragraph (2) of such section, file a waiver certificate at the time he makes such election.

(E) An election under subparagraph (B) shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations. Notwithstanding the provisions of paragraph (3) of section 1402 (e) of such Code, the waiver certificate filed by an individual who makes an election under subparagraph (B) (regardless of when filed) shall be effective for such individual's first taxable year ending after 1954 in which he had income which by reason of the amendment made by subsection (g) would have been included within the meaning of "net earnings from self-employment" (as such term is defined in section 1402(a) of such Code), if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402(e) of such Code, or for the taxable year prescribed by such paragraph (3) of section 1402(e), if such taxable year is earlier, and for all succeeding taxable years.

(F) No interest or penalty shall be assessed or collected for failure to file a return within the time prescribed by law, if such failure arises solely by reason of an election made by an individual under subparagraph (B), or for any underpayment of the tax imposed by section 1401 of such Code arising solely by reason of such election, for the period ending with the date such individual makes an election under subparagraph (B).

(3) Any tax under chapter 2 of the Internal Revenue Code of 1954 which is due, solely by reason of the enactment of subsection (f), or paragraph (2) of subsection (e), of this section, for any taxable year ending on or before the date of the enactment of this Act shall be considered timely paid if payment is made in full on or before the last day of the sixth calendar month following the month in which this Act is enacted. In no event shall interest be imposed on the amount of any tax due under such chapter solely by reason of the enactment of subsection (f), or paragraph (2) of subsection (e), of this section for any period before the day after the date of enactment of this Act.

[Sec. 201(m), Social Security Amendments 1956 (70 Stat. 843)]

§ 1.1402(a)–1 Definition of net earnings from self-employment.

(a) Subject to the special rules set forth in §§ 1.1402(a)–3 to 1.1402(a)–16, inclusive, and to the exclusions set forth in §§ 1.1402(c)–2 to 1.1402(c)–6, inclusive, the term "net earnings from self-employment" means—

(1) The gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by chapter 1 of the Code which are attributable to such trade or business, plus

(2) His distributive share (whether or not distributed), as determined under section 704, of the income (or minus the loss), described in section 702(a)(9) and as computed under section 703, from any trade or business carried on by any partnership of which he is a member.

(b) Gross income derived by an individual from a trade or business includes payments received by him from a partnership of which he is a member for services rendered to the partnership or for the use of capital by the partnership, to the extent the payments are determined without regard to the income of the partnership. However, such payments received from a partnership not engaged in a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1 do not constitute gross income derived by an individual from a trade or business. See section 707(c) and the regulations thereunder, relating to guaranteed payments to a member of a partnership for services or the use of capital. See also section 706(a) and the regulations thereunder, relating to the taxable year of the partner in which such guaranteed payments are to be included in computing taxable income.

(c) Gross income derived by an individual from a trade or business includes gross income received (in the case of an individual reporting income on the cash receipts and disbursements method) or accrued (in the case of an individual reporting income on the accrual method) in the taxable year from a trade or business even though such income may be attributable in whole or in part to services rendered or other acts performed in a prior taxable year as to which the individual was not subject to the tax on self-employment income.

§ 1.1402(a)–2 Computation of net earnings from self-employment.

(a) *General rule.* In general, the gross income and deductions of an individual attributable to a trade or business (including a trade or business conducted by an employee referred to in paragraphs (b), (c), (d), or (e) of § 1.1402(c)–3), for the purpose of ascertaining his net earnings from self-employment, are to be determined by reference to the provisions of law and regulations applicable with respect to the taxes imposed by sections 1 and 3. Thus, if an individual uses the accrual method of accounting in computing taxable income from a trade or business for the purpose of the tax imposed by section 1 or 3, he must use the same method in determining net earnings from self-employment. Likewise, if a taxpayer engaged in a trade or business of selling property on the installment plan elects, under the provisions of section 453, to use the installment method in computing income for purposes of the tax under section 1 or 3, he must use the same method in determining net earnings from self-employment. Except as otherwise provided in § 1.1402(a)–9, relating to certain residents of Puerto Rico, and in § 1.1402(a)–11, relating to ministers or members of religious orders, income which is excludable from gross income under any provision of subtitle A of the Internal Revenue Code is not taken into account in determining net earnings from self-employment. Thus, in the case of a citizen of the United States conducting, in a foreign country, a trade or business in which both personal services and capital are material income-producing factors, any part of the income therefrom which is excluded from gross income as earned income under the provisions of section 911 and the regulations thereunder is not taken into account in determining net earnings from self-employment.

(b) *Trade or business carried on.* The trade or business must be carried on by the individual, either personally or through agents or employees. Accordingly, income derived from a trade or business carried on by an estate or trust is not included in determining the net earnings from self-employment of the

individual beneficiaries of such estate or trust.

(c) *Aggregate net earnings.* Where an individual is engaged in more than one trade or business within the meaning of section 1402(c) and § 1.1402(c)–1, his net earnings from self-employment consist of the aggregate of the net income and losses (computed subject to the special rules provided in §§ 1.1402(a)–1 to 1.1402(a)–16, inclusive) of all such trades or businesses carried on by him. Thus, a loss sustained in one trade or business carried on by an individual will operate to offset the income derived by him from another trade or business.

(d) *Partnerships.* The net earnings from self-employment of an individual include, in addition to the earnings from a trade or business carried on by him, his distributive share of the income or loss, described in section 702(a)(9), from any trade or business carried on by each partnership of which he is a member. An individual's distributive share of such income or loss of a partnership shall be determined as provided in section 704, subject to the special rules set forth in section 1402(a) and in §§ 1.1402(a)–1 to 1.1402(a)–16, inclusive, and to the exclusions provided in section 1402(c) and §§ 1.1402(c)–2 to 1.1402(c)–6, inclusive. For provisions relating to the computation of the taxable income of a partnership, see section 703.

(e) *Different taxable years.* If the taxable year of a partner differs from that of the partnership, the partner shall include, in computing net earnings from self-employment, his distributive share of the income or loss, described in section 702(a)(9), of the partnership for its taxable year ending with or within the taxable year of the partner. For the special rule in case of the termination of a partner's taxable year as result of death, see §§ 1.1402(f) and 1.1402(f)–1.

(f) *Meaning of partnerships.* For the purpose of determining net earnings from self-employment, a partnership is one which is recognized as such for income tax purposes. For income tax purposes, the term "partnership" includes not only a partnership as known at common law, but, also a syndicate, group, pool, joint venture, or other unincorporated organization which carries on any trade or business, financial operation, or venture, and which is not, within the meaning of the Code, a trust, estate, or a corporation. An organization described in the preceding sentence shall be treated as a partnership for purposes of the tax on self-employment income even though such organization has elected, pursuant to section 1361 and the regulations thereunder, to be taxed as a domestic corporation.

(g) *Nature of partnership interest.* The net earnings from self-employment of a partner include his distributive share of the income or loss, described in section 702(a)(9), of the partnership of which he is a member, irrespective of the nature of his membership. Thus, in determining his net earnings from self-employment, a limited or inactive partner includes his distributive share of such partnership income or loss. In the case of a partner who is a member of a partnership with respect to which an election has been made pursuant to section 1361 and the regulations thereunder to be taxed as a domestic corporation, net earnings from self-employment include his distributive share of the income or loss, described in section 702(a)(9), from the trade or business carried on by the partnership computed without regard to the fact that the partnership has elected to be taxed as a domestic corporation.

(h) *Proprietorship taxed as domestic corporation.* A proprietor of an unincorporated business enterprise with respect to which an election has been made pursuant to section 1361 and the regulations thereunder to be taxed as a domestic corporation shall compute his net earnings from self-employment without regard to the fact that such election has been made.

§ 1.1402(a)–3 Special rules for computing net earnings from self-employment.

For the purpose of computing net earnings from self-employment, the gross income derived by an individual from a trade or business carried on by him, the allowable deductions attributable to such trade or business, and the individual's distributive share of the income or loss, described in section 702(a)(9), from any trade or business carried on by a partnership of which he is a member shall be computed in accordance with the special rules set forth in §§ 1.1402(a)–4 to 1.1402(a)–16, inclusive.

§ 1.1402(a)–4 Rentals from real estate.

(a) *In general.* Rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares) and the deductions attributable thereto, unless such rentals are received by an individual in the course of a trade or business as a real-estate dealer, are excluded. Whether or not an individual is engaged in the trade or business of a real-estate dealer is determined by the application of the principles followed in respect of the taxes imposed by sections 1 and 3. In general, an individual who is engaged in the business of selling real estate to customers with a view to the gains and profits that may be derived from such sales is a real-estate dealer. On the other hand, an individual who merely holds real estate for investment or speculation and receives rentals therefrom is not considered a real-estate dealer. Where a real-estate dealer holds real estate for investment or speculation in addition to real estate held for sale to customers in the ordinary course of his trade or business as a real-estate dealer, only the rentals from the real estate held for sale to customers in the ordinary course of his trade or business as a real-estate dealer, and the deductions attributable thereto, are included in determining net earnings from self-employment; the rentals from the real estate held for investment or speculation, and the deductions attributable thereto, are excluded. Rentals paid in crop shares include income derived by an individual as the owner or lessee of land under an agreement entered into with another person pursuant to which such other person undertakes to produce a crop or livestock on such land and pursuant to which (1) the crop or livestock, or the proceeds thereof, are to be divided between such individual and such other person, and (2) the amount of such individual's share depends on the amount of the crop or livestock produced. See, however, paragraph (b) of this section.

(b) *Special rule for "includible farm rental income".*—(1) *In general.* Notwithstanding the rules set forth in paragraph (a) of this section, there shall be included in determining net earnings from self-employment for taxable years ending after 1955 any income derived by an owner or tenant of land, if the following requirements are met with respect to such income:

(i) The income is derived under an arrangement between the owner or tenant of land and another individual which provides that such other individual shall produce agricultural or horticultural commodities on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities; and

(ii) There is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity.

Income so derived shall be referred to in this section as "includible farm rental income".

(2) *Requirement that income be derived under an arrangement.* In order for rental income received by an owner or tenant of land to be treated as includible farm rental income, such income must be derived pursuant to a share-farming or other rental arrangement which contemplates material participation by the owner or tenant in the production or management of production of agricultural or horticultural commodities. If rental income is derived under any other arrangement or from any activity, transaction, or other source not within the contemplation of the arrangement it is not to be treated as includible farm rental income.

(3) *Parties to the arrangement.* The share-farming or other rental arrangement referred to in subparagraph (1) of this paragraph must be between the individual owner or tenant of the land and another individual. As used in this subparagraph the term "individual owner or tenant" includes each individual co-owner or co-tenant of land who enters into the arrangement in his capacity as an individual.

(4) *Nature of arrangement.* (i) The arrangement between the owner or tenant and the other individual may be either oral or written. The arrangement must impose upon such other individual the obligation to produce one or more agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on the land of the owner or tenant. In addition, it must be within the contemplation of the parties that the owner or tenant will participate in the production or the management of

the production of the agricultural or horticultural commodities required to be produced by the individual under such arrangement to an extent which is material with respect either to the production or to the management of production of such commodities or is material with respect to the production and management of production when the total required participation in connection with both is considered.

(ii) The term "production", wherever used in this paragraph, refers to the physical work performed and the expenses incurred in producing a commodity. It includes such activities as the actual work of planting, cultivating, and harvesting crops, and the furnishing of machinery, implements, seed, and livestock. An arrangement will be treated as contemplating that the owner or tenant will materially participate in the "production" of the commodities required to be produced by the individual under the arrangement if under the arrangement it is understood that the owner or tenant is to engage to a material degree in the physical work related to the production of such commodities. The mere undertaking to furnish machinery, implements, and livestock and to incur expenses is not, in and of itself, sufficient. Such factors may be significant, however, in cases where the degree of physical work intended of the owner or tenant is not material. For example, if under the arrangement it is understood that the owner or tenant is to periodically engage in physical work to a degree which is not material in and of itself and, in addition, to furnish a substantial portion of the machinery, implements, and livestock to be used in the production of the commodities or to furnish or advance funds or assume financial responsibility for a substantial part of the expense involved in the production of the commodities, the arrangement will be treated as contemplating material participation of the owner or tenant in the production of such commodities.

(iii) The term "management of the production", wherever used in this paragraph, refers to services performed in making managerial decisions relating to the production, and includes advising and consulting, making inspections, and making decisions as to matters such as rotation of crops, the type of crops to be grown, the type of livestock to be raised, and the type of machinery and implements to be furnished. An arrangement will be treated as contemplating that the owner or tenant is to participate materially in the "management of the production" of the commodities required to be produced by the other individual under the arrangement if the owner or tenant is to engage to a material degree in the management decisions related to the production of such commodities. The services which are considered of particular importance in making such management decisions are those services performed in making inspections of the production activities and in advising and consulting with the individual as to the production of the commodities. Thus, if under the arrangement it is understood that the owner or tenant is to periodically advise or consult with the individual as to the production of the commodities required to be produced by such individual under the arrangement and to periodically inspect the production activities on the land, a strong inference will be drawn that the arrangement contemplates participation by the owner or tenant in the management of the production of such commodities. The mere undertaking to select the crops or livestock to be produced or the type of machinery and implements to be furnished or to make decisions as to the rotation of crops generally is not, in and of itself, sufficient. Such factors may be significant, however, in making the overall determination of whether the arrangement contemplates that the owner or tenant is to materially participate in the management of the production of the commodities. Thus, if in addition to the understanding that the owner or tenant is to periodically advise or consult with the individual as to the production of the commodities and periodically inspect the production activities on the land, it is also understood that the owner is to select the type of crops and livestock to be produced and the type of machinery and implements to be furnished and to make decisions as to the rotation of crops, the arrangement will be treated as contemplating material participation of the owner or tenant in the management of production of such commodities.

(5) *Actual participation.* In order for the rental income received by the owner or tenant of land to be treated as includible farm rental income, not only must it be derived pursuant to the arrangement described in subparagraph (1) of this paragraph, but also the owner or tenant must actually participate to a material degree in the production or in the management of the production of any of the commodities required to be produced under the arrangement, or he must actually participate in both the production and management of the production to an extent that his participation in the one when combined with his participation in the other will be considered participation to a material degree. If the owner or tenant shows that he periodically advises or consults with the individual, who under the arrangement produces the agricultural or horticultural commodities, as to the production of any of these commodities and also shows that he periodically inspects the production activities on the land, he will have presented strong evidence of the existence of the degree of participation contemplated by section 1402(a)(1). If, in addition to the foregoing, the owner or tenant shows that he furnishes a substantial portion of the machinery, implements, and livestock used in the production of the commodities or that he furnishes or advances funds, or assumes financial responsibility, for a substantial part of the expense involved in the production of the commodities, he will have established the existence of the degree of participation contemplated by section 1402(a)(1) and this paragraph.

(6) *Employees or agents.* Any arrangement entered into by an employee or agent of an owner or tenant and another individual shall be considered an arrangement entered into by the owner or tenant for purposes of satisfying the requirement set forth in subparagraphs (2) and (3) of this paragraph that the income must be derived under an arrangement between the owner or tenant and another individual. For purposes of determining whether the arrangement satisfies the requirement set forth in subparagraph (4) of this paragraph that the parties contemplate that the owner or tenant will materially participate in the production or management of production of a commodity, services which will be performed by an employee or agent of the owner or tenant are considered to be services which the arrangement contemplates will be performed by the owner or tenant. Services performed by such an employee or agent are considered services performed by the owner or tenant in determining the extent to which the owner or tenant has participated in the production or management of production of a commodity.

(7) *Examples.* Application of the rules prescribed in this paragraph may be illustrated by the following examples:

Example (1). After the death of her husband, Mrs. A rents her farm, together with its machinery and equipment, to B for one-half of the proceeds from the commodities produced on such farm by B. It is agreed that B will live in the tenant house on the farm and be responsible for the over-all operation of the farm, such as planting, cultivating, and harvesting the field crops, caring for the orchard and harvesting the fruit and caring for the livestock and poultry. It also is agreed that Mrs. A will continue to live in the farm residence and help B operate the farm. Under the agreement it is contemplated that Mrs. A will regularly operate and clean the cream separator and feed the poultry flock and collect the eggs. When possible she will assist B in such work as spraying the fruit trees, penning livestock, culling the poultry, and controlling weeds. She will also assist in preparing the meals when B engages seasonal workers. The agreement between Mrs. A and B clearly provides that she will materially participate in the over-all production operations to be conducted on her farm by B. In actual practice, Mrs. A performs such regular and intermittent services. The regularly performed services are material to the production of an agricultural commodity, and the intermittent services performed are material to the production operations to which they relate. The furnishing of a substantial portion of the farm machinery and equipment also adds support to a conclusion that Mrs. A has materially participated. Accordingly, the rental income Mrs. A receives from her farm should be included in net earnings from self-employment.

Example (2). D agrees to produce a crop on C's cotton farm under an arrangement providing that C and D will each receive one-half of the proceeds from such production. C agrees to furnish all the necessary equipment, and it is understood that he is to advise D when to plant the cotton and when it needs to be chopped, plowed, sprayed, and picked. It is also understood that during the growing season C is to inspect the crop every few days to determine whether D is properly taking care of the crop. Under the arrangement, D is required to furnish all labor needed to grow and harvest the crop. C, in fact, renders such advice, makes such

inspections, and furnishes such equipment. C's contemplated participation in management decisions is considered material with respect to the management of the cotton production operation. C's actual participation pursuant to the arrangement is also considered to be material with respect to the management of the production of cotton. Accordingly, the income C receives from his cotton farm is to be included in computing his net earnings from self-employment.

Example (3). E owns a grain farm and turns its operation over to his son, F. By the oral rental arrangement between E and F, the latter agrees to produce crops of grain on the farm, and E agrees that he will be available for consultation and advice and will inspect and help to harvest the crops. E furnishes most of the equipment, including a tractor, a combine, plows, wagons, drills, and harrows; he continues to live on the farm and does some of the work such as repairing barns and farm machinery, going to town for supplies, cutting weeds, etc.; he regularly inspects the crops during the growing season; and he helps F to harvest the crops. Although the final decisions are made by F, he frequently consults with his father regarding the production of the crops. An evaluation of all of E's actual activities indicates that they are sufficiently substantial and regular to support a conclusion that he is materially participating in the crop production operations and the management thereof. If it can be shown that the degree of E's actual participation was contemplated by the arrangement, E's income from the grain farm will be included in computing net earnings from self-employment.

Example (4). G owns a fully-equipped farm which he rents to H under an arrangement which contemplates that G shall materially participate in the management of the production of crops raised on the farm pursuant to the arrangement. G lives in town about 5 miles from the farm. About twice a month he visits the farm and looks over the buildings and equipment. G may occasionally, in an emergency, discuss with H some phase of a crop production activity. In effect, H has complete charge of the management of farming operations regardless of the understanding between him and G. Although G pays one-half of the cost of the seed and fertilizer and is charged for the cost of materials purchased by H to make all necessary repairs, G's activities do not constitute material participation in the crop production activities. Accordingly, G's income from the crops is not included in computing net earnings from self-employment.

Example (5). J owned a farm several miles from the town in which he lived. He rented the farm to K under an arrangement which contemplated J's material participation in the management of production of wheat. J furnished one-half the seed and fertilizer and all the farm equipment and livestock. He employed H to perform all the services in advising, consulting, and inspecting contemplated by the arrangement. J is materially participating in the management of production of wheat by K. The work done by J's employee, H, is attributable to J in determining the extent of J's participation. J's rental income from the arrangement is to be included in computing his net earnings from self-employment.

Example (6). Assume the same facts as in the previous example except that J appointed the X Bank as his agent to enter into the rental arrangement with K and to perform the services contemplated by the arrangement. J is also materially participating in the management of production of wheat by K because the work done by X Bank is attributable to J in determining the extent of J's participation even though X Bank is an independent contractor. J's rental income from the arrangement is to be included in computing his net earnings from self-employment.

(c) *Rentals from living quarters*—(1) *No services rendered for occupants.* Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple-housing units are generally rentals from real estate. Except in the case of real-estate dealers, such payments are excluded in determining net earnings from self-employment even though such payments are in part attributable to personal property furnished under the lease.

(2) *Services rendered for occupants.* Payments for the use or occupancy of rooms or other space where services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist camps or tourist homes, or payments for the use or occupancy of space in parking lots, warehouses, or storage garages, do not constitute rentals from real estate; consequently, such payments are included in determining net earnings from self-employment. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such service; whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways and lobbies, the collection of trash, and so forth, are not considered as services rendered to the occupant.

(3) *Example.* The application of this paragraph may be illustrated by the following example:

Example. A, an individual, owns a building containing four apartments. During the taxable year, he receives $1,400 from apartments numbered 1 and 2, which are rented without services rendered to the occupants, and $3,600 from apartments numbered 3 and 4, which are rented with services rendered to the occupants. His fixed expenses for the four apartments aggregate $1,200 during the taxable year. In addition, he has $500 of expenses attributable to the services rendered to the occupants of apartments 3 and 4. In determining his net earnings from self-employment, A includes the $3,600 received from apartments 3 and 4, and the expenses of $1,100 ($500 plus one-half of $1,200) attributable thereto. The rentals and expenses attributable to apartments 1 and 2 are excluded. Therefore, A has $2,500 of net earnings from self-employment for the taxable year from the building.

(d) *Treatment of business income which includes rentals from real estate.* Except in the case of a real-estate dealer, where an individual or a partnership is engaged in a trade or business the income of which is classifiable in part as rentals from real estate, only that portion of such income which is not classifiable as rentals from real estate, and the expenses attributable to such portion, are included in determining net earnings from self-employment.

§ 1.1402(a)–5 Dividends and interest.

(a) All dividends on shares of stock are excluded unless they are received by an individual in the course of his trade or business as a dealer in stocks or securities.

(b) Interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof) is excluded unless such interest is received in the course of a trade or business as a dealer in stocks or securities. However, interest with respect to which a credit against tax is allowable as provided in section 35, that is, interest on certain obligations of the United States and its instrumentalities, is not included in net earnings from self-employment even though received in the course of a trade or business as a dealer in stocks or securities. Only interest on bonds, debentures, notes, or certificates, or other evidence of indebtedness, issued with interest coupons or in registered form by a corporation, is excluded in the case of all persons other than dealers in stocks or securities; other interest received in the course of any trade or business (such as interest received by a pawnbroker on his loans or interest received by a merchant on his accounts or notes receivable) is not excluded.

(c) Dividends and interest of the character excludable under paragraphs (a) and (b) of this section received by an individual on stocks or securities held for speculation or investment are excluded whether or not the individual is a dealer in stocks or securities.

(d) A dealer in stocks or securities is a merchant of stocks or securities with an established place of business, regularly engaged in the business of purchasing stocks or securities and reselling them to customers; that is, he is one who as a merchant buys stocks or securities and sells them to customers with a view to the gains and profits that may be derived therefrom. Persons who buy and sell or hold stocks or securities for investment or speculation, irrespective of whether such buying or selling constitutes the carrying on of a trade or business, are not dealers in stocks or securities.

§ 1.1402(a)–6 Gain or loss from disposition of property.

(a) There is excluded any gain or loss: (1) Which is considered as gain or loss from the sale or exchange of a capital asset; (2) from the cutting of timber or the disposal of timber or the disposal of coal, even though held primarily for sale to customers, if section 631 is applicable to such gain or loss; and (3) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of a trade or business. For the purpose of the special rule in subparagraph (3) of this paragraph, it is immaterial whether a gain or loss is treated as a capital gain or loss or as an ordinary gain or loss for purposes other than determining net earnings from self-employment. For instance,

where the character of a loss is governed by the provisions of section 1231, such loss is excluded in determining net earnings from self-employment even though such loss is treated under section 1231 as an ordinary loss. For the purposes of this special rule, the term "involuntary conversion" means a compulsory or involuntary conversion of property into other property or money as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof; and the term "other disposition" includes the destruction or loss, in whole or in part, of property by fire, storm, shipwreck, or other casualty, or by theft, even though there is no conversion of such property into other property or money.

(b) The application of this section may be illustrated by the following example:

Example. During the taxable year 1954, A, who owns a grocery store, realized a net profit of $1,500 from the sale of groceries and a gain of $350 from the sale of a refrigerator case. During the same year, he sustained a loss of $2,000 as a result of damage by fire to the store building. In computing taxable income, all of these items are taken into account. In determining net earnings from self-employment, however, only the $1,500 of profit derived from the sale of groceries is included. The $350 gain and the $2,000 loss are excluded.

§ 1.1402(a)–7 Net operating loss deduction.

The deduction provided by section 172, relating to net operating losses sustained in years other than the taxable year, is excluded.

§ 1.1402(a)–8 Community income.

(a) *In case of an individual.* If any of the income derived by an individual from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income, and the deductions attributable to such income, shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife. For the purpose of this special rule, the term "management and control" means management and control in fact, not the management and control imputed to the husband under the community property laws. For example, a wife who operates a beauty parlor without any appreciable collaboration on the part of her husband will be considered as having substantially all of the management and control of such business despite the provision of any community property law vesting in the husband the right of management and control of community property; and the income and deductions attributable to the operation of such beauty parlor will be considered the income and deductions of the wife.

(b) *In case of a partnership.* Even though a portion of a partner's distributive share of the income or loss, described in section 702(a)(9), from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner; no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner. In any case in which both spouses are members of the same partnership, the distributive share of the income or loss of each spouse is included in computing the net earnings from self-employment of that spouse.

§ 1.1402(a)–9 Puerto Rico.

(a) *Residents.* A resident of Puerto Rico, whether or not a bona fide resident thereof during the entire taxable year, and whether or not an alien, a citizen of the United States, or a citizen of Puerto Rico, shall compute his net earnings from self-employment in the same manner as would a citizen of the United States residing in the United States. See paragraph (d) of § 1.1402(b)–1 for regulations relating to nonresident aliens. For the purpose of the tax on self-employment income, the gross income of such a resident of Puerto Rico also includes income from Puerto Rican sources. Thus, under this special rule, income from Puerto Rican sources will be included in determining net earnings from self-employment of a resident of Puerto Rico engaged in the active conduct of a trade or business in Puerto Rico despite the fact that, under section 933, such income may not be taken into account for purposes of the tax under section 1 or 3.

(b) *Nonresidents.* A citizen of Puerto Rico who is also a citizen of the United States and who is not a resident of Puerto Rico will compute his net earnings from self-employment in the same manner and subject to the same provisions of law and regulations as other citizens of the United States.

§ 1.1402(a)–10 Personal exemption deduction.

The deduction provided by section 151, relating to personal exemptions, is excluded.

§ 1.1402(a)–11 Ministers and members of religious orders.

(a) *In general.* For each taxable year ending after 1954 in which a minister or member of a religious order is engaged in a trade or business, within the meaning of section 1402(c) and § 1.1402(c)–5, with respect to service performed in the exercise of his ministry or in the exercise of duties required by such order, net earnings from self-employment from such trade or business include the gross income derived during the taxable year from any such service, less the deductions attributable to such gross income. For each taxable year ending on or after December 31, 1957, such minister or member of a religious order shall compute his net earnings from self-employment derived from the performance of such service without regard to the exclusions from gross income provided by section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer). Thus, a minister who is subject to self-employment tax with respect to his services as a minister will include in the computation of his net earnings from self-employment for a taxable year ending on or after December 31, 1957, the rental value of a home furnished to him as remuneration for services performed in the exercise of his ministry or the rental allowance paid to him as remuneration for such services irrespective of whether such rental value or rental allowance is excluded from gross income by section 107. Similarly, the value of any meals or lodging furnished to a minister or to a member of a religious order in connection with service performed in the exercise of his ministry or as a member of such order will be included in the computation of his net earnings from self-employment for a taxable year ending on or after December 31, 1957, notwithstanding the exclusion of such value from gross income by section 119.

(b) *In employ of American employer.* If a minister or member of a religious order engaged in a trade or business described in section 1402(c) and § 1.1402(c)–5 is a citizen of the United States and performs service, in his capacity as a minister or member of a religious order, as an employee of an American employer, as defined in section 3121(h) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations), his net earnings from self-employment derived from such service shall be computed as provided in paragraph (a) of this section but without regard to the exclusions from gross income provided in section 911, relating to earned income from sources without the United States, and section 931, relating to income from sources within possessions of the United States. Thus, even though all the income of the minister or member for service of the character to which this paragraph is applicable was derived from sources without the United States, or from sources within possessions of the United States, and therefore may be excluded from gross income, such income is included in computing net earnings from self-employment.

(c) *Minister in a foreign country whose congregation is composed predominantly of citizens of the United States; taxable years ending after 1956—*(1) *General rule.* For any taxable year ending after 1956, a minister of a church, who is engaged in a trade or business within the meaning of section 1402(c) and § 1.1402(c)–5, is a citizen of the United States, is performing service in the exercise of his ministry in a foreign country, and has a congregation composed predominantly of United States citizens, shall compute his net earnings from self-employment derived from his services as a minister for such taxable year without regard to the exclusion from gross income provided in section 911, relating to earned income from sources without the United States. For taxable years ending on or after Decem-

ber 31, 1957, such minister shall also disregard sections 107 and 119 in the computation of his net earnings from self-employment. (See paragraph (a) of this section.) For purposes of section 1402(a)(8) and this paragraph a "congregation composed predominantly of citizens of the United States" means a congregation the majority of which throughout the greater portion of its minister's taxable year were United States citizens.

(2) *Election for taxable years ending after 1954 and before 1957.* (i) A minister described in subparagraph (1) of this paragraph who, for a taxable year ending after 1954 and before 1957, had income from service described in such subparagraph which would have been included in computing net earnings from self-employment if such income had been derived in a taxable year ending after 1956 by an individual who had filed a waiver certificate under section 1402(e), may elect to have section 1402(a)(8) and subparagraph (1) of this paragraph apply to his income from such service for his taxable years ending after 1954 and before 1957. If such minister filed a waiver certificate prior to August 1, 1956, in accordance with § 1.1402(e)–1, or he files such a waiver certificate on or before the due date of his return (including any extensions thereof) for his last taxable year ending before 1957, he must make such election on or before the due date of his return (including any extensions thereof) for such taxable year or before April 16, 1957, whichever is the later. If the waiver certificate is not so filed, the minister must make his election on or before the due date of the return (including any extensions thereof) for his first taxable year ending after 1956. Notwithstanding the expiration of the period prescribed by section 1402(e)(2) for filing such waiver, the minister may file a waiver certificate at the time he makes the election. In no event shall an election be valid unless the minister files prior to or at the time of the election a waiver certificate in accordance with § 1.1402(e)–1.

(ii) The election shall be made by filing with the district director of internal revenue with whom the waiver certificate, Form 2031, is filed a written statement indicating that, by reason of the Social Security Amendments of 1956, the minister desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services performed in a foreign country as a minister of a congregation composed predominantly of United States citizens beginning with the first taxable year ending after 1954 and prior to 1957 for which he had income from such services. The statement shall be dated and signed by the minister and shall clearly state that it is an election for retroactive self-employment tax coverage under the Self-Employment Contributions Act of 1954. In addition, the statement shall include the following information:

(*a*) The name and address of the minister.

(*b*) His social security account number, if he has one.

(*c*) That he is a duly ordained, commissioned, or licensed minister of a church.

(*d*) That he is a citizen of the United States.

(*e*) That he is performing services in the exercise of his ministry in a foreign country.

(*f*) That his congregation is composed predominantly of citizens of the United States.

(*g*) (*1*) That he has filed a waiver certificate and, if so, where and under what circumstances the certificate was filed and the taxable year for which it is effective; or (*2*) That he is filing a waiver certificate with his election for retroactive coverage and, if so, the taxable year for which it is effective.

(*h*) That he has or has not filed income tax returns for his taxable years ending after 1954 and before 1957. If he has filed such returns, he shall state the years for which they were filed and indicate the district director of internal revenue with whom they were filed.

(iii) Notwithstanding section 1402(e)(3), a waiver certificate filed pursuant to § 1.1402(e)–1 by a minister making an election under this paragraph shall be effective (regardless of when such certificate is filed) for such minister's first taxable year ending after 1954 in which he had income from service described in subparagraph (1) of this paragraph or for the taxable year of the minister prescribed by section 1402(e)(3), if such taxable year is earlier, and for all succeeding taxable years.

(iv) No interest or penalty shall be assessed or collected for failure to file a return within the time prescribed by law if such failure arises solely by reason of an election made by a minister pursuant to this paragraph or for any underpayment of self-employment income tax arising solely by reason of such election, for the period ending with the date such minister makes an election pursuant to this paragraph.

(d) *Treatment of certain remuneration paid in 1955 and 1956 as wages.* For treatment of remuneration paid to an individual for service described in section 3121(b)(8)(A) which was erroneously treated by the organization employing him as employment within the meaning of chapter 21 of the Internal Revenue Code, see § 1.1402(e)(4)–1.

§ 1.1402(a)–12 Possession of the United States.

For purposes of the tax on self-employment income, the term "possession of the United States", as used in section 931 (relating to income from sources within possessions of the United States) and section 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa. The provisions of section 1402(a)(9) and of this section insofar as they involve nonapplication of sections 931 and 932 to Guam or American Samoa, shall apply only in the case of taxable years beginning after 1960.

§ 1.1402(a)–13 Income from agricultural activity.

(a) *Agricultural trade or business.* (1) An agricultural trade or business is one in which, if the trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations). In case the services are in part agricultural and in part nonagricultural, the time devoted to the performance of each type of service is the test to be used to determine whether the major portion of the services would constitute agricultural labor. If more than half of the time spent in performing all the services is spent in performing services which would constitute agricultural labor under section 3121(g), the trade or business is agricultural. If only half, or less, of the time spent in performing all the services is spent in performing services which would constitute agricultural labor under section 3121(g), the trade or business is not agricultural. In every case the time spent in performing the services will be computed by adding the time spent in the trade or business during the taxable year by every individual (including the individual carrying on such trade or business and the members of his family) in performing such services. The operation of this special rule is not affected by section 3121(c), relating to the included-excluded rule for determining employment.

(2) The rules prescribed in subparagraph (1) of this paragraph have no application where the nonagricultural services are performed in connection with an enterprise which constitutes a trade or business separate and distinct from the trade or business conducted as an agricultural enterprise. Thus, the operation of a roadside automobile service station on farm premises constitutes a trade or business separate and distinct from the agricultural enterprise, and the gross income derived from such service station, less the deductions attributable thereto, is to be taken into account in determining net earnings from self-employment.

(b) *Farm operator's income for taxable years ending before 1955.* Income derived in a taxable year ending before 1955 from any agricultural trade or business (see paragraph (a) of this section), and all deductions attributable to such income, are excluded in computing net earnings from self-employment.

(c) *Farm operator's income for taxable years ending after 1954.* Income derived in a taxable year ending after 1954 from an agricultural trade or business (see paragraph (a) of this section) is includible in computing net earnings from self-employment. Income derived from an agricultural trade or business includes income derived by an individual under an agreement entered into by such individual with another person pursuant to which such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and

wildlife) on land owned or leased by such other person and pursuant to which the agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such other person, and the amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced. However, except as provided in paragraph (d) of this section, relating to arrangements involving material participation, the income derived under such an agreement by the owner or lessee of the land is not includible in computing net earnings from self-employment. See § 1.1402(a)–4. For options relating to the computation of net earnings from self-employment, see §§ 1.1402(a)–14 and 1.1402(a)–15.

(d) *Includible farm rental income for taxable years ending after 1955.* For taxable years ending after 1955, income derived from an agricultural trade or business (see paragraph (a) of this section) includes also income derived by the owner or tenant of land under an arrangement between such owner or tenant and another individual, if such arrangement provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant in the production or the management of the production of such agricultural or horticultural commodities, and if there is material participation by the owner or tenant with respect to any such agricultural or horticultural commodity. See paragraph (b) of § 1.1402(a)–4. For options relating to the computation of net earnings from self-employment, see §§ 1.1402(a)–14 and 1.1402(a)–15.

(e) *Income from service performed after 1956 as a crew leader.* Income derived by a crew leader (see section 3121(o) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)) from service performed after 1956 in furnishing individuals to perform agricultural labor for another person and from service performed after 1956 in agricultural labor as a member of the crew is considered to be income derived from a trade or business for purposes of § 1.1402(c)–1. Whether such trade or business is an agricultural trade or business shall be determined by applying the rules set forth in this section.

§ 1.1402(a)–14 Options available to farmers in computing net earnings from self-employment for taxable years ending after 1954 and before December 31, 1956.

(a) *Computation of net earnings.* In the case of any trade or business which is carried on by an individual who reports his income on the cash receipts and disbursements method, and in which, if it were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g) (see paragraph (a) of § 1.1402(a)–13), net earnings from self-employment may, for a taxable year ending after 1954, at the option of the taxpayer, be computed as follows:

(1) *Gross income $1,800 or less.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is $1,800 or less, the taxpayer may, at his option, treat as net earnings from self-employment from such trade or business an amount equal to 50 percent of such gross income. If the taxpayer so elects, the amount equal to 50 percent of such gross income shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any.

(2) *Gross income in excess of $1,800.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is more than $1,800, and the actual net earnings from self-employment from such trade or business are less than $900, the taxpayer may, at his option, treat $900 as net earnings from self-employment. If the taxpayer so elects, $900 shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any. However, if the taxpayer's actual net earnings from such trade or business, as computed in accordance with §§ 1.1402(a)–1 through 1.1402(a)–3 are $900 or more, such actual net earnings shall be used in computing his self-employment income.

(b) *Computation of gross income.* For purposes of paragraph (a) of this section, gross income shall consist of the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of § 1.1402(a)–3, relating to income and deductions not included in computing net earnings from self-employment.

(c) *Two or more agricultural activities.* If an individual is engaged in more than one agricultural trade or business within the meaning of paragraph (a) of § 1.1402(a)–13 (for example, the business of ordinary farming and the business of cotton ginning), the gross income derived from each agricultural trade or business shall be aggregated for purposes of the optional method provided in paragraph (a) of this section for computing net earnings from self-employment.

(d) *Examples.* Application of the regulations prescribed in paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). F, a farmer, uses the cash receipts and disbursements method of accounting in making his income tax returns. F's books and records show that during the calendar year 1955 he received $1,200 from the sale of produce raised on the farm, $200 from the sale of livestock raised on the farm and not held for breeding or dairy purposes, and $600 from the sale of a tractor. The income from the sale of the tractor is of a type which is excluded from net earnings from self-employment by section 1402(a). F's actual net earnings from self-employment, computed in accordance with the provisions of §§ 1.1402(a)–1 through 1.1402(a)–3, are $450. F may report $450 as his net earnings from self-employment or he may elect to report $700 (one-half of $1,400).

Example (2). C, a cattleman, uses the cash receipts and disbursements method of accounting in making his income tax returns. C had actual net earnings from self-employment, computed in accordance with the provisions of §§ 1.1402(a)–1 through 1.1402(a)–3, of $725. His gross receipts were $1,000 from the sale of produce raised on the farm and $1,200 from the sale of feeder cattle, which C bought for $500. The income from the sale of the feeder cattle is of a type which is included in computing net earnings from self-employment. Therefore, C may report $725 as his net earnings from self-employment or he may elect to report $850, one-half of $1,700 ($2,200 minus $500).

Example (3). R, a rancher, has gross income of $3,000 from the operation of his ranch, computed as provided in paragraph (b) of this section. His actual net earnings from self-employment from farming activities are less than $900. R, nevertheless, may elect to report $900 as net earnings from self-employment from such trade or business. If R had actual net earnings from self-employment from his farming activities in the amount of $900 or more, he would be required to report such amount in computing his self-employment income.

(e) *Members of farm partnerships.* The optional method provided by paragraph (a) of this section for computing net earnings from self-employment is not available to a member of a partnership with respect to his distributive share of the income or loss from any trade or business carried on by any partnership of which he is a member.

§ 1.1402(a)–15 Options available to farmers in computing net earnings from self-employment for taxable years ending on or after December 31, 1956.

(a) *Computation of net earnings.* In the case of any trade or business which is carried on by an individual or by a partnership and in which, if such trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 3121(g) (see paragraph (a) of § 1.1402(a)–13), net earnings from self-employment may, for a taxable year ending on or after December 31, 1956, at the option of the taxpayer, be computed as follows:

(1) *In case of an individual*—(i) *Gross income $1,800 or less.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is $1,800 or less, the taxpayer may, at his option, treat as net earnings from self-employment from such trade or business an amount equal to 66⅔ percent of such gross income. If the taxpayer so elects, the amount equal to 66⅔ percent of such gross income shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any.

(ii) *Gross income in excess of $1,800.* If the gross income, computed as provided in paragraph (b) of this section, from such trade or business is more than $1,800, and the net earnings from self-employment from such trade or business (computed without regard to this section) are less than $1,200, the taxpayer may, at his option, treat $1,200 as net earnings from self-employment. If the

taxpayer so elects, $1,200 shall be used in computing his self-employment income in lieu of his actual net earnings from such trade or business, if any. However, if the taxpayer's actual net earnings from such trade or business, as computed in accordance with the applicable provisions of §§ 1.1402(a)–1 to 1.1402(a)–13, inclusive, are $1,200 or more, such actual net earnings shall be used in computing his self-employment income.

(2) *In case of a member of a partnership*—(i) *Distributive share of gross income $1,800 or less.* If a taxpayer's distributive share of the gross income of a partnership (as such gross income is computed under the provisions of paragraph (b) of this section) derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is $1,800 or less, the taxpayer may, at his option, treat as his distributive share of income described in section 702(a)(9) derived from such trade or business an amount equal to 66⅔ percent of his distributive share of such gross income (after such gross income has been reduced by the sum of all payments to which section 707(c) applies). If the taxpayer so elects, the amount equal to 66⅔ percent of his distributive share of such gross income shall be used by him in the computation of his net earnings from self-employment in lieu of the actual amount of his distributive share of income described in section 702(a)(9) from such trade or business, if any.

(ii) *Distributive share of gross income in excess of $1,800.* If a taxpayer's distributive share of the gross income of the partnership (as such gross income is computed under the provisions of paragraph (b) of this section) derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than $1,800 and the actual amount of his distributive share (whether or not distributed) of income described in section 702(a)(9) derived from such trade or business (computed without regard to this section) is less than $1,200, the taxpayer may, at his option, treat $1,200 as his distributive share of income described in section 702(a)(9) derived from such trade or business. If the taxpayer so elects, $1,200 shall be used by him in the computation of his net earnings from self-employment in lieu of the actual amount of his distributive share of income described in section 702(a)(9) from such trade or business, if any. However, if the actual amount of the taxpayer's distributive share of income described in section 702(a)(9) from such trade or business, as computed in accordance with the applisable provisions of §§ 1.1402(a)–1 to 1.1402(a)–13, inclusive, is $1,200 or more, such actual amount of the taxpayer's distributive share shall be used in computing his net earnings from self-employment.

(iii) *Cross reference.* For a special rule in the case of certain deceased partners, see paragraph (c) of § 1.1402(f)–1.

(b) *Computation of gross income.* For purposes of this section gross income has the following meanings:

(1) In the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business (see paragraphs (a) and (c), other than paragraph (a)(5), of § 1.61–4), adjusted (after such reduction) in accordance with the applicable provisions of §§ 1.1402(a)–3 to 1.1402(a)–13, inclusive.

(2) In the case of any such trade or business in which the income is computed under an accrual method (see paragraphs (b) and (c), other than paragraph (b)(5), of § 1.61–4), the gross income from such trade or business, adjusted in accordance with the applicable provisions of §§ 1.1402(a)–3 to 1.1402(a)–13, inclusive.

(c) *Two or more agricultural activities.* If an individual (including a member of a partnership) derives gross income (as defined in paragraph (b) of this section) from more than one agricultural trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business. Thus, such an individual shall aggregate his gross income derived from each agricultural trade or business carried on by him (which includes, under paragraph (b) of § 1.1402(a)–1, any guaranteed payment, within the meaning of section 707(c), received by him from a farm partnership of which he is a member) and his distributive share of partnership gross income (after such gross income has been reduced by any guaranteed payment within the meaning of section 707(c)) derived from each farm partnership of which he is a member. Such gross income is the amount to be considered for purposes of the optional method provided in this section for computing net earnings from self-employment. If the aggregate gross income of an individual includes income derived from an agricultural trade or business carried on by him and a distributive share of partnership income derived from an agricultural trade or business carried on by a partnership of which he is a member, such aggregate gross income shall be treated as income derived from a single trade or business carried on by him, and such individual shall apply the optional method applicable to individuals set forth in paragraph (a)(1) of this section for purposes of computing his net earnings from self-employment.

(d) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). F is engaged in the business of farming and computes his income under the cash receipts and disbursements method. He files his income tax returns on the basis of the calendar year. During the year 1956, F's gross income from the business of farming (computed in accordance with paragraph (b)(1) of this section) is $1,725. His actual net earnings from self-employment derived from such business are $650. As his net earnings from self-employment, F may report $650 or, by the optional computation method, he may report $1,150 (66⅔ percent of $1,725).

Example (2). G is engaged in the business of farming and computes his income under the accrual method. His income tax returns are filed on the calendar year basis. For the year 1957, G's gross income from the operation of his farm (computed in accordance with paragraph (b)(2) of this section) is $2,500. He has actual net earnings from self-employment derived from such farm in the amount of $950. As his net earnings from self-employment derived from his farm, G may report his actual net earnings of $950, or by the optional method he may report $1,200. If G's actual net earnings from self-employment from his farming activities for 1957 were in an amount of $1,200 or more, he would be required to report such amount in computing his self-employment income.

Example (3). M, who files his income tax returns on a calendar year basis, is one of the three partners of the XYZ Company, a partnership, engaged in the business of farming. The taxable year of the partnership is the calendar year, and its income is computed under the cash receipts and disbursements method. For M's services in connection with the planting, cultivating, and harvesting of the crops during the year 1958, the partnership agrees to pay him $500, the full amount of which is determined without regard to the income of the partnership and constitutes a guaranteed payment within the meaning of section 707(c). This guaranteed payment to M is the only such payment made during such year. The gross income derived from the business for the year 1958, computed in accordance with paragraph (b)(1) of this section and after being reduced by the guaranteed payment of $500 made to M, is $3,000. One-third of the $3,000 ($1,000), is M's distributive share of such gross income. Under paragraph (c) of this section, the guaranteed payment ($500) received by M and his distributive share of the partnership gross income ($1,000) are deemed to have been derived from one trade or business, and such amounts must be aggregated for purposes of the optional method of computing net earnings from self-employment. Since M's combined gross income from his two agricultural businesses ($1,000 and $500) is not more than $1,800 and since such income is deemed to be derived from one trade or business, M's net earnings from self-employment derived from such farming business may, at his option, be deemed to be $1,000 (66⅔ percent of $1,500).

Example (4). A is one of the two partners of the AB partnership which is engaged in the business of farming. The taxable year of the partnership is the calendar year and its income is computed under the accrual method. A files his income tax returns on the calendar year basis. The partnership agreement provides for an equal sharing in the profits and losses of the partnership by the two partners. A is an experienced farmer and for his services as manager of the partnership's farm activities during the year 1959, he receives $3,000 which amount constitutes a guaranteed payment within the meaning of section 707(c). The gross income of the partnership derived from such business for the year 1959, computed in accordance with paragraph (b)(2) of this section and after being reduced by the guaranteed payment made to A, is $6,600. A's distributive share of such gross income is $3,300, and his distributive share of income described in section 702(a)(9) derived from the partnership's business is $1,100. Under paragraph (c) of this section, the guaranteed payment received by A and his distributive share of the partnership gross income are deemed to have been derived from one trade or business, and such amounts must be aggregated for purposes of the

optional method of computing his net earnings from self-employment. Since the aggregate of A's guaranteed payment ($3,000) and his distributive share of partnership gross income ($3,300) is more than $1,800 and since the aggregate of A's guaranteed payment ($3,000) and his distributive share ($1,100) of partnership income described in section 702(a)(9) is not less than $1,200, the optional method of computing net earnings from self-employment is not available to A.

Example (5). F is a member of the EFG partnership which is engaged in the business of farming. F files his income tax returns on the calendar year basis. The taxable year of the partnership is the calendar year, and its income is computed under a cash receipts and disbursements method. Under the partnership agreement the partners are to share equally the profits or losses of the business. The gross income derived from the partnership business for the year 1959, computed in accordance with paragraph (b)(1) of this section is $5,700. F's share of such gross income is $1,900. Due to drought and an epidemic among the livestock, the partnership sustains a net loss of $6,000 for the year 1959 of which loss F's share is $2,000. Since F's distributive share of gross income derived from such business is in excess of $1,800 and since F does not receive income described in section 702(a)(9) of $1,200 or more from such business, he may, at his option, be deemed to have received $1,200 as his distributive share of income described in section 702(a)(9) from such business.

§ 1.1402(a)–16 Exercise of option.

A taxpayer shall, for each taxable year with respect to which he is eligible to use the optional method described in § 1.1402(a)–14 or § 1.1402(a)–15, make a determination as to whether his net earnings from self-employment are to be computed in accordance with such method. If the taxpayer elects the optional method for a taxable year, he shall signify such election by computing net earnings from self-employment under the optional method as set forth in Schedule F (Form 1040) of the income tax return filed by the taxpayer for such taxable year. If the optional method is not elected at the time of the filing of the return for a taxable year with respect to which the taxpayer is eligible to elect such optional method, such method may be elected on an amended return (or on such other form as may be prescribed for such use) filed within the period prescribed by section 6501 and the regulations thereunder for the assessment of the tax for such taxable year. If the optional method is elected on a return for a taxable year, the taxpayer may revoke such election by filing an amended return (or such other form as may be prescribed for such use) for the taxable year within the period prescribed by section 6501 and the regulations thereunder for the assessment of the tax for such taxable year. If the taxpayer is deceased or unable to make an election, the person designated in section 6012(b) and the regulations thereunder may, within the period prescribed in this section elect the optional method for any taxable year with respect to which the taxpayer is eligible to use the optional method and revoke an election previously made by or for the taxpayer.

§ 1.1402(b) Statutory provisions; definitions; self-employment income.

SEC. 1402. *Definitions.* * * *

(b) *Self-employment income.* The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual) during any taxable year; except that such term shall not include—

(1) That part of the net earnings from self-employment which is in excess of—

(A) For any taxable year ending prior to 1955, (i) $3,600, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(B) For any taxable year ending after 1954 and before 1959, (i) $4,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(C) For any taxable year ending after 1958, (i) $4,800, minus (ii) the amount of the wages paid to such individual during the taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than $400.

for purposes of clause (1), the term "wages" includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or under an agreement entered into pursuant to the provisions of section 3121(l) (relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations), as would be wages under section 3121(a) if such services constituted employment under section 3121(b). An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual.

[Sec. 1402(b) as amended by sec. 201(b), Social Security Amendments 1954 (68 Stat. 1088); sec. 402(a), Social Security Amendments 1958 (72 Stat. 1042); sec. 103(l), Social Security Amendments 1960 (74 Stat. 938)]

§ 1.1402(b)–1 Self-employment income.

(a) *In general.* Except for the exclusions in paragraphs (b) and (c) of this section and the exception in paragraph (d) of this section, the term "self-employment income" means the net earnings from self-employment derived by an individual during a taxable year.

(b) *Maximum self-employment income.* (1) The maximum self-employment income of an individual for any taxable year (whether a period of 12 months or less) is $4,800, except that the maximum self-employment income for any taxable year ending before 1955 is $3,600 and the maximum self-employment income for any taxable year ending after 1954 and before 1959 is $4,200. If an individual is paid wages as defined in section 3121(a), the maximum self-employment income is the excess of $4,800 ($3,600 for a taxable year ending before 1955 and $4,200 for a taxable year ending after 1954 and before 1959) over the amount of such wages. For example, if during the taxable year ending in 1959 no such wages are paid and the individual has $5,000 of net earnings from self-employment, he has $4,800 of self-employment income for such taxable year. If, in addition to having $5,000 of net earnings from self-employment, such individual is paid $1,000 of such wages, he has only $3,800 of self-employment income for the taxable year.

(2) For the purpose of the limitation described in subparagraph (1) of this paragraph, the term "wages" includes such remuneration paid to an employee for services covered by—

(i) An agreement entered into pursuant to section 218 of the Social Security Act (42 U.S.C. 418), which section provides for extension of the Federal old-age and survivors insurance system to State and local government employees under voluntary agreements between the States and the Secretary of Health, Education, and Welfare (Federal Security Administrator before April 11, 1953), or

(ii) An agreement entered into pursuant to the provisions of section 3121(l), relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations,

as would be wages under section 3121(a) if such services constituted employment under section 3121(b). For an explanation of the term "wages", see the regulations under section 3121(a) in Part 31 of this chapter (Employment Tax Regulations).

(c) *Minimum net earnings from self-employment.* Self-employment income does not include the net earnings from self-employment of an individual when the amount of such earnings for the taxable year is less than $400. Thus, an individual having only $300 of net earnings from self-employment for the taxable year would not have any self-employment income. However, an individual having net earnings from self-employment of $400 or more for the taxable year may have less $400 of self-employment income. This would occur in a case in which the amount of the individual's net earnings from self-employment is $400 or more for a taxable year and the amount of such net earnings from self-employment plus the amount of the wages received by the individual during that taxable year exceed $4,800 ($3,600 for taxable years ending before 1955 or $4,200 for taxable years ending after 1954 and before 1959). For example, if an individual has net earnings from self-employment of $1,000 for 1959 and also receives wages of $4,500 during that taxable year, his self-employment income for that taxable year is $300.

(d) *Nonresident aliens.* A nonresident alien individual never has self-employment income. While a nonresident alien individual who derives income from a trade or business carried on within the United States, Puerto Rico, the Virgin Islands, Guam, or American Samoa (whether by agents or employees, or by a partnership of which he is a member) may be subject to the applicable income tax provisions on such income, such nonresident alien individual will not be subject to the tax on self-employment income, since any net earnings which he may have from self-em-

ployment do not constitute self-employment income. For the purpose of the tax on self-employment income, an individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, or, for taxable years beginning after 1960, of Guam or American Samoa is not considered to be a nonresident alien individual.

§ 1.1402(c) Statutory provisions; definitions; trade or business.

SEC. 1402. *Definitions.* * * *

(c) *Trade or business.* The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that such term shall not include—

(1) The performance of the functions of a public office;

(2) The performance of service by an individual as an employee, other than—

(A) Service described in section 3121(b)(14)(B) performed by an individual who has attained the age of 18,

(B) Service described in section 3121(b)(16),

(C) Service described in section 3121(b)(11), (12), or (15) performed in the United States (as defined in section 3121(e)(2)) by a citizen of the United States, and

(D) Service described in paragraph (4) of this subsection;

(3) The performance of service by an individual as an employee or employee representative as defined in section 3231;

(4) The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(5) The performance of service by an individual in the exercise of his profession as a doctor of medicine or Christian Science practitioner; or the performance of such service by a partnership.

The provisions of paragraph (4) shall not apply to service (other than service performed by a member of a religious order who has taken a vow of poverty as a member of such order) performed by an individual during the period for which a certificate filed by such individual under subsection (e) is in effect. The provisions of paragraph (5) shall not apply to service performed by an individual in the exercise of his profession as a Christian Science practitioner during the period for which a certificate filed by him under subsection (e) is in effect.

[Sec. 1402(c) as amended by secs. 201(c)(1), (2), and (5), and 205(e), Social Security Amendments 1954 (68 Stat. 1088, 1089, 1092); sec. 201(e)(3), and (f), Social Security Amendments 1956 (70 Stat. 841); sec. 106(b), Social Security Amendments 1960 (74 Stat. 945)]

§ 1.1402(c)–1 Trade or business.

In order for an individual to have net earnings from self-employment, he must carry on a trade or business, either as an individual or as a member of a partnership. Except for the exclusions discussed in §§ 1.1402(c)–2 to 1.1402(c)–6, inclusive, the term "trade or business", for the purpose of the tax on self-employment income, shall have the same meaning as when used in section 162. An individual engaged in one of the excluded activities specified in such sections of the regulations may also be engaged in carrying on activities which constitute a trade or business for purposes of the tax on self-employment income. Whether or not he is also engaged in carrying on a trade or business will be dependent upon all of the facts and circumstances in the particular case. An individual who is a crew leader, as defined in section 3121(o) (see such section and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)), is considered to be engaged in carrying on a trade or business with respect to services performed by him after 1956 in furnishing individuals to perform agricultural labor for another person or services performed by him after 1956 as a member of the crew.

§ 1.1402(c)–2 Public office.

The performance of the functions of a public office does not constitute a trade or business. The term "public office" includes any elective or appointive office of the United States or any possession thereof, or of a State or its political subdivisions, or of a wholly owned instrumentality of any one or more of the foregoing. For example, the President, the Vice President, a governor, a mayor, the Secretary of State, a member of Congress, a State representative, a county commissioner, a judge, a county or city attorney, a marshal, a sheriff, a register of deeds, or a notary public performs the functions of a public office.

§ 1.1402(c)–3 Employees.

(a) *General rule.* Generally, the performance of service by an individual as an employee, as defined in the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code) does not constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1. However, in the four cases set forth in paragraphs (b) to (e), inclusive, of this section, the performance of service by an individual is considered to constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1. (As to when an individual is an employee, see section 3121 (d) and (o) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations).)

(b) *Newspaper vendors.* Service performed by an individual who has attained the age of 18 constitutes a trade or business for purposes of the tax on self-employment income within the meaning of section 1402(c) and § 1.1402(c)–1 if performed in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(c) *Sharecroppers.* Service performed by an individual under an arrangement with the owner or tenant of land pursuant to which—

(1) Such individual undertakes to produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land,

(2) The agricultural or horticultural commodities produced by such individual, or the proceeds therefrom, are to be divided between such individual and such owner or tenant, and

(3) The amount of such individual's share depends on the amount of the agricultural or horticultural commodities produced,

constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1.

(d) *Employees of foreign government, instrumentality wholly owned by foreign government, or international organization.* Service performed in the United States, as defined in section 3121(e)(2) (see such section and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations)), by an individual who is a citizen of the United States constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1 if such service is excepted from employment, for purposes of the Federal Insurance Contributions Act (chapter 21 of the Code), by—

(1) Section 3121(b)(11), relating to service in the employ of a foreign government (for regulations under section 3121(b)(11), see § 31.3121(b)(11)–1 of this chapter);

(2) Section 3121(b)(12), relating to service in the employ of an instrumentality wholly owned by a foreign government (for regulations under section 3121(b)(12), see § 31.3121(b)(12)–1 of this chapter); or

(3) Section 3121(b)(15), relating to service in the employ of an international organization (for regulations under section 3121(b)(15), see § 31.3121(b)(15)–1 of this chapter).

This paragraph is applicable to service performed in any taxable year ending on or after December 31, 1960, except that it does not apply to service performed before 1961 in Guam or American Samoa.

(e) *Ministers and members of religious orders.* Service described in section 1402(c)(4) performed by an individual during taxable years for which a certificate filed pursuant to section 1402(e) is in effect constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1. See also § 1.1402(c)–5.

§ 1.1402(c)–4 Individuals under Railroad Retirement System.

The performance of service by an individual as an employee or employee representative as defined in section 3231 (b) and (c), respectively (see §§ 31.3231(b)–1 and 31.3231(c)–1 of Part 31 of this chapter (Employment Tax Regulations)), that is, an individual covered under the railroad retirement system, does not constitute a trade or business.

§ 1.1402(c)–5 Ministers and members of religious orders.

(a) *In general.* For taxable years ending before 1955, a duly ordained, commissioned, or licensed minister of a church or a member of a religious order is not engaged in carrying on a trade or business with respect to service per-

formed by him in the exercise of his ministry or in the exercise of duties required by such order. However, for taxable years ending after 1954, any individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) may elect, as provided in § 1.1402(e)–1, to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to service performed by him in his capacity as such a minister or member. If such a minister or a member of a religious order makes an election pursuant to § 1.1402 (e)–1, he is, with respect to service performed by him in such capacity, engaged in carrying on a trade or business for each taxable year to which the election is effective. An election by a minister or member of a religious order has no application to service performed by such minister or member which is not in the exercise of his ministry or in the exercise of duties required by such order.

(b) *Service by a minister in the exercise of his ministry.* (1) A certificate of election filed by a duly ordained, commissioned, or licensed minister of church under the provisions of § 1.1402(e)–1 has application only to service performed by him in the exercise of his ministry.

(2) Except as provided in paragraph (c)(3) of this section, service performed by a minister in the exercise of his ministry includes the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under the authority of a religious body constituting a church or church denomination. The following rules are applicable in determining whether services performed by a minister are performed in the exercise of his ministry:

(i) Whether service performed by a minister constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of the particular religious body constituting his church or church denomination.

(ii) Service performed by a minister in the control, conduct, and maintenance of a religious organization relates to directing, managing, or promoting the activities of such organization. Any religious organization is deemed to be under the authority of a religious body constituting a church or church denomination if it is organized and dedicated to carrying out the tenets and principles of a faith in accordance with either the requirements or sanctions governing the creation of institutions of the faith. The term "religious organization" has the same meaning and application as is given to the term for income tax purposes.

(iii) If a minister is performing service in the conduct of religious worship or the ministration of sacerdotal functions, such service is in the exercise of his ministry whether or not it is performed for a religious organization. The application of this rule may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged to perform service as chaplain at N University. M devotes his entire time to performing his duties as chaplain which include the conduct of religious worship, offering spiritual counsel to the university students, and teaching a class in religion. M is performing service in the exercise of his ministry.

(iv) If a minister is performing service for an organization which is operated as an integral agency of a religious organization under the authority of a religious body constituting a church or church denomination, all service performed by the minister in the conduct of religious worship, in the ministration of sacerdotal functions, or in the control, conduct, and maintenance of such organization (see subparagraph (2)(ii) of this paragraph) is in the exercise of his ministry. The application of this rule may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged by the N Religious Board to serve as director of one of its departments. He performs no other service. The N Religious Board is an integral agency of O, a religious organization operating under the authority of a religious body constituting a church denomination. M is performing service in the exercise of his ministry.

(v) If a minister, pursuant to an assignment or designation by a religious body constituting his church, performs service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization, all service performed by him, even though such service may not involve the conduct of religious worship or the ministration of sacerdotal functions, is in the exercise of his ministry. The application of this rule may be illustrated by the following example:

Example. M, a duly ordained minister, is assigned by X, the religious body constituting his church, to perform advisory service to Y Company in connection with the publication of a book dealing with the history of M's church denomination. Y is neither a religious organization nor operated as an integral agency of a religious organization. M performs no other service for X or Y. M is performing service in the exercise of his ministry.

(c) *Service by a minister not in the exercise of his ministry.* (1) A certificate filed by a duly ordained, commissioned, or licensed minister of a church under the provisions of § 1.1402(e)–1 has no application to service performed by him which is not in the exercise of his ministry.

(2) If a minister is performing service for an organization which is neither a religious organization nor operated as an integral agency of a religious organization and the service is not performed pursuant to an assignment or designation by his ecclesiastical superiors, then only the service performed by him in the conduct of religious worship or the ministration of sacerdotal functions is in the exercise of his ministry. See, however, subparagraph (3) of this paragraph. The application of the rule in this subparagraph may be illustrated by the following example:

Example. M, a duly ordained minister, is engaged by N University to teach history and mathematics. He performs no other service for N although from time to time he performs marriages and conducts funerals for relatives and friends. N University is neither a religious organization nor operated as an integral agency of a religious organization. M is not performing the service for N pursuant to an assignment or designation by his ecclesiastical superiors. The service performed by M for N University is not in the exercise of his ministry. However, service performed by M in performing marriages and conducting funerals is in the exercise of his ministry.

(3) Service performed by a duly ordained, commissioned, or licensed minister of a church as an employee of the United States, or a State, Territory, or possession of the United States, or the District of Columbia, or a foreign government, or a political subdivision of any of the foregoing, is not considered to be in the exercise of his ministry for purposes of the tax on self-employment income, even though such service may involve the ministration of sacerdotal functions or the conduct of religious worship. Thus, for example, service performed by an individual as a chaplain in the Armed Forces of the United States is considered to be performed by a commissioned officer in his capacity as such, and not by a minister in the exercise of his ministry. Similarly, service performed by an employee of a State as a chaplain in a State prison is considered to be performed by a civil servant of the State and not by a minister in the exercise of his ministry.

(d) *Service in the exercise of duties required by a religious order.* A certificate of election filed by a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) under the provisions of § 1.1402(e)–1 has application to all duties required of him by such order. The nature or extent of such service is immaterial so long as it is a service which he is directed or required to perform by his ecclesiastical superiors.

§ 1.1402(c)–6 Members of certain professions.

(a) *Periods of exclusion*—(1) *Taxable years ending before 1955.* For taxable years ending before 1955, an individual is not engaged in carrying on a trade or business with respect to the performance of service in the exercise of his profession as a physician, lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, optometrist, Christian Science practitioner, architect, certified public accountant, accountant registered or licensed as an accountant under State or municipal law, full-time practicing public accountant, funeral director, or professional engineer.

(2) *Taxable years ending in 1955.* Except as provided in paragraph (b) of this section, for a taxable year ending in 1955 an individual is not engaged in carrying on a trade or business with respect to the performance of service in the exercise of his profession as a physician,

lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, optometrist, or Christian Science practitioner.

(3) *Taxable years ending after 1955.* Except as provided in paragraph (b) of this section, for taxable years ending after 1955 an individual is not engaged in carrying on a trade or business with respect to the performance of service in the exercise of his profession as a doctor of medicine or Christian Science practitioner.

(b) *Election by Christian Science practitioner.* For taxable years ending after 1954, a Christian Science practitioner may elect, as provided in § 1.1402(e)–1, to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to service performed by him in the exercise of his profession as a Christian Science practitioner. If an election is made pursuant to § 1.1402(e)–1, the Christian Science practitioner is, with respect to the performance of service in the exercise of such profession, engaged in carrying on a trade or business for each taxable year for which the election is effective. An election by a Christian Science practitioner has no application to service performed by him which is not in the exercise of his profession as a Christian Science practitioner.

(c) *Meaning of terms.* The designations in this section are to be given their commonly accepted meanings. For taxable years ending after 1955, an individual who is a doctor of osteopathy, and who is not a doctor of medicine within the commonly accepted meaning of that term, is deemed, for purposes of this section, not to be engaged in carrying on a trade or business in the exercise of the profession of doctor of medicine.

(d) *Legal requirements.* The exclusions specified in paragraph (a) of this section apply only if the individuals meet the legal requirements, if any, for practicing their professions in the place where they perform the service.

(e) *Partnerships.* In the case of a partnership engaged in the practice of any of the designated excluded professions, the partnership shall not be considered as carrying on a trade or business for the purpose of the tax on self-employment income, and none of the distributive shares of the income or loss, described in section 702(a)(9), of such partnership shall be included in computing net earnings from self-employment of any member of the partnership. On the other hand, where a partnership is engaged in a trade or business not within any of the designated excluded professions, each partner must include his distributive share of the income or loss, described in section 702(a)(9), of such partnership in computing his net earnings from self-employment, irrespective of whether such partner is engaged in the practice of one or more of such professions and contributes his professional services to the partnership.

§ 1.1402(d) Statutory provisions; definitions; employee and wages.

SEC. 1402. *Definitions.* * * *

(d) *Employee and wages.* The term "employee" and the term "wages" shall have the same meaning as when used in Chapter 21 (sec. 3101 and following, relating to Federal Insurance Contributions Act).

§ 1.1402(d)–1 Employee and wages.

For the purpose of the tax on self-employment income, the term "employee" and the term "wages" shall have the same meaning as when used in the Federal Insurance Contributions Act. For an explanation of these terms, see Subpart B of Part 31 of this chapter (Employment Tax Regulations).

§ 1.1402(e)(1) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; waiver certificate.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners*—(1) *Waiver certificate.* Any individual who is (A) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (B) a Christian Science practitioner may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under this chapter) certifying that he elects to have the insurance system established by title II of the Social Security Act extended to service described in subsection (c)(4), or service described in subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be, performed by him.

[Sec. 1402(e)(1) as added by sec. 201(c)(3), Social Security Amendments 1954 (68 Stat. 1088)]

§ 1.1402(e)(1)–1 Election by ministers, members of religious orders, and Christian Science practitioners for self-employment coverage.

(a) *In general.* Any individual who is (1) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (2) a Christian Science practitioner may elect to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to service performed by him in the exercise of his ministry or in the exercise of duties required by such order, or in the exercise of his profession as a Christian Science practitioner, as the case may be. Such an election shall be made by filing a certificate on Form 2031 in the manner provided in paragraph (b) of this section and within the time specified in § 1.1402(e)(2)–1. If a minister or member to whom this section has application, or a Christian Science practitioner, makes an election by filing Form 2031 such individual shall, for each taxable year for which the election is effective (see § 1.1402(e)(3)–1), be considered as carrying on a trade or business with respect to the performance of service in his capacity as a minister or member, or as a Christian Science practitioner, as the case may be.

(b) *Waiver certificate.* The certificate on Form 2031 shall be filed in triplicate with the district director of internal revenue for the internal revenue district in which is located the legal residence or principal place of business of the individual who executes the certificate. If such individual has no legal residence or principal place of business in any internal revenue district, the certificate shall be filed with the Director of International Operations, Internal Revenue Service, at Washington 25, D.C., or at such other address as is designated in the instructions relating to the certificate. The certificate must be filed within the time prescribed in § 1.1402(e)(2)–1. If an individual to whom paragraph (a) of this section has application submits to a district director of internal revenue a dated and signed statement indicating that he desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services, such statement will be treated as a waiver certificate, if filed within the time specified in § 1.1402(e)–3, provided that without unnecessary delay such statement is supplemented by a properly executed Form 2031. An application for a social security account number filed on Form SS–5 or the filing of an income tax return showing an amount representing self-employment income or self-employment tax shall not be construed to constitute an election referred to in § 1.1402(e)–1.

§ 1.1402(e)(2) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; time for filing certificate.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(2) *Time for filing certificates.* Any individual who desires to file a certificate pursuant to paragraph (1) must file such certificate on or before whichever of the following dates is later: (A) the due date of the return (including any extension thereof) for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed, in the case of an individual referred to in paragraph (1)(A), without regard to subsection (c)(4), and, in the case of an individual referred to in paragraph (1)(B), without regard to subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner) of $400 or more, any part of which was derived from the performance of service described in subsection (c)(4), or from the performance of service described in subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, as the case may be; or (B) the due date of the return (including any extension thereof) for his second taxable year ending after 1959.

[Sec. 1402(e)(2) as added by sec. 201(c)(3), Social Security Amendments 1954 (68 Stat. 1088); as amended by sec. 1, Act of Aug. 30, 1957 (Pub. Law 85–239, 71 Stat. 521); sec. 101(a), Social Security Amendments 1960 (74 Stat. 926)]

§ 1.1402(e)(2)–1 Time limitation for filing waiver certificate.

(a) *General rule.* (1) Any individual referred to in § 1.1402(e)(1)–1 who desires to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services must

file the waiver certificate (Form 2031) prescribed by § 1.1402(e)(1)–1 on or before whichever of the following dates is later:

(i) The due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for his second taxable year ending after 1959, or

(ii) The due date of the income tax return, including any extension thereof, for his second taxable year ending after 1954 for which he has net earnings from self-employment (computed as prescribed in paragraph (c) of this section) of $400 or more, any part of which—

(*a*) In the case of a duly ordained, commissioned, or licensed minister of a church, consists of remuneration for service performed in the exercise of his ministry,

(*b*) In the case of a member of a religious order who has not taken a vow of poverty as a member of such order, consists of remuneration for service performed in the exercise of duties required by such order, or

(*c*) In the case of a Christian Science practitioner, consists of remuneration for service performed in the exercise of his profession as a Christian Science practitioner.

(2) If a minister, a member of a religious order, or a Christian Science practitioner derives gross income in a taxable year both from service performed in such capacity and from the conduct of another trade or business, and the deductions allowed by chapter 1 of the Internal Revenue Code which are attributable to the gross income derived from service performed in such capacity equal or exceed the gross income derived from service performed in such capacity, no part of the net earnings from self-employment (computed as prescribed in paragraph (c) of this section) for the taxable year shall be considered as derived from service performed in such capacity.

(3) The application of the rules set forth in subparagraphs (1) and (2) of this paragraph may be illustrated by the following examples:

Example (*1*). M was ordained as a minister in May 1959. During each of the taxable years 1959 and 1962, M, who makes his income tax returns on a calendar year basis, derives net earnings in excess of $400 from his activities as a minister. M has net earnings of $350 for each of the taxable years 1960 and 1961, $200 of which is derived from service performed by him as a minister. If M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his service as a minister, he must file the waiver certificate on or before the due date of his income tax return for 1962, or any extension thereof.

Example (*2*). M, who was ordained a minister in January 1962, is employed as a toolmaker by the XYZ Corporation for the taxable years 1962 and 1963 and also engages in activities as a minister on weekends. M makes his income tax returns on the basis of a calendar year. During each of the taxable years 1962 and 1963, M receives wages of $4,800 from the XYZ Corporation and derives $400 (all of which constitutes net earnings from self-employment computed as prescribed in paragraph (c) of this section) from his activities as a minister. In such case if M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services as a minister, he must file the waiver certificate on or before the due date of his income tax return for 1963, or any extension thereof. A waiver certificate filed after such date will be invalid. It should be noted that although by reason of section 1402(b)(1)(C) no part of the $400 represents "self-employment income," nevertheless the entire $400 constitutes "net earnings from self-employment" for purposes of fulfilling the requirements of section 1402(e)(2).

Example (*3*). M, who files his income tax returns on a calendar year basis, was ordained as a minister in June 1961. During 1961 he receives $410 for services performed in the exercise of his ministry. In addition to his ministerial services, M is engaged during the year 1961 in a mercantile venture from which he derives net earnings from self-employment in the amount of $1,000. The expenses incurred by him in connection with his ministerial services during 1961 and which are allowable deductions under chapter 1 of the Internal Revenue Code amount to $410. During 1962 and 1963, M has net earnings from self-employment in amounts of $1,200 and $1,500, respectively, and some part of each of these amounts is from the exercise of his ministry. The deductions allowed in each of the years 1962 and 1963 by chapter 1 which are attributable to the gross income derived by M from the exercise of his ministry in each of such years, respectively, do not equal or exceed such gross income in such year. If M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his service as a minister, he must file a waiver certificate on or before the due date of his income tax return (including any extension thereof) for 1963.

Example (*4*). M, a licensed minister who makes his income tax returns on the basis of a calendar year, derived net earnings of $400 or more from the exercise of his ministry for two or more of the taxable years 1955 to 1961, inclusive. In such case, if M wishes to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to his services as a minister, he must file the waiver certificate on or before the due date (April 16, 1962) prescribed for filing his income tax return for 1961, or any extension thereof. A waiver certificate filed after such date will be invalid.

(b) *Effect of death.* Except as provided in section 1402(e) (5) and (6) and §§ 1.1402(e)(5)–1 and 1.1402(e)(6)–1, the right of an individual to file a waiver certificate shall cease from his death. Thus, except as provided in such sections, the surviving spouse, administrator, or executor of a decedent shall not be permitted to file a waiver certificate for such decedent.

(c) *Computation of net earnings without regard to election.* For the purpose of this section net earnings from self-employment shall be determined without regard to the fact that, without an election under section 1402(e), the performance of services by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, or the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, does not constitute a trade or business for purposes of the tax on self-employment income.

§ 1.1402(e)(3) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; effective date of certificate.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(3)(A) *Effective date of certificate.* A certificate filed pursuant to this subsection shall be effective for the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, and for all succeeding taxable years. An election made pursuant to this subsection shall be irrevocable.

(B) Notwithstanding the first sentence of subparagraph (A), if an individual filed a certificate on or before the date of enactment of this subparagraph which (but for this subparagraph) is effective only for the first taxable year ending after 1956 and all succeeding taxable years, such certificate shall be effective for his first taxable year ending after 1955 and all succeeding taxable years if—

(i) Such individual files a supplemental certificate after the date of enactment of this subparagraph and on or before April 15, 1962,

(ii) The tax under section 1401 in respect of all such individual's self-employment income (except for underpayments of tax attributable to errors made in good faith) for his first taxable year ending after 1955 is paid on or before April 15, 1962, and

(iii) In any case where refund has been made of any such tax which (but for this subparagraph) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 15, 1962.

The provisions of section 6401 shall not apply to any payment or repayment described in this subparagraph.

[Sec. 1402(e)(3) as added by sec. 201(c)(3), Social Security Amendments 1954 (68 Stat. 1069); as amended by sec. 1, Act of Aug. 30, 1957 (Pub. Law 85-239, 71 Stat. 521); sec. 101(b), Social Security Amendments 1960 (74 Stat. 926)]

SECTION 101. [Social Security Amendments of 1960]. * * *

(d) In the case of a certificate or supplemental certificate filed pursuant to section 1402(e)(3)(B) or (5) of the Internal Revenue Code of 1954—

(1) For purposes of computing interest, the due date for the payment of the tax under section 1401 which is due for any taxable year ending before 1959 solely by reason of the filing of a certificate which is effective under such section 1402(e)(3)(B) or (5) shall be April 15, 1962;

(2) The statutory period for the assessment of any tax for any such year which is attributable to the filing of such certificate shall not expire before the expiration of 3 years from such due date; and

(3) For purposes of section 6651 of such Code (relating to addition to tax for failure to file tax return), the amount of tax required to be shown on the return shall not include such tax under section 1401.

[Sec. 101(d), Social Security Amendments 1960 (74 Stat. 927)]

§ 1.1402(e)(3)–1 Effective date of waiver certificate.

(a) *Filed before August 31, 1957*—(1) *In general.* A certificate on Form 2031 filed by an individual before August 31, 1957, in accordance with the provisions of section 1402(e) in effect at the time the certificate is filed, shall be effective

for the first taxable year with respect to which it is filed, and all subsequent taxable years. In order for a certificate filed by an individual before August 31, 1957, to be effective under section 1402(e), the certificate must be made effective for either the first or second taxable year ending after 1954 in which the individual has net earnings from self-employment of $400 or more (determined as provided in paragraph (c) of § 1.1402(e)(2)–1) some part of which is derived from service of the character with respect to which an election may be made. However, a certificate on Form 2031, filed after August 31, 1957, even though filed within the time specified in paragraph (a)(1)(ii) of § 1.1402(e)(2)–1, may not be effective, except as provided in subparagraph (2) of this paragraph, for any taxable year with respect to which the due date for filing the individual's income tax return (including any extension thereof) has expired at the time such certificate is filed. Further, a certificate on Form 2031 may not be effective for any taxable year ending before 1955. In order for a certificate filed before August 31, 1957, except for the filing of a supplemental certificate, to be effective for the first or second taxable year ending after 1954 in which the individual has net earnings from self-employment (determined as provided in paragraph (c) of § 1.1402(e)(2)–1) some part of which is derived from service of the character with respect to which an election may be made, the certificate on Form 2031 must be filed on or before the due date for filing the income tax return of the individual for such first or second taxable year, respectively, or any extension thereof.

(2) *Supplemental certificates*—(i) *Filed before due date of 1958 return.* If under subparagraph (1) of this paragraph the certificate is effective only for the individual's third or fourth taxable year ending after 1954 and all succeeding taxable years, the individual may make such a certificate effective for his first taxable year ending after 1955 and all succeeding taxable years by filing a supplemental certificate on Form 2031. To be valid the supplemental certificate must be filed after August 30, 1957, and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956 and must be otherwise in accordance with § 1.1402(e)(1)–1.

Example. M, who files his income tax returns on a calendar year basis, was ordained as a minister in 1956, and his net earnings from service performed in the exercise of his ministry during such year were $400 or more. M had no net earnings from the exercise of his ministry during 1957. On July 15, 1957, M filed a waiver certificate and indicated thereon that it was to become effective for the taxable year 1958. At the time of filing, the certificate was effective for 1958 and all succeeding taxable years. Since the certificate was not filed on or before April 15, 1957 (the due date of M's income tax return for the taxable year 1956), and since there was no extension of time for filing his 1956 income tax return, the certificate was not, at the time of filing, effective for the taxable year 1956. M files a supplemental certificate on April 15, 1958. By the filing of the supplemental certificate, the certificate filed by M on July 15, 1957, was made effective for the year 1956 and all succeeding taxable years.

(ii) *Filed after September 13, 1960, and on or before April 16, 1962.* If under subparagraph (1) of this paragraph the certificate is effective only for the individual's first taxable year ending after 1956 and all succeeding taxable years, the individual may make such certificate effective for his first taxable year ending after 1955 and all succeeding taxable years by—

(*a*) Filing a supplemental certificate on Form 2031 after September 13, 1960, and before April 17, 1962;

(*b*) Paying on or before April 16, 1962, the tax under section 1401 in respect of all the individual's self-employment income (except for underpayments of tax attributable to errors made in good faith) for his first taxable year ending after 1955; and

(*c*) By repaying on or before April 16, 1962, the amount of any refund (including any interest paid under section 6611) that has been made of any such tax which (but for section 1402(e)(3)(B)) is an overpayment.

Any payment or repayment described in section 1402(e)(3)(B) and in this subparagraph shall not constitute an overpayment within the meaning of section 6401 which relates to amounts treated as overpayments. See section 6401 and the regulations thereunder in Part 301 of this chapter (Regulations on Procedure and Administration).

Example. M, who files his income tax returns on a calendar year basis, was ordained as a minister in 1956, and his net earnings from service performed in the exercise of his ministry during each of the years 1956 and 1957 were $400 or more. On July 15, 1957, M filed a waiver certificate which became effective, at the time of filing, for 1957 and all succeeding taxable years. Since the certificate was not filed on or before April 15, 1957 (the due date of M's income tax return for the taxable year 1956), and since there was no extension of time for filing his 1956 income tax return, the certificate was not, at the time of filing, effective for the taxable year 1956. M files a supplemental certificate on April 17, 1961. If, in addition to the filing of the supplemental certificate, M pays on or before April 16, 1962, the self-employment tax in respect of all his self-employment income (except for underpayments of tax attributable to errors made in good faith) for his taxable year 1956, and repays, on or before April 16, 1962, the amount of any refund (including any interest paid under section 6611) that has been made of any such tax which (but for section 1402(e)(3)(B)) is an overpayment, the certificate filed by M on July 15, 1957, becomes effective for the year 1956 and all succeeding taxable years.

(b) *Filed after August 30, 1957, and before the due date of the 1958 return.* A certificate on Form 2031 filed by an individual after August 30, 1957, but on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1956, in accordance with the provisions of section 1402(e) in effect at the time the certificate is filed, shall be effective for his first taxable year ending after 1955, and all subsequent taxable years.

(c) *Filed after due date of 1958 return.* Except as otherwise provided in § 1.1402(e)(5)–1, a certificate on Form 2031 filed by an individual in accordance with the provisions of §§ 1.1402(e)(1)–1 and 1.1402(e)(2)–1, inclusive, after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, and for all succeeding taxable years.

Example. M, a duly ordained minister of a church, makes his income tax returns on the basis of a calendar year. M has not been granted an extension of time for filing any return. On April 15, 1963, the due date of his income tax return for 1962, M files a waiver certificate pursuant to § 1.1402(e)(1)–1 and within the time limitation set forth in § 1.1402(e)(2)–1. On April 15, 1963, the year 1962 is the earliest taxable year for which the period for filing a return has not expired. Consequently, M's certificate is effective for 1961 and all succeeding taxable years. M must report and pay any self-employment tax due for 1961 and 1962. (The tax, if any, for 1962 is due on April 15, 1963.) Inasmuch as the due date of the tax for 1961 is April 16, 1962, M must pay interest on any tax due for 1961. For provisions relating to such interest, see § 301.6601–1 of Part 301 of this chapter (Regulations on Procedure and Administration).

(d) *Election irrevocable.* An election which has become effective pursuant to this section is irrevocable. A certificate may not be withdrawn after June 30, 1961.

§ 1.1402(e)(4) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; treatment of certain remuneration paid in 1955 and 1956 as wages.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(4) *Treatment of certain remuneration paid in 1955 and 1956 as wages.* If—

(A) In 1955 or 1956 an individual was paid remuneration for service described in section 3121(b)(8)(A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121(k) or the corresponding section of prior law) as employment (within the meaning of chapter 21), and

(B) On or before the date of the enactment of this paragraph the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service,

then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained on or before the date of the enactment of this paragraph, shall be deemed (for purposes of this chapter and chapter 21) to constitute remuneration paid for employment and not net earnings from self-employment.

[Sec. 1402(e)(4) as added by sec. 2, Act of Aug. 30, 1957 (Pub. Law 85–239, 71 Stat. 522)]

§ 1.1402(e)(4)–1 Treatment of certain remuneration paid in 1955 and 1956 as wages.

If in 1955 or 1956 an individual was paid remuneration for service described in section 3121(b)(8)(A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121(k) or the corresponding section of prior law) as employment, within the meaning of the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code), and if on or before August 30, 1957, the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service, then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained either by the employer or the employee on or before August 30, 1957, shall be deemed, for purposes of the Self-Employment Contributions Act of 1954 and the Federal Insurance Contributions Act, to constitute remuneration paid for employment and not net earnings from self-employment. For regulations relating to section 3121 (b)(8)(A) and (k), see §§ 31.3121(b)(8)–1 and 31.3121(k)–1 of Subpart B of Part 31 of this chapter (Employment Tax Regulations).

§ 1.1402(e)(5) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; optional provision for certain certificates filed on or before April 15, 1962.

SEC. 1402. *Definitions.* * * *

(e) Ministers, members of religious orders, and *Christian Science practitioners.* * * *

(5) *Optional provision for certain certificates filed on or before April 15, 1962.* In any case where an individual has derived earnings, in any taxable year ending after 1954 and before 1960, from the performance of service described in subsection (c)(4), or in subsection (c)(5) (as in effect prior to the enactment of this paragraph) insofar as it related to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, and has reported such earnings as self-employment income on a return filed on or before the date of the enactment of this paragraph and on or before the due date prescribed for filing such return (including any extension thereof)—

(A) A certificate filed by such individual (or a fiduciary acting for such individual or his estate, or his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act) after the date of the enactment of this paragraph and on or before April 15, 1962, may be effective, at the election of the person filing such certificate, for the first taxable year ending after 1954 and before 1960 for which such a return was filed, and for all succeeding taxable years, rather than for the period prescribed in paragraph (3), and

(B) A certificate filed by such individual on or before the date of the enactment of this paragraph which (but for this subparagraph) is ineffective for the first taxable year ending after 1954 and before 1959 for which such a return was filed shall be effective for such first taxable year, and for all succeeding taxable years, provided a supplemental certificate is filed by such individual (or a fiduciary acting for such individual or his estate, or his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act) after the date of the enactment of this paragraph and on or before April 15, 1962,

but only if—

(i) The tax under section 1401 in respect of all such individual's self-employment income (except for underpayments of tax attributable to errors made in good faith), for each such year ending before 1960 in the case of a certificate described in subparagraph (A) or for each such year ending before 1959 in the case of a certificate described in subparagraph (B), is paid on or before April 15, 1962, and

(ii) In any case where refund has been made of any such tax which (but for this paragraph) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 15, 1962.

The provisions of section 6401 shall not apply to any payment or repayment described in this paragraph.

[Sec. 1402(e)(5) as added by sec. 101(c), Social Security Amendments 1960 (74 Stat. 927)]

SECTION 101. [Social Security Amendments of 1960]. * * *

(d) In the case of a certificate or supplemental certificate filed pursuant to section 1402(e)(3)(B) or (5) of the Internal Revenue Code of 1954—

(1) For purposes of computing interest, the due date for the payment of the tax under section 1401 which is due for any taxable year ending before 1959 solely by reason of the filing of a certificate which is effective under such section 1402(e)(3)(B) or (5) shall be April 15, 1962;

(2) The statutory period for the assessment of any tax for any such year which is attributable to the filing of such certificate shall not expire before the expiration of 3 years from such due date; and

(3) For purposes of section 6651 of such Code (relating to addition to tax for failure to file tax return), the amount of tax required to be shown on the return shall not include such tax under section 1401.

[Sec. 101(d), Social Security Amendments 1960 (74 Stat. 927)]

§ 1.1402(e)(5)–1 Optional provision for certain certificates filed before April 15, 1962.

(a) *Certificates.* (1) The optional provision contained in section 1402(e)(5)(A) may be applied to a certificate on Form 2031 filed within the period September 14, 1960, to April 16, 1962, inclusive, in the case of a duly ordained, commissioned, or licensed minister of a church, a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order), or a Christian Science practitioner, who has derived net earnings, in any taxable year ending after 1954 and before 1960, from the performance of service in the exercise of his ministry, in the exercise of duties required by his religious order, or in the exercise of his profession as a Christian Science practitioner, respectively, and who has reported such earnings as self-employment income on a return filed before September 14, 1960, and on or before the date prescribed for filing such return (including any extension thereof). The certificate may be filed by such minister, member of a religious order, or Christian Science practitioner or by a fiduciary acting for such individual or his estate, or by his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act, and it must be filed after September 13, 1960, and on or before April 16, 1962. Subject to the conditions stated in subparagraph (2) of this paragraph, such certificate may be effective at the election of the person filing it, for the first taxable year ending after 1954 and before 1960 for which a return, as described in the first sentence of this subparagraph, was filed, and for all succeeding taxable years, rather than for the period prescribed in § 1.1402(e)(3)–1. The election for retroactive application of the certificate may be made by indicating on the certificate the first taxable year for which it is to be effective and that such year is the first taxable year ending after 1954 and before 1960 for which the minister, member of a religious order, or Christian Science practitioner filed an income tax return on which he reported net earnings for such year from the exercise of his ministry, the exercise of duties required by his religious order, or the exercise of his profession as a Christian Science practitioner, as the case may be, and by fulfilling the conditions prescribed in subparagraph (2) of this paragraph.

(2) A certificate to which subparagraph (1) of this paragraph relates may be effective for a taxable year prior to the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, only if the following conditions are met:

(i) The tax under section 1401 is paid on or before April 16, 1962, in respect of all self-employment income (whether or not derived from the performance of service by the individual in the exercise of his ministry, in the exercise of duties required by his religious order, or in the exercise of his profession as a Christian Science practitioner, as the case may be) for the first taxable year ending after 1954 and before 1960 for which such individual has filed a return, as described in subparagraph (1) of this paragraph, and for each succeeding taxable year ending before 1960; and

(ii) In any case where refund has been made of any such tax which (but for section 1402(e)(5)) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 16, 1962. For regulations under section 6611 (relating to interest on overpayments), see § 301.6611–1 of Part 301 of this chapter (Regulations on Procedure and Administration).

(b) *Supplemental certificates.* (1) Subject to the conditions stated in subparagraph (2) of this paragraph, a certificate on Form 2031 filed on or before September 13, 1960, by a minister, member of a religious order, or a Christian Science practitioner described in para-

graph (a)(1) of this section and which (but for section 1402(e)(5)(B)) is ineffective for the first taxable year ending after 1954 and before 1959 for which such a return as described in paragraph (a)(1) of this section was filed by such individual, shall be effective for such first taxable year and for all succeeding taxable years, provided a supplemental certificate is filed by such individual or by a fiduciary acting for him or his estate, or by his survivor (within the meaning of section 205(c)(1)(C) of the Social Security Act), after September 13, 1960 and on or before April 16, 1962.

(2) The filing of a supplemental certificate pursuant to subparagraph (1) of this paragraph will give retroactive effect to a certificate to which such subparagraph applies only if the following conditions are met:

(i) The tax under section 1401 is paid on or before April 16, 1962, in respect of all self-employment income (whether or not attributable to earnings as a minister, member of a religious order, or Christian Science practitioner) for the first taxable year for which the certificate is retroactively effective and for each subsequent year ending before 1959; and

(ii) In any case where refund has been made of any such tax which (but for section 1402(d)(5)) is an overpayment, the amount refunded (including any interest paid under section 6611) is repaid on or before April 16, 1962.

(c) *Underpayment of tax.* For purposes of this section, any underpayment of the tax which is attributable to an error made in good faith will not invalidate an election which is otherwise valid.

(d) *Nonapplicability of section 6401.* Any payment or repayment described in paragraph (a)(2) or paragraph (b)(2) of this section shall not constitute an overpayment within the meaning of section 6401 which relates to amounts treated as overpayments. For the provisions of section 6401 and the regulations thereunder, see §§ 301.6401 and 301.6401–1 of Part 301 of this chapter (Regulations on Procedure and Administration).

§ 1.1402(e)(6) Statutory provisions; definitions; ministers, members of religious orders, and Christian Science practitioners; certificate filed by fiduciary or survivor on or before April 15, 1962.

SEC. 1402. *Definitions.* * * *

(e) *Ministers, members of religious orders, and Christian Science practitioners.* * * *

(6) *Certificate filed by fiduciaries or survivors on or before April 15, 1962.* In any case where an individual, whose death has occurred after September 12, 1960, and before April 16, 1962, derived earnings from the performance of services described in subsection (c)(4), or in subsection (c)(5) insofar as it relates to the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, a certificate may be filed after the date of enactment of this paragraph, and on or before April 15, 1962, by a fiduciary acting for such individual's estate or by such individual's survivor within the meaning of section 205(c)(1)(C) of the Social Security Act. Such certificate shall be effective for the period prescribed in paragraph (3)(A) as if filed by the individual on the day of his death.

[Sec. 1402(e)(6) as added by sec. 202(a), Social Security Amendments 1961 (75 Stat. 141)]

§ 1.1402(e)(6)–1 Certificates filed by fiduciaries or survivors on or before April 15, 1962.

In any case in which an individual whose death has occurred after September 12, 1960, and before April 16, 1962, derived earnings from the performance of services as a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, as a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) in the exercise of duties required by such order, or in the exercise of his profession as a Christian Science practitioner, a waiver certificate on Form 2031 may be filed after June 30, 1961 (the date of enactment of the Social Security Amendments of 1961), and on or before April 16, 1962, by a fiduciary acting for such individual's estate or by such individual's survivor within the meaning of section 205(c)(1)(C) of the Social Security Act. Such certificates shall be effective for the period prescribed in section 1402(e)(3)(A) (see § 1.1402(e)(3)–1(c)) as if filed by the individual on the date of his death.

§ 1.1402(f) Statutory provisions; definitions; partner's taxable year ending as the result of death.

SEC. 1402. *Definitions.* * * *

(f) *Partner's taxable year ending as the result of death.* In computing a partner's net earnings from self-employment for his taxable year which ends as a result of his death (but only if such taxable year ends within, and not with, the taxable year of the partnership), there shall be included so much of the deceased partner's distributive share of the partnership's ordinary income or loss for the partnership taxable year as is not attributable to an interest in the partnership during any period beginning on or after the first day of the first calendar month following the month in which such partner died. For purposes of this subsection—

(1) In determining the portion of the distributive share which is attributable to any period specified in the preceding sentence, the ordinary income or loss of the partnership shall be treated as having been realized or sustained ratably over the partnership taxable year; and

(2) The term "deceased partner's distributive share" includes the share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest.

[Sec. 1402(f) as added by sec. 403(a), Social Security Amendments 1958 (72 Stat. 1043)]

SEC. 403. [Social Security Amendments of 1958]. * * *

(b) *Effective dates.* (1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to individuals who die after the date of the enactment of this Act.

(2) In the case of an individual who died after 1955 and on or before the date of the enactment of this Act, the amendment made by subsection (a) shall apply only if—

(A) Before January 1, 1960, there is filed a return (or amended return) of the tax imposed by chapter 2 of the Internal Revenue Code of 1954 for the taxable year ending as a result of his death, and

(B) In any case where the return is filed solely for the purpose of reporting net earnings from self-employment resulting from the amendment made by subsection (a), the return is accompanied by the amount of tax attributable to such net earnings.

In any case described in the preceding sentence, no interest or penalty shall be assessed or collected on the amount of any tax due under chapter 2 of such Code solely by reason of the operation of section 1402(f) of such Code.

[Sec. 403(b), Social Security Amendments 1958 (72 Stat. 1044)]

§ 1.1402(f)–1 Computation of partner's net earnings from self-employment for taxable year which ends as result of his death.

(a) *Taxable years ending after August 28, 1958*—(1) *In general.* The rules for the computation of a partner's net earnings from self-employment are set forth in paragraphs (d) to (g), inclusive, of § 1.1402(a)–2. In addition to the net earnings from self-employment computed under such rules for the last taxable year of a deceased partner, if a partner's taxable year ends after August 28, 1958, solely because of death, and on a day other than the last day of the partnership's taxable year, the deceased partner's net earnings from self-employment for such year shall also include so much of the deceased partner's distributive share of partnership ordinary income or loss (see subparagraph (3) of this paragraph) for the taxable year of the partnership in which his death occurs as is attributable to an interest in the partnership prior to the month following the month of his death.

(2) *Computation.* (i) The deceased partner's distributive share of partnership ordinary income or loss for the partnership taxable year in which he died shall be determined by applying the rules contained in paragraphs (d) to (g), inclusive, of § 1.1402(a)–2, except that paragraph (e) shall not apply.

(ii) The portion of such distributive share to be included under this section in the deceased partner's net earnings from self-employment for his last taxable year shall be determined by treating the ordinary income or loss constituting such distributive share as having been realized or sustained ratably over the period of the partnership taxable year during which the deceased partner had an interest in the partnership and during which his estate, or any other person succeeding by reason of his death to rights with respect to his partnership interest, held such interest in the partnership or held a right with respect to such interest. The amount to be included under this section in the deceased partner's net earnings from self-employment for his last taxable year will, therefore, be determined by multiplying the deceased partner's distributive share of partnership ordinary income or loss for the partnership taxable year in which he died, as determined under subdivision (i) of this subparagraph, by a fraction, the denominator of which is the number of calendar months in the partnership taxable year over which the ordinary income or loss constituting the deceased partner's distributive share of partnership income or loss

for such year is treated as having been realized or sustained under the preceding sentence and the numerator of which is the number of calendar months in such partnership taxable year that precede the month following the month of his death.

(3) *Definition of "deceased partner's distributive share".* For the purpose of this section, the term "deceased partner's distributive share" includes the distributive share of his estate or of any other person succeeding, by reason of his death, to rights with respect to his partnership interest. It does not include any share attributable to a partnership interest which was not held by the deceased partner at the time of his death. Thus, if a deceased partner's estate should acquire an interest in a partnership additional to the interest to which it succeeded upon the death of the deceased partner, the amount of the distributive share attributable to such additional interest acquired by the estate would not be included in computing the "deceased partner's distributive share" of the partnership's ordinary income or loss for the partnership taxable year.

(4) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). B, an individual who files his income tax returns on the calendar year basis, is a member of the ABC partnership, the taxable year of which ends on June 30. B dies on October 17, 1958, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law until June 30, 1959. B's distributive share of the partnership's ordinary income, as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)–2, for the taxable year of the partnership ended June 30, 1958 is $2,400. His distributive share, including the share of his estate, of such partnership's ordinary income, as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)–2 (with the exception of paragraph (e)), for the taxable year of the partnership ended June 30, 1959 is $4,500. The portion of such $4,500 attributable to an interest in the partnership prior to the month following the month in which he died is $4,500×4/12 (4 being the number of months in the partnership taxable year in which B died which precede the month following the month of his death and 12 being the number of months in such partnership taxable year in which B and his estate had an interest in the partnership) or $1,500. The amount to be included in the deceased partner's net earnings from self-employment for his last taxable year is $3,900 ($2,400 plus $1,500).

Example (2). If in the preceding example B's estate is entitled to only $1,000, the amount of B's distributive share of partnership ordinary income for the period July 1, 1958 through October 17, 1958, such $1,000 is considered to have been realized ratably over the period preceding B's death and will be included in B's net earnings from self-employment for his last taxable year.

Example (3). X, who reports his income on a calendar year basis, is a member of a partnership which also reports its income on a calendar year basis. X dies on June 30, 1959, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law. On September 15, 1959, X's estate sells the partnership interest to which it succeeded on the death of X. X's distributive share of partnership income for 1959 is $5,500. $600 of such amount is X's share of the gain from the sale of a capital asset which occurs on May 1, 1959, and $400 of such amount is the estate's share of the gain from the sale of a capital asset which occurs on July 15, 1959. The remainder of such amount is income from services rendered. X's distributive share of partnership ordinary income for 1959, as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)–2 (with the exception of paragraph (e)), is $4,500 ($5,500 minus $1,000). The portion of such share attributable to an interest in the partnership prior to the month following the month of his death is $4,500×6/8.5 (6 being the number of months in the partnership taxable year in which X died as precede the month following the month of his death and 8.5 being the number of months in such partnership taxable year in which X and his estate had an interest in the partnership) or $3,176.47.

(b) *Options available to farmers*—(1) *Special rule.* In determining whether the optional method available to a member of a farm partnership in computing his net earnings from self-employment may be applied, and in applying such method, it is necessary to determine the partner's distributive share of partnership gross income and the partner's distributive share of income described in section 702(a)(9). See section 1402(a) and § 1.1402(a)–14. If section 1402(f) and this section apply, or may be made applicable under section 403(b)(2) of the Social Security Amendments of 1958 and paragraph (c) of this section, for the last taxable year of a deceased partner, such partner's distributive share of income described in section 702(a)(9) for his last taxable year shall be determined by including therein any amount which is included under section 1402(f) and this section in his net earnings from self-employment for such taxable year. Such a partner's distributive share of partnership gross income for his last taxable year shall be determined by including therein so much of the deceased partner's distributive share (see paragraph (a)(3) of this section) of partnership gross income, as defined in section 1402(a) and paragraph (b) of § 1.1402(a)–14, for the partnership taxable year in which he died as is attributable to an interest in the partnership prior to the month following the month of his death. Such allocation shall be made in the same manner as is prescribed in paragraph (a)(2) of this section for determining the portion of a deceased partner's distributive share of partnership ordinary income or loss to be included under section 1402(f) and this section in his net earnings from self-employment for his last taxable year.

(2) *Examples.* The principles set forth in this paragraph may be illustrated by the following examples:

Example (1). X, an individual who files his income tax returns on a calendar year basis, is a member of the XYZ farm partnership, the taxable year of which ends on March 31. X dies on May 31, 1959, and his estate succeeds to his partnership interest and continues as a partner in its own right under local law until March 31, 1960. X's distributive share of the partnership's ordinary income, determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)–2, for the taxable year of the partnership ended March 31, 1959, is $1,200. His distributive share, including the share of his estate, of such partnership's ordinary loss as determined under paragraphs (d) to (g), inclusive, of § 1.1402(a)–2 (with the exception of paragraph (e)), for the taxable year of the partnership ended March 31, 1960, is $600. The portion of such $600 attributable to an interest in the partnership prior to the month following the month in which he died is $600×2/12 (2 being the number of months in the partnership taxable year in which X died which precede the month following the month of his death and 12 being the number of months in such partnership taxable year in which X and his estate had an interest in the partnership) or $100. X is also a member of the ABX farm partnership, the taxable year of which ends on May 31. His distributive share of the partnership loss described in section 702(a)(9) for the partnership taxable year ending May 31, 1959 is $200. Section 1402(f) and this section do not apply with respect to such $200 since X's last taxable year ends, as a result of his death, with the taxable year of the ABX partnership. Under this paragraph the $100 loss must be included in determining X's distributive share of XYZ partnership income described in section 702(a)(9) for the purpose of applying the optional method available to farmers for computing net earnings from self-employment. Further, the resulting $1,100 of income must be aggregated, pursuant to paragraph (c) of § 1.1402(a)–14, with the $200 loss, X's distributive share of ABX partnership loss described in section 702(a)(9), for purposes of applying such option. The representative of X's estate may exercise the option described in paragraph (a)(2)(ii) of § 1.1402(a)–14, provided the portion of X's distributive share of XYZ partnership gross income for the taxable year ended March 31, 1960, attributable to an interest in the partnership prior to the month following the month in which he died (the allocation being made in the manner prescribed for allocating his $600 distributive share of XYZ partnership loss for such year), when aggregated with his distributive share of XYZ partnership gross income for the partnership taxable year ended March 31, 1959, and with his distributive share of ABX partnership gross income for the partnership taxable year ended May 31, 1959, results in X having more than $1,800 of gross income from the trade or business of farming. If such aggregate amount of gross income is not more than $1,800, the option described in paragraph (a)(2)(i) of § 1.1402(a)–14, is available.

Example (2). A, a sole proprietor engaged in the business of farming, files his income tax returns on a calendar year basis. A is also a member of partnership engaged in an agricultural activity. The partnership files its returns on the basis of a fiscal year ending March 31. A dies June 29, 1959. A's gross income from farming as a sole proprietor for the six-month period comprising his taxable year which ends because of death is $1,200 and his actual net earnings from self-employment based thereon is $300. As of March 31, 1959, A's distributive share of the gross income of the farm partnership is $2,000 and his distributive share of income described in section 702(a)(9) based thereon is $900. The amount of A's distributive share of the partnership's ordinary income for its taxable year ended March 31, 1960, which may be included in his net earnings from self-employment under section 1402(f) and paragraph (a) of this section is $200. The amount of the deceased partner's distributive share of partnership gross income attributable to an interest in the partnership prior to the month following the month of his death as is determined, pursuant to subparagraph (1) of this paragraph, under paragraph (a) of this section is $1,800. An aggregation of the above figures produces a gross income from farming of $5,000 and actual net earnings from self-employment of $1,400. Under these circumstances none of the options provided by section 1402(a) may

be used. If the actual net earnings from self-employment has been less than $1,200, the option described in paragraph (a)(2)(ii) of § 1.1402(a)–14 would have been available.

(c) *Taxable years ending after 1955 and on or before August 28, 1958*—(1) *Requirement of election.* If a partner's taxable year ended, as a result of his death, after 1955 and on or before August 28, 1958, the rules set forth in paragraph (a) of this section may be made applicable in computing the deceased partner's net earnings from self-employment for his last taxable year provided that—

(i) Before January 1, 1960, there is filed, by the person designated in section 6012(b)(1) and paragraph (b)(1) of § 1.6012–3, a return (or amended return) of the tax imposed by chapter 2 for the taxable year ending as a result of death, and

(ii) Such return, if filed solely for the purpose of reporting net earnings from self-employment resulting from the enactment of section 1402(f), is accompanied by the amount of tax attributable to such net earnings.

(2) *Administrative rule of special application.* Notwithstanding the provisions of sections 6601, 6651, and 6653 (see such sections and the regulations thereunder) no interest or penalty shall be assessed or collected on the amount of any self-employment tax due solely by reason of the operation of section 1402(f) in the case of an individual who died after 1955 and before August 29, 1958.

§ 1.1402(g) Statutory provisions; definitions; treatment of certain remuneration erroneously reported as net earnings from self-employment.

SEC. 1402. *Definitions.* * * *

(g) *Treatment of certain remuneration erroneously reported as net earnings from self-employment.* If—

(1) An amount is erroneously paid as tax under section 1401, for any taxable year ending after 1954 and before 1962, with respect to remuneration for service described in section 3121(b)(8) (other than service described in section 3121(b)(8)(A)), and such remuneration is reported as self-employment income on a return filed on or before the due date prescribed for filing such return (including any extension thereof),

(2) The individual who paid such amount (or a fiduciary acting for such individual or his estate, or his survivor (within the meaning of section 205(c)(1)(C) of the Social Security Act)) requests that such remuneration be deemed to constitute net earnings from self-employment,

(3) Such request is filed after the date of the enactment of this paragraph and on or before April 15, 1962,

(4) Such remuneration was paid to such individual for services performed in the employ of an organization which, on or before the date on which such request is filed, has filed a certificate pursuant to section 3121(k), and

(5) No credit or refund of any portion of the amount erroneously paid for such taxable year as tax under section 1401 (other than a credit or refund which would be allowable if such tax were applicable with respect to such remuneration) has been obtained before the date on which such request is filed or, if obtained, the amount credited or refunded (including any interest under section 6611) is repaid on or before such date,

then, for purposes of this chapter and chapter 21, any amount of such remuneration which is paid to such individual before the calendar quarter in which such request is filed (or before the succeeding quarter if such certificate first becomes effective with respect to services performed by such individual in such succeeding quarter), and with respect to which no tax (other than an amount erroneously paid as tax) has been paid under chapter 21, shall be deemed to constitute net earnings from self-employment and not remuneration for employment. For purposes of section 3121(b)(8)(B) (ii) and (iii), if the certificate filed by such organization pursuant to section 3121(k) is not effective with respect to services performed by such individual on or before the first day of the calendar quarter in which the request is filed, such individual shall be deemed to have become an employee of such organization (or to have become a member of a group described in section 3121(k)(1)(E)) on the first day of the succeeding quarter.

[Sec. 1402(g), as added by sec. 105(c)(1), Social Security Amendments 1960 (74 Stat. 944)]

§ 1.1402(g)–1 Treatment of certain remuneration erroneously reported as net earnings from self-employment.

(a) *General rule.* If an amount is erroneously paid as self-employment tax, for any taxable year ending after 1954 and before 1962, with respect to remuneration for service (other than service described in section 3121(b)(8)(A)) performed in the employ of an organization described in section 501(c)(3) and exempt from income tax under section 501(a), and if such remuneration is reported as self-employment income on a return filed on or before the due date prescribed for filing such return (including any extension thereof), the individual who paid such amount (or a fiduciary acting for such individual or his estate, or his survivor (within the meaning of section 205(c)(1)(C) of the Social Security Act)), may request that such remuneration be deemed to constitute net earnings from self-employment. If such request is filed during the period September 14, 1960, to April 16, 1962, inclusive, and on or after the date on which the organization which paid such remuneration to such individual for services performed in its employ has filed, pursuant to section 3121(k), a certificate waiving exemption from taxes under the Federal Insurance Contributions Act, and if no credit or refund of any portion of the amount erroneously paid for such taxable year as self-employment tax (other than a credit or refund which would be allowable if such tax were applicable with respect to such remuneration) has been obtained before the date on which such request is filed or, if obtained, the amount credited or refunded (including any interest under section 6611) is repaid on or before such date, then, for purposes of the Self-Employment Contributions Act of 1954 and the Federal Insurance Contributions Act, any amount of such remuneration which is paid to such individual before the calendar quarter in which such request is filed (or before the succeeding quarter if such certificate first becomes effective with respect to services performed by such individual in such succeeding quarter) and with respect to which no tax (other than an amount erroneously paid as tax) has been paid under the Federal Insurance Contributions Act, shall be deemed to constitute net earnings from self-employment and not remuneration for employment. If the certificate filed by such organization pursuant to section 3121(k) is not effective with respect to services performed by such individual on or before the first day of the calendar quarter in which the request is filed, then, for purposes of section 3121(b)(8)(B) (ii) and (iii), such individual shall be deemed to have become an employee of such organization (or to have become a member of a group, described in section 3121(k)(1)(E), of employees of such organization) on the first day of the succeeding quarter.

(b) *Request for validation.* (1) No particular form is prescribed for making a request under paragraph (a) of this section. The request should be in writing, should be signed and dated by the person making the request, and should indicate clearly that it is a request that, pursuant to section 1402(g) of the Code, remuneration for service described in section 3121(b)(8) (other than service described in section 3121(b)(8)(A)) erroneously reported as self-employment income for one or more specified years be deemed to constitute net earnings from self-employment and not remuneration for employment. In addition, the following information shall be shown in connection with the request:

(i) The name, address, and social security account number of the individual with respect to whose remuneration the request is made.

(ii) The taxable year or years (ending after 1954 and before 1962) to which the request relates.

(iii) A statement that the remuneration was erroneously reported as self-employment income on the individual's return for each year specified and that the return was filed on or before its due date (including any extension thereof).

(iv) Location of the office of the district director with whom each return was filed.

(v) A statement that no portion of the amount erroneously paid by the individual as self-employment tax with respect to the remuneration has been credited or refunded (other than a credit or refund which would have been allowable if the tax had been applicable with respect to the remuneration); or, if a credit or refund of any portion of such amount has been obtained, a statement identifying the credit or refund and showing how and when the amount credited or refunded, together with any interest received in connection therewith, was repaid.

(vi) The name and address of the organization which paid the remuneration to the individual.

(vii) The date on which the organization filed a waiver certificate on Form SS–15, and the location of the office of the district director with whom it was filed.

(viii) The date on which the certificate became effective with respect to services performed by the individual.

(ix) If the request is made by a person other than the individual to whom the remuneration was paid, the name and address of that person and evidence which shows the authority of such person to make the request.

(2) The request should be filed with the district director of internal revenue with whom the latest of the returns specified in the request pursuant to subparagraph (1)(iii) of this paragraph was filed.

(c) *Cross references.* For regulations relating to section 3121(b)(8) and (k), see §§ 31.3121(b)(8)–2 and 31.3121(k)–1 of Subpart B of Part 31 of this chapter (Employment Tax Regulations). For regulations relating to exemption from income tax of an organization described in section 501(c)(3), see § 1.501(c)(3)–1.

§ 1.1403 Statutory provisions; miscellaneous provisions.

SEC. 1403. *Miscellaneous provisions*—(a) *Title of chapter.* This chapter may be cited as the "Self-Employment Contributions Act of 1954".

(b) *Cross references.* (1) For provisions relating to returns, see section 6017.

(2) For provisions relating to collection of taxes in Virgin Islands, Guam, American Samoa, and Puerto Rico, see section 7651.

[Sec. 1403 as amended by sec. 103(m), Social Security Amendments 1960 (74 Stat. 938)]

§ 1.1403–1 Cross references.

For provisions relating to the requirement for filing returns with respect to net earnings from self-employment, see § 1.6017–1. For other administrative provisions relating to the tax on self-employment income, see the applicable sections of the regulations in this part (§ 1.6001–1 et seq.) and the applicable sections of the regulations in Part 301 of this chapter (Regulations on Procedure and Administration).

PAR. 2. Section 1.6017–1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.6017–1 Self-employment tax returns.

(a) *In general.* (1) Every individual, other than a nonresident alien, having net earnings from self-employment, as defined in section 1402, of $400 or more for the taxable year shall make a return of such earnings. For purposes of this section, an individual who is a resident of the Virgin Islands, Puerto Rico, or (for any taxable year beginning after 1960) Guam or American Samoa is not to be considered a nonresident alien individual. See paragraph (d) of § 1.1402(b)–1. A return is required under this section if an individual has self-employment income, as defined in section 1402(b), even though he may not be required to make a return under section 6012 for purposes of the tax imposed by section 1 or 3. Provisions applicable to returns under section 6012(a) shall be applicable to returns under this section.

(2) Except as otherwise provided in this subparagraph, the return required by this section 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.

* * * * *

(c) *Social security account numbers.* (1) Every individual making a return of net earnings from self-employment for any period commencing before January 1, 1962, is required to show thereon his social security account number, or, if he has no such account number, to make application therefor on Form SS–5 before filing such return. However, the failure to apply for or receive a social security account number will not excuse the individual from the requirement that he file such return on or before the due date thereof. Form SS–5 may be obtained from any district office of the Social Security Administration or from any district director. The application shall be filed with a district office of the Social Security Administration or, in the case of an individual not in the United States, with the district office of the Social Security Administration at Baltimore, Maryland. An individual who has previously secured a social security account number as an employee shall use that account number on his return of net earnings from self-employment.

(2) For provisions applicable to the securing of identifying numbers and the reporting thereof on returns and schedules for periods commencing after December 31, 1961, see § 1.6109–1.

PAR. 3. Section 1.107–1 is amended by revising paragraph (a) to read as follows:

§ 1.107–1 Rental value of parsonages.

(a) In the case of a minister of the gospel, gross income does not include (1) the rental value of a home, including utilities, furnished to him as a part of his compensation, or (2) the rental allowance paid to him as part of his compensation to the extent such allowance is used by him to rent or otherwise provide a home. In order to qualify for the exclusion, the home or rental allowance must be provided as remuneration for services which are ordinarily the duties of a minister of the gospel. In general, the rules provided in §1.1402(c)–5 will be applicable to such determination. Examples of specific services the performance of which will be considered duties of a minister for purposes of section 107 include the performance of sacerdotal functions, the conduct of religious worship, the administration and maintenance of religious organizations and their integral agencies, and the performance of teaching and administrative duties at theological seminaries. Also, the service performed by a qualified minister as an employee of the United States (other than as a chaplain in the Armed Forces, whose service is considered to be that of a commissioned officer in his capacity as such, and not as a minister in the exercise of his ministry), or a State, Territory, or possession of the United States, or a political subdivision of any of the foregoing, or the District of Columbia, is in the exercise of his ministry provided the service performed includes such services as are ordinarily the duties of a minister.

PAR. 4. Section 1.121 is amended by revising paragraph (18) of section 121(a), as set forth therein, and the historical note at the end thereof to read as follows:

§ 1.121 Statutory provisions; cross references to other acts.

SEC. 121. *Cross references to other acts.* (a) For the exemption of—

* * * * *

(18) Benefits under laws administered by the Veterans' Administration, see section 3101 of title 38, United States Code.

[Sec. 121(a)(18) as added by section 501(t), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 885); sec. 2201(25), Veterans' Benefits Act of 1957 (71 Stat. 160); sec. 13(t), Act of Sept. 2, 1958 (Pub. Law 85–857), 72 Stat. 1266)]

PAR. 5. Section 1.1361–3 is amended by revising paragraph (a)(5) to read as follows:

§ 1.1361–3 Code provisions applicable.

(a) *Subtitle A.* * * *

(5) In determining self-employment income for purposes of chapter 2, subtitle A of the Code, the income of a proprietor or a partner shall be determined in accordance with paragraph (f) or (h) of § 1.1402(a)–2, as the case may be, without regard to any election under section 1361.

[F.R. Doc. 62–12563; Filed, Dec. 19, 1962; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[7 CFR Part 319]

NURSERY STOCK, PLANTS, AND SEEDS

Notice of Public Hearing

On November 17, 1962, there was published in the FEDERAL REGISTER (27 F.R. 11347) a notice of rule making concerning proposed amendments of §§ 319.37–9, 319.37–15, and 319.37–16 of the regulations relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37–9, 319.37–15, 319.37–16) and administrative instructions appearing as 7 CFR 319.37–16a, issued pursuant to the provisions of sections 1, 5, and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 154, 159, 162). The notice proposed that the regulations and administrative instructions be amended in the following respects:

1. Section 319.37–9 would be amended to read as follows:

§ 319.37–9 Treatment.

(a) Unless otherwise provided in the regulations in this subpart, all restricted plant material, except bulbs, intended for entry into the United States, shall be treated in a manner required by the inspector and under his supervision, and in a place approved by him. If this involves transportation of such material to a port

having special inspection or treating facilities, the inspector may require that the material be transported in bond under such safeguards as he may prescribe. The inspector may waive treatment if in his judgment it is advisable to do so when inspection has failed to show cause for treatment. The inspector shall prescribe a schedule of treatment for restricted plant material according to a method selected by him in accordance with administratively authorized procedures known to be effective under the conditions under which the treatment is applied. Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of any such treatment.

(b) The inspector may reject any restricted plant material (except bulbs) which at the time of inspection is of such nature or is in such condition that, in his judgment, it cannot be treated without substantial injury.

2. In § 319.37–15, the second sentence would be amended to read as follows:

§ 319.37–15 Freedom from soil.

* * *. This requirement does not apply to approved packing materials and approved growing media as provided in § 319.37–16.

3. Section 319.37–16 would be amended to read as follows:

§ 319.37–16 Approved packing materials and growing media.

All packing materials and growing media employed in connection with any shipment of restricted plant material to the United States are subject to approval for such use by the Director of Division, who shall specify in administrative instructions a list of approved packing materials and approved growing media and conditions for their use.

4. In § 319.37–16a, the section heading and paragraph (a) would be amended and a new paragraph (f) would be added to read, respectively as follows:

§ 319.37–16a Administrative instructions; list of approved packing materials and growing media and conditions for their use.

(a) The following materials, when free from sand, soil, or earth, unless otherwise noted, and when they have not been previously used as packing or otherwise with plants, are approved as packing materials for use in connection with any shipment of restricted plant materials imported in accordance with §§ 319.37 through 319.37–27:

Buckwheat hulls.

Charcoal (inspection is difficult when this material is used. It should be used only where its particular qualities are especially desirable and other approved packing materials are unsuitable).

Coral sand from Bermuda, when free from surface soil, and certified as such by the Director of Agriculture of Bermuda.

Excelsior.

Exfoliated vermiculite.

Ground cork.

Ground peat.

Perlite.

Sawdust.

Shavings.

Sphagnum moss.

Vegetable fiber when free of pulp, including coconut fiber and Osmunda fiber, but excluding sugarcane fiber and cotton fiber.

* * * * * *

(f) Materials listed in paragraph (a) of this section, when free from sand, soil, or earth, unless otherwise noted in said paragraph, are also approved for use as growing media and packing materials for restricted plant materials to be shipped to the United States in accordance with §§ 319.37 through 319.37–27 while such plants are still growing in such media, when the restricted plant materials have been produced under the supervision of a representative of the United States Department of Agriculture (hereinafter referred to as USDA representative) and in accordance with the following conditions:

(1) The growing medium shall be any of the approved materials listed in paragraph (a) of this section.

(2) The growing medium chosen shall not have been previously used with plants. The bales or containers of such materials shall be opened and placed on the growing beds only under the supervision of a USDA representative.

(3) Beds for growing plants in approved packing materials shall be approved for such growing by a USDA representative.

(4) The growing medium shall not be placed on the beds until their construction and cleanliness have been approved by a USDA representative.

(5) Beds previously used for growing plants must be completely freed of any earlier growing material.

(6) The bottoms and sides of the growing beds shall be constructed of tile, concrete, or other materials approved for such use by a USDA representative.

(7) In greenhouses with complete concrete floors growing beds may be placed on those floors. In houses without such complete concrete flooring the growing beds shall be raised at least 30 centimeters or 12 inches above the floor. All growing beds shall be appropriately segregated from all other plant production.

(8) The plants shall be grown throughout their lives in glass houses and shall not be moved outside during summer months for growing in beds of soil or leaf mold.

(9) Plants shall be grown throughout their lives in approved materials. They cannot first be rooted in sand, soil, earth, compost, or leaf mold, for transfer to beds filled with approved growing media.

(10) All necessary precautions shall be taken to prevent soil from being brought onto the growing beds by tools, water hoses, or any other means. Dibbles or other tools for use with the plants in question shall not be used in soil, compost, or leaf mold.

(11) When a nurseryman is ready to make a planting of cuttings for export to the United States in approved materials, he shall first notify the plant protection service of the country concerned so that organization can in turn notify a USDA representative who must supervise all such planting.

(12) The nurseryman, upon completing the planting of the growing beds in a greenhouse, shall submit a list of numbers and varieties of plants grown therein to the plant protection service of the country concerned, and a copy thereof shall be provided for the USDA representative.

(13) During the growing period, nutrient materials and clean water, free of organisms harmful to plants, may be applied as required.

(14) During the growing period the nurseryman may apply fungicidal or insecticidal sprays as he sees fit but shall also apply any additional sprays or treatments required by the USDA representative.

(15) The growing crop shall be subject to a continuous inspection by a USDA representative, for the detection of insect infestations or disease infections.

(16) When the plant crop is finally removed from the growing beds, each bed shall be thoroughly cleaned of any remaining growing material and such cleaning shall be aproved by the USDA representative before an approved growing medium is placed on the beds for a new planting.

(17) Each time a nurseryman is ready to prepare a shipment for export to the United States, he shall deliver in advance to the plant protection service of the country concerned a list of numbers and kinds of plants he is to remove from each greenhouse. A copy of this list, with the proposed date of packing, shall be given to the USDA representative who shall supervise the removal of the plants from the benches. Therefore, ample notice must be given of intent to ship.

(18) Each nurseryman growing plants for export to the United States shall permit a USDA representative in company with a representative of the plant protection service of the country concerned to visit his premises as may be found necessary.

(19) Each such nuseryman shall make no plantings until his greenhouse and growing beds have been approved by a USDA representative.

(Secs. 1, 5, 9, 37 Stat. 315–318, as amended; 7 U.S.C. 154, 159, 162; 19 F.R. 74, as amended)

The proposed amendments, if adopted, would make it possible to import into this country restricted plant material growing, and which has been grown exclusively, in approved materials that have not been previously used in association with plants other than the plants offered for entry into this country if the production of the plants offered for entry is carried out in the country of origin under the supervision of and as required by a representative of the U.S. Department of Agriculture in accordance with specified conditions. The growing of such plants in materials contaminated with sand, soil, or earth, or in materials which have been previously used with plants other than those which are offered for entry into the United States, would disqualify the plants for entry. It is also proposed to add "Perlite" to the list of approved materials.

The notice of rule making invited the submission of written data, views or arguments in connection with the proposals within 30 days after the date of

their publication in the FEDERAL REGISTER.

There has been such widespread interest in the proposed amendments that it is considered desirable to schedule a public hearing for their further consideration. For the benefit of those desiring to prepare material for the hearing, the proposals are republished herein.

Notice is hereby given under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that, pursuant to the provisions of sections 1, 5, and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 154, 159, 162), a public hearing to consider the aforesaid proposals will be held before a representative of the Agricultural Research Service in the Jefferson Auditorium of the U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C., beginning at 10 a.m., February 6, 1963, and, if necessary, will be continued in the Freer Art Gallery Auditorium, 12th Street and Independence Avenue SW., Washington, D.C., the following day, February 7, 1963, beginning at 10 a.m. At this hearing any interested person may appear and be heard, either in person or by attorney, on the proposals. Any interested person who desires to submit written data, views, or arguments on the proposals may do so by filing the same with the Director of the Plant Quarantine Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., on or before February 6, 1963, or with the presiding officer at the hearing.

Done at Washington, D.C., this 14th day of December 1962.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 62-12564; Filed, Dec. 19, 1962; 8:48 a.m.]

[7 CFR Part 322]

IMPORTATION OF ADULT HONEYBEES INTO THE UNITED STATES

Notice of Proposed Rule Making

Notice is hereby given under section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that the Secretary of Agriculture and the Secretary of the Treasury are considering the revision of regulations relating to the importation of adult honeybees into the United States (7 CFR Part 322) issued pursuant to the provisions of the Act of August 31, 1922 (42 Stat. 833; 7 U.S.C. 281–282).

The purpose of the proposed revision is to conform the regulations to the amendment of the aforesaid act approved July 19, 1962 (Public Law 87–539).

The proposed revision is as follows:

PART 322—IMPORTATION OF ADULT HONEYBEES INTO THE UNITED STATES

Sec.
322.1 Act.
322.2 Administrator.
322.3 Adult honeybees.
322.4 Honeybee diseases.
322.5 Person.
322.6 United States.
322.7 Prohibition on importation.
322.8 Condition of entry.
322.9 Application for entry.
322.10 Applicability of State laws.

AUTHORITY: §§ 322.1 to 322.10 issued under sec. 1, 42 Stat. 833, as amended by Pub. Law 87–539; 7 U.S.C. 281.

§ 322.1 Act.

The act of August 31, 1922, as amended (42 Stat. 833, as amended; 7 U.S.C. 281–282).

§ 322.2 Administrator.

The Administrator of the Agricultural Research Service, United States Department of Agriculture, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 322.3 Adult honeybees.

Queen bees, worker bees, and drones or male bees of all species of Apis.

§ 322.4 Honeybee diseases.

Those diseases dangerous to the adult honeybee, as distinguished from diseases which attack only the brood or developmental stages of the honeybee, except that the disease caused by the protozoan parasite Nosema apis, sometimes known as Nosema-disease, now widespread in the United States, shall not be considered as a disease dangerous to adult honeybees for the purposes of the regulations in this part.

§ 322.5 Person.

Individual, partnership, corporation, association, or any other business unit.

§ 322.6 United States.

The States, the District of Columbia, Guam, Puerto Rico and the Virgin Islands of the United States.

§ 322.7 Prohibition on importation.

Except as provided in this part, the importation into the United States of adult honeybees is prohibited and all adult honeybees offered for entry shall be destroyed if not immediately exported.

§ 322.8 Conditions of entry.

(a) Except as provided in this section, no person shall offer adult honeybees for entry into the United States unless he has been issued a permit for the importation of such honeybees in accordance with the provisions of this part.

(b) The Administrator, having determined that no disease dangerous to adult honeybees exists in Canada and that adequate precautions have been taken to prevent the importation of adult honeybees into Canada from countries where such dangerous diseases are known to exist, hereby authorizes the unrestricted importation of adult honeybees from Canade by any person.

(c) Importation of adult honeybees from any country other than Canada shall be conditioned upon a determination by the Administrator that no disease dangerous to adult honeybees exists in the country in question and that adequate precautions have been taken by such country to prevent the importation or entry of adult honeybees from countries where such dangerous diseases exist. The determination of the Administrator shall be based upon adequate investigation by the Agricultural Research Service. In arriving at a decision on an application for the importation into the United States of adult honeybees the Administrator may consider information available from all sources, including, but not limited to, publications, reports, records of the Department and of other governmental agencies. In the absence of substantial evidence that diseases dangerous to adult honeybees do not exist in the country in question or that adequate precautions have been taken by the country in question to prevent the importation or entry of adult honeybees from countries where such dangerous diseases exist, he shall deny the application. In the event he finds that under the conditions existing in areas surrounding the country in question adequate precautions cannot be taken by such country to prevent the entry of adult honeybees from countries where diseases dangerous to adult honeybees exist, he shall deny the application.

(d) The Agricultural Research Service, United States Department of Agriculture, may import into the United States from any country adult honeybees for experimental or scientific purposes.

§ 322.9 Application for entry.

(a) A written application for permission to import adult honeybees into the United States from countries other than Canada may be submitted by any person to the Administrator. The application shall set forth the name and address of the applicant; the species of honeybees and number desired to be imported; the country of origin and the country from which such honeybees are to be imported; the name and address of the person from whom such honeybees are to be obtained; the purpose for which such honeybees will be used; the name and address of the person who will receive the honeybees and the place of their utilization. The Administrator may request any additional information that he deems necessary for a determination on the application.

(b) In the event the Administrator determines that the granting of the application to import adult honeybees is in accordance with the requirements of this part and the provisions of the Act, he shall issue to the applicant a permit for the importation of the honeybees in question. The Administrator may impose such terms and conditions upon granting any application as he finds necessary to effectuate the purposes of the Act.

(c) In the event the Administrator determines the application should be denied, he shall inform the applicant of the reason for such denial.

§ 322.10 Applicability of State laws.

Nothing in the regulations in this part shall interfere with the regulations of any State pertaining to the control of the diseases of bees, either in the adult stage or of the brood, and a removal of the restrictions of this Act as applied

to any country shall not be construed as granting permission for importations prohibited by laws of the State into which shipment is contemplated.

All persons who desire to submit written data, views, or arguments in connection with the proposed revision should file the same with the Director of the Plant Quarantine Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C., within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of December 1962.

[SEAL] ORVILLE L. FREEMAN,
Secretary of Agriculture.

HENRY H. FOWLER,
Acting Secretary of the Treasury.

[F.R. Doc. 62-12565; Filed, Dec. 19, 1962; 8:48 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Parts 1003, 1016]

[Docket No. AO-293-A6, AO-312-A3]

MILK IN WASHINGTON, D.C., AND AND UPPER CHESAPEAKE BAY MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Baltimore, Maryland, on June 11-12, 1962, and continued at Arlington, Virginia, on June 13, 1962, pursuant to notice thereof issued on May 29, 1962 (27 F.R. 5195).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary of Agriculture, on September 7, 1962 (27 F.R. 9066; F.R. Doc. 62-9123) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision (27 F.R. 9066; F.R. Doc. 62-9123) are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. Under *Preliminary statement*, the last sentence of the paragraph immediately following the list of issues is changed.

2. Under item 5 *Diversion*, the first paragraph and the first sentence of the third paragraph are changed.

3. Under item 12 *Class I price*, the twelfth, thirteenth, fourteenth, and seventeenth paragraphs are revised and following the last paragraph, two new paragraphs are added.

The material issues on the record of the hearing relate to:

A. Issues with respect to the Washington, D.C., order:

1. Definition of producer with respect to delivery of milk to a plant regulated under another order.

2. Qualification of a cooperative association as a handler on bulk tank milk delivered from the farm to other handlers for the cooperative's account.

3. Shrinkage allowances.

4. Modification of base and excess milk provisions.

B. Issues with respect to the Upper Chesapeake Bay order:

5. Diversion of producer milk to nonpool plants.

6. Classification of:

(a) Fortified milk products; (b) milk dumped; and (c) milk lost in transit.

7. Shrinkage allowances.

8. Modification of base and excess milk provisions.

9. Type of pool.

C. Issues with respect to both the Washington, D.C., and the Upper Chesapeake Bay orders:

10. Classification of fluid cream disposition.

11. Application of allocation provisions to milk received from another Federal order market.

12. Class I prices.

13. Miscellaneous and conforming changes.

A proposal with respect to pool plant qualifications under the Washington, D.C., order was not supported at the hearing. This decision deals with Issue No. 5 with respect to diversion under the Upper Chesapeake Bay order and Issue No. 12 with respect to Class I prices under both orders.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

5. *Diversion.* The diversion provisions of the producer definition in the Upper Chesapeake Bay order should be modified to allow more diversion on a percentage basis during the months of October, November, January and February.

The term "diversion" is used to mean the movement of a producer's milk from the farm directly to a nonpool plant while the farmer nevertheless maintains his producer status. Such diversion is an ordinary part of the handling of milk supplies for fluid milk marketing areas. Assurance of an adequate, reliable supply for the market contemplates some reserve in excess of handlers' immediate fluid requirements to meet variations in Class I sales as well as seasonal variation of production. Diversion of reserve milk to nonpool manufacturing plants is more economical than first assembling the milk at a pool plant for subsequent transfer to a manufacturing plant. The advantage of such movement has been enhanced by bulk tank truck pickup at farms, which is the predominant method used in this market.

Under present Upper Chesapeake Bay order provisions, a producer's milk may be diverted to a nonpool plant on any day in the months of March through September, but diversion in other months is limited. During any month of the period October through February a producer's milk may be diverted on 10 days (5 days in the case of every-other-day delivery). As an alternative, it is provided that the total milk of a cooperative's membership may be 10 percent diverted during any of the months of October, November, January and February, and 15 percent in December. The same percentages apply to milk of producers received by handlers who are not cooperative associations. While the percentage diversion allowance is a lesser proportion of the total producer milk during a month than may be diverted on the basis of 10 days per month, it nevertheless provides desirable flexibility and economy in the handling of reserve milk.

Proponent for the change in the diversion provisions is a cooperative association which has assumed responsibility for disposing of a very large part of the reserve milk in the market. Most of this reserve milk is moved to two manufacturing plants, one of which is a pool plant at Westminster, Maryland, and the other, a nonpool plant at Laurel, Maryland. These plants represent the principal outlets readily available with capacity to handle the reserve milk.

The proponent complained that the present diversion provisions tend to restrict the choice of manufacturing outlets during the months of October through February. The present limitations have impelled the cooperative to move substantially more milk to the pool manufacturing plant than is permitted to be diverted to the nonpool plant under the 10 percent diversion allowance.

Greater flexibility in the disposition of reserve milk is desirable. The cooperative association should not be so largely dependent upon pool status of the manufacturing plant. It is concluded the percentage allowance for diverted milk should be 15 percent in each of the months of October through February.

Diversion on a percentage basis may be made under the present order provisions by a cooperative for its members, and by a proprietary handler with respect to milk of either cooperative members or nonmembers. To avoid possible confusion as to diversions by cooperatives and other handlers of cooperative member milk, it should be provided under the percentage diversion provision that member milk will be diverted only for the account of the association. All nonmember milk which is diverted would be, of course, for the account of the operator of the pool plant from which it is diverted. The percentage allowance for nonmember milk should be stated separately.

It would be incumbent upon a handler receiving member milk to ascertain, prior to diverting any of such milk, the basis on which the cooperative is accounting for milk it is diverting to nonpool plants during the month. If the cooperative association is using the percentage basis for diversion, no other handler could account for milk of its mem-

bers under any diversion provision. It is possible, however, under the provisions adopted herein that the physical arrangements for diversion of member milk might be made by a handler other than the cooperative association under agreement with the association that such diversion will be reported by the association as diversion for its account. The diversion provision should be modified to clearly exclude delivery of milk to a plant where it is priced as producer milk under another order or to the plant of a producer-handler.

12. *Class I price.* The Class I price provisions of the Washington, D.C., and Upper Chesapeake Bay orders should be revised to reflect current marketing conditions.

Since the establishment of the order in the Washington, D.C., market, effective July 1, 1959, the Class I price for milk testing 3.5 percent butterfat has been $5.55 for the months of July through February and $5.10 in other months. A price adjustment formula based on the average of Class I prices under the New York-New Jersey, Philadelphia, and Chicago Federal orders is also provided in the Washington order. The price adjustment depends on the change in the three-market average from the price in the same month of 1958. The Upper Chesapeake Bay order, made effective February 1, 1960, contains the same pricing provisions.

Class I prices in both markets were adjusted downward 20 cents per hundredweight, effective July 1, 1962, on the basis of the formula using the three-market average.[1] This is the only such adjustment the formula has produced.

The Washington, D.C., and Upper Chesapeake Bay markets are closely related and similar considerations affecting the pricing of milk prevail. Although each marketing area is supplied very largely by plants regulated under the respective order, handlers under the two orders compete for sales of milk and cream in fringe areas and particularly with respect to military contracts. Both markets obtain their milk supply largely from producing areas in the States of Maryland, Virginia and Pennsylvania. Producer receipts under both orders from the counties within these states show substantial overlapping of production areas. A large part of the reserve milk of both markets is handled in a single plant. Over the period during which the orders have been effective, the identity of Class I prices in the two markets has been well accepted by producers and handlers as a proper inter-market relationship.

For each of the markets, the supply of producer milk has increased during the period of order regulation. On an annual basis, the supply of milk on the Washington market increased 8.2 percent from 1960 to 1961. For the first six months of 1962, production for the market was 3.3 percent higher than a year earlier. In the Upper Chesapeake Bay market, producer milk supply was 7.3 percent higher in the 12-month period February 1961 through January 1962 than in the preceding 12-month period. In the first six months of 1962, it was 10.1 percent higher than a year before. Part of this increase, however, was due to the advent of new plants under regulation.

During the same periods, the ratio of producer milk to Class I disposition of handlers has also increased. For the Washington market, producer milk was 145.2 percent of handlers' Class I disposition in 1960, and 155.4 in 1961. Data are available for the first six months of 1962 on the basis of official notice of statistics published by the market administrators for these markets for June. For the first six months of each of the years 1960, 1961, and 1962, the ratio of producer milk in the Washington market to Class I disposition of handlers was 145.7 percent, 157.9 percent, and 157.4 percent, respectively.

During the lesser period in which the Upper Chesapeake Bay order has been effective, the ratio of producer milk to Class I disposition in the first twelve months (February 1960 through January 1961) was 133.4 percent, and was 138.0 percent in the like period of 1961–1962. For the first six months of 1961 the ratio was 136.8 percent, and for the same period of 1962 was 139.3 percent.

Combined data for both markets show a ratio of producer milk to Class I sales of 140.4 percent for the first twelve months both orders were in operation (February 1960 through January 1961). For the most recent twelve-month period, ending with June 1962 the ratio was 148.0 percent.

In view of the increased amplitude of supply in relation to Class I sales, it is concluded that the price adjustment produced by the formula is in line with changes in market conditions since the establishment of order regulation in the two markets.

Producers in both markets contended that the Class I price should be higher than the level herein adopted, and based their argument on the calculated cost during 1961 of Chicago order milk if delivered to Washington. In the decision of May 1, 1959, a similar calculation, based on 1958 data, produced a figure of $5.375 per hundredweight for the cost of Chicago order milk delivered to Washington. The comparable figure based on 1961 data would be $5.615. Both computations exclude the effect of the Chicago order supply-demand. In that decision, such calculation was used upon the premise that the Class I price ". . . cannot be established at a level which would exceed the cost of securing dependable alternative supplies." The Chicago-Washington relationship was thus used to establish an upper limit, or ceiling. While the same calculation, based on more recent data, might be similarly relevant as to an upper limit for the Washington or Upper Chesapeake Bay price, it does not at the same time establish a lower limit. The relevant information pertaining to local market conditions shows that the market is assured of an adequate supply at a price level lower than the price calculation based upon the Chicago price.

For the preceding reasons, the level of price established for July 1962 ($5.35) is taken as the basic price for months of July through February, and the corresponding seasonal level of $4.90 is taken as the basic price for the months of March through June. This would provide an annual average of $5.20. It is concluded that such basic prices should apply in both markets because of their close relationship and the similarity of conditions affecting the production and marketing of milk.

A pricing formula intended as a regular method for establishing prices should be based primarily on local conditions. Immediate application of a pricing formula based on data of production and Class I disposition in the markets, however, is prevented by the noncompliance of some handlers in the Upper Chesapeake Bay market and a consequent distortion of production and Class I sales data. While a temporary pricing formula is provided herein for an interim period (described elsewhere in these findings), it is desirable that a more permanent pricing formula be established to take effect when suitable data are available.

The present price formula in the two orders providing for automatic price adjustment based on the average of prices in three other markets was intended only as a temporary method for adjusting prices in line with changing conditions. In view of the considerable changes in the supply-sales relationship in the two markets since these orders were issued, the pricing provisions should give significance to local factors. A price adjustment factor based on the ratio of producer milk supply to Class I milk disposition would serve this purpose. In view of the desirability of maintaining the same Class I price in both markets, the price adjustment should be based on data for both markets.

The adjustment mechanism adopted herein is intended to reflect changing market conditions while at the same time assuring considerable stability in Class I pricing. The percentage relationship of producer milk to Class I disposition of pooled handlers in the most recent two-month period for which data are available should be the primary basis of the adjustment. Thus, a January Class I price adjustment would be based on producer milk supplies and Class I dispositions in the months of October and November preceding. Deviation of such current utilization percentages from a corresponding standard (base) percentage would provide the measure of the amount of price adjustment to be made. The order provisions herein adopted provide a table of standard utilization percentages which recognize seasonal changes in utilization of the two markets.

It is not to be expected, however, that the ratio of producer milk to Class I milk disposition will follow a precise seasonal pattern each year. For this reason, the standard utilization percentages include a range within which utilization may vary without producing price adjustment. Deviations of the current two-month utilization percentage above the maximum or below the minimum range

[1] Official notice is taken of market data published by the market administrators for Washington, D.C., and Upper Chesapeake Bay orders.

of these standards would be the basis for minus or plus adjustments, respectively, at the rate of 2 cents for each whole percentage of deviation. Two additional features limiting the adjustments will tend to assure that the adjustments will reflect substantial trends in utilization in the two markets. First, changes in the amount of the adjustment would be limited to 4 cents per month. Second, the amount of the adjustment would be limited in relation to the most recent 12-month average utilization percentage.

The 12-month utilization percentage (producer milk as a percent of Class I disposition) for the two markets increased from 140.4 percent in the period February 1960 through January 1961 to 148.0 percent in the most recent period of July 1961 through June 1962. During most of this period, the percentage shows a steady upward trend of supply in relation to Class I milk disposition, reaching a maximum of 149.2 percent in the 12 months ending with April 1962.

The six most recent 12-month utilization percentages (for periods ending with the months of January through June 1962) average approximately 148.5 percent. This is taken as a base utilization percentage from which future changes would be reckoned. The relationship of any current 12-month utilization percentage (that ending with the second month preceding the pricing month) to 148.5 percent would be used to establish a range within which the current two-month utilization percentage could affect the price. The applicable order language has been changed from the recommended decision only for the purpose of simplifying the computations.

If the supply-demand adjustment described herein had been in effect during 1961 and the first eight months of 1962, monthly price adjustments ranging from minus 4 cents to plus 6 cents would have occurred. The average for the period, including months in which no adjustment would have occurred, would have been a plus 0.5 cents.

A reasonable alignment of the price level in these markets with nearby other major markets in the East is desirable. With respect to the relationship to the Philadelphia and New York markets, the Secretary's decision of May 1, 1959, on the promulgation of the Washington, D.C., order (24 F.R. 3630) cites the findings of a committee of economists, who had studied the pricing problem, "* * * that the Washington market production area overlaps that of Philadelphia and to a degree that of New York and hence bulk milk supplies regulated by these orders are, in many instances, within easy trucking distance of Washington. They[2] concluded, therefore, that notwithstanding the need for general price alignment with Chicago, for reasons previously stated, it is essential that a close alignment also be maintained between Class I prices in the Washington, Philadelphia and New York markets." In that decision, it was concluded that, "* * * this mechanism will produce appropriate changes in the Washington Class I price which reflect changes on the national market for milk and cost factors affecting the supply and demand for milk and will maintain a reasonable alignment of price between markets during the interim period of operation of the order."

Although the prior and direct monthly relationship to the Chicago order price should be discontinued, price alignment for the Washington, D.C., and Upper Chesapeake Bay markets with the Philadelphia and New York-New Jersey markets is needed. The contiguity of production areas, which in some parts overlap, and the accessibility of milk supplies from such other markets indicate the need for reasonable price relationship.

For the purpose of making price comparisons, monthly prices in the several markets have been adjusted to the corresponding annual level by eliminating the seasonal adjustment, and the price for the Philadelphia market has been converted to a 3.5 percent butterfat basis. In the Philadelphia order, this is the "annual level" referred to in § 1004.50 (a) (3) adjusted for supply-demand and the relationship to the Midwestern condensery price. In the case of the New York-New Jersey prices, the announced Class I–A price for the 201–210 mile zone was divided by the seasonal adjustment factor. From this comparison of the Washington, D.C., Class I price with the average of the Philadelphia and New York-New Jersey prices, it is seen that the Washington price has been lower in 33 months of the 36-month period ending with June 1962. The average difference was 9 cents. During the first 6 months of 1962, the Washington, D.C., price averaged 7 cents under the Philadelphia and New York-New Jersey average.

The preceding historical data are not considered to show precisely what relationship should be maintained for the Washington and Upper Chesapeake Bay markets in comparison to the Philadelphia and New York markets. In view of the availability of supplies from the other markets, however, it is reasonable under foreseeable conditions that the price for the Washington and Upper Chesapeake Bay markets should not differ significantly from the past relationship to the average level of prices under the other orders. For this reason, a 15-cent limitation is adopted as the maximum amount by which the Class I price in the local markets might differ from the average of the Philadelphia and New York-New Jersey prices of the same month, in each case converted to an annual equivalent basis.

Because of uncertainty as to the outcome of recent litigation with respect to the Upper Chesapeake Bay order, and resulting distortion of data as to production and disposition in that market, it is not possible to apply at once the supply-demand adjustment (official notice is taken of Civil Action No. 13305 and 13147 in the United States District Court for the District of Maryland). A temporary price formula, to apply during 1963, is therefore provided in each order. This formula would establish the Class I price each month so that its annual equivalent would be 7 cents per hundredweight under the average of the New York and Philadelphia (3.5 percent butterfat basis) prices also computed on annual equivalent basis as described in preceding findings. This would maintain the same relationship as the average relationship which prevailed in the first six months of 1962. Nearly the same relationship prevailed in 1961 during which the Washington and Upper Chesapeake Bay prices averaged 6 cents under the combined average of the New York and Philadelphia prices. This temporary pricing formula will serve to reflect supply and demand conditions in the Northeastern region in a manner which is appropriate because of the relationships among these markets described in prior findings.

Exceptions by producer groups expressed concern that the price formula proposed in the recommended decision would result in a relationship of Washington, D.C., and Upper Chesapeake Bay prices to New York-New Jersey and Philadelphia prices at a level lower than that which previously prevailed. The preceding findings show, however, that the relationship adopted herein for the more permanent pricing formula would provide approximately as favorable a relationship as existed when order regulation began in this area. Further, the temporary formula for 1963 would provide as favorable a relation as in recent periods, and slightly more favorable than the relationship in early periods of regulation.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the isssuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the

[2] The committee.

price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreements and orders. Annexed hereto and made a part hereof are four documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Washington, D.C., Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Washington, D.C., Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Upper Chesapeake Bay Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Upper Chesapeake Bay Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreements be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreements are identical with those contained in the orders as hereby proposed to be amended by the attached orders which will be published with this decision.

Determination of representative period. The month of July 1962 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached orders amending the orders regulating the handling of milk in the Washington, D.C., and Upper Chesapeake Bay marketing areas, is approved or favored by producers, as defined under the terms of the orders as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on December 17, 1962.

ORVILLE L. FREEMAN,
Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Washington, D.C., Marketing Area.

§ 1003.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Washington, D.C., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Washington, D.C., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Assistant Secretary of Agriculture, on September 7, 1962, and published in the FEDERAL REGISTER on September 12, 1962 (27 F.R. 9066; F.R. Doc. 62-9123), shall be and are the terms and provisions of this order, and are set forth in full herein subject to the following revision: In § 1003.50, paragraph (a) is changed.

1. The introductory text and paragraph (a) in § 1003.50 is revised to read as follows:

§ 1003.50 Class prices.

Subject to the provisions of §§ 1003.51 and 1003.52 the minimum class prices per hundredweight of milk for the month shall be as follows:

(a) *Class I price.* The price for Class I milk shall be $5.35 per hundredweight for the months of July through February and $4.90 per hundredweight for the months of March through June subject to any supply-demand adjustment computed pursuant to subparagraph (1) of this paragraph: *Provided,* That the Class I price shall not differ by more than 15 cents from the average price determined pursuant to subparagraph (2) of this paragraph: *And provided further,* That the Class I price during the period beginning with the effective date of this amendment through December 1963, shall be the average price determined pursuant to subparagraph (2) of this paragraph minus 7 cents:

(1) Calculate a supply-demand adjustment pursuant to subdivisions (i) through (iii) of this subparagraph:

(i) Calculate the utilization percentages for the two-month period and the 12-month period each ending with the second preceding month, by dividing the total quantity of producer milk pooled under the Washington, D.C., and Upper Chesapeake Bay Federal milk orders during each period by the total quantity of pooled Class I milk (excluding any duplication because of disposition between plants) under both orders during the same period, respectively, and in each case multiply by 100. The two-month utilization percentage so computed (rounded to the nearest whole percent) shall be the "current utilization percentage" unless it is outside the range calculated pursuant to subdivision (ii) of this subparagraph, in which case the end of the range closest to the two-month utilization percentage shall be the "current utilization percentage".

(ii) Compute two percentages by adding 5 to, and by subtracting 5 from, the twelve-month utilization percentage computed pursuant to subdivision (i) of this subparagraph, and compute the deviations (rounded to the nearest whole percent) above or below 148.5 percent of the two resulting percentages. Add any such deviations above 148.5 percent to a percentage equal to the applicable monthly maximum standard utilization percentage in the table in subdivision (iii) of this subparagraph, and subtract any deviations below 148.5 percent from a percentage equal to the applicable monthly minimum standard utilization percentage in such table. The resulting percentages constitute the range referred to in subdivision (i) of this subparagraph.

(iii) Add to the monthly price a supply-demand adjustment of 2 cents for

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

each whole percent that the current utilization percentage is less than the applicable monthly minimum standard utilization percentage in the table in this subdivision, or subtract a supply-demand adjustment of 2 cents for each whole percent that the current utilization percentage is more than the applicable monthly maximum standard utilization percentage in the table: *Provided*, That the supply-demand adjustment for any month shall not differ from the supply-demand adjustment of the preceding month by more than 4 cents:

Month for which price applies	Month for which utilization is computed	Standard utilization percentage	
		Minimum	Maximum
January	October–November	133	137
February	November–December	133	137
March	December–January	138	142
April	January–February	140	144
May	February–March	140	144
June	March–April	143	147
July	April–May	156	160
August	May–June	160	164
September	June–July	159	163
October	July–August	160	164
November	August–September	152	156
December	September–October	138	142

(2) To the average of prices computed pursuant to subdivisions (i) and (ii) of this subparagraph add 15 cents in any of the months of July through February or subtract 30 cents from such average in any of the months of March through June:

(i) Compute the annual equivalent of the Class I price for the same month under Order No. 4 for the Philadelphia marketing area for milk testing 3.5 percent butterfat (based on the preceding month's butterfat differential) adjusted by adding 40 cents in the months of April, May and June and subtracting 40 cents in the months of October, November and December and no adjustment in other months.

(ii) Compute the annual equivalent of the Class I–A price for the same month (prior to seasonal adjustment) under Order No. 2 for the New York-New Jersey marketing area.

Order[1] Amending the Order Regulating the Handling of Milk in the Upper Chesapeake Bay Marketing Area

§ 1016.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Upper Chesapeake Bay Marketing Area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Upper Chesapeake Bay marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Assistant Secretary of Agriculture, on September 7, 1962, and published in the FEDERAL REGISTER on September 12, 1962 (27 F.R. 9066; F.R. Doc. 62–9123), shall be and are the terms and provisions of this order, and are set forth in full herein subject to the following revisions: Amendment Numbers 2 and 3 are changed to 1 and 2, respectively, and under Amendment 2, paragraph (a) of § 1016.50 is changed.

1. In section 1016.2, paragraph (e) is revised to read as follows:

§ 1016.2 Definitions of persons.

* * * * *

(e) "Producer" means any dairy farmer (except a producer-handler or a dairy farmer for other markets) with respect to milk of his production which is received at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1016.2(g)(4), or which is diverted to a nonpool plant (except a plant of a producer-handler or a plant where such milk would be priced as producer milk subject to the provisions of another order issued pursuant to the Act) during any month(s) of March through September, or which is diverted during any month(s) of October through February to such a nonpool plant in accordance with the provisions of subparagraphs (1), (2), or (3) of this paragraph: *Provided*, That the milk so diverted shall be deemed to have been received at the pool plant from which diverted: *And provided further*, That a handler shall notify a cooperative association prior to diverting milk of such cooperative's members during the month: *And provided also*, That if diversions by a cooperative association or other handler exceed the limits described in subparagraphs (1) or (2), respectively, of this paragraph, all diversions by such handler shall be subject to the limit of the number of days of diversion pursuant to subparagraph (3) of this paragraph:

(1) Diverted as the milk of a member of a cooperative association for the account of such association, if member milk so diverted does not exceed 15 percent of the total of such diverted milk and other milk of members of such cooperative association received at pool plants during the month;

(2) Diverted as the milk of a dairy farmer not a member of a cooperative association for the account of a handler not a cooperative association in his capacity as the operator of a pool plant from which the quantity of nonmember milk so diverted does not exceed 15 percent of the total of such diverted milk and other nonmember milk which is received at the pool plant during the month; or

(3) Diverted not more than 10 days (5 days in the case of every-other-day delivery) during the month, except that the definition of producer pursuant to this subparagraph shall not include any dairy farmer with respect to the milk of such farmer which is, during any month of the October through February period, delivered to nonpool plants on days in excess of the number of days specified in this subparagraph.

2. The introductory text and paragraph (a) in § 1016.50 is revised to read as follows:

§ 1016.50 Class prices.

Subject to the provisions of §§ 1016.51 and 1016.52 the minimum class prices per hundredweight of milk for the month shall be as follows:

(a) *Class I price.* The price for Class I milk shall be $5.35 per hundredweight for the months of July through February and $4.90 per hundredweight for the months of March through June subject to any supply-demand adjustment computed pursuant to subparagraph (1) of this paragraph: *Provided*, That the Class I price shall not differ by more than 15 cents from the average price determined pursuant to subparagraph (2) of this paragraph: *And provided further*, That the Class I price during the period beginning with the effective date of this amendment through December 1963, shall be the average price determined pursuant to subparagraph (2) of this paragraph minus 7 cents:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate the marketing agreements and marketing orders have been met.

(1) Calculate a supply-demand adjustment pursuant to subdivisions (i) through (iii) of this subparagraph:

(i) Calculate the utilization percentages for the two-month period and the 12-month period each ending with the second preceding month, by dividing the total quantity of producer milk pooled under the Washington, D.C., and Upper Chesapeake Bay Federal milk orders during each period by the total quantity of pooled Class I milk (excluding any duplication because of disposition between plants) under both orders during the same period, respectively, and in each case multiply by 100. The two-month utilization percentage so computed (rounded to the nearest whole percent) shall be the "current utilization percentage" unless it is outside the range calculated pursuant to subdivision (ii) of this subparagraph, in which case the end of the range closest to the two-month utilization percentage shall be the "current utilization percentage".

(ii) Compute two percentages by adding 5 to, and by subtracting 5 from, the twelve-month utilization percentage computed pursuant to subdivision (i) of this subparagraph, and compute the deviations (rounded to the nearest whole percent) above or below 148.5 percent of the two resulting percentages. Add any such deviations above 148.5 percent to a percentage equal to the applicable monthly maximum standard utilization percentage in the table in subdivision (iii) of this subparagraph, and subtract any deviations below 148.5 percent from a percentage equal to the applicable monthly minimum standard utilization percentage in such table. The resulting percentages constitute the range referred to in subdivision (i) of this subparagraph.

(iii) Add to the monthly price a supply-demand adjustment of 2 cents for each whole percent that the current utilization percentage is less than the applicable monthly minimum standard utilization percentage in the table in this subdivision, or subtract a supply-demand adjustment of 2 cents for each whole percent that the current utilization percentage is more than the applicable monthly maximum standard utilization percentage in the table: *Provided*, That the supply-demand adjustment for any month shall not differ from the supply-demand adjustment of the preceding month by more than 4 cents:

Month for which price applies	Month for which utilization is computed	Standard utilization percentage	
		Minimum	Maximum
January	October-November	133	137
February	November-December	133	137
March	December-January	138	142
April	January-February	140	144
May	February-March	140	144
June	March-April	143	147
July	April-May	156	160
August	May-June	160	164
September	June-July	159	163
October	July-August	160	164
November	August-September	152	156
December	September-October	138	142

(2) To the average of prices computed pursuant to subdivisions (i) and (ii) of this subparagraph add 15 cents in any of the months of July through February or subtract 30 cents from such average in any of the months of March through June:

(i) Compute the annual equivalent of the Class I price for the same month under Order No. 4 for the Philadelphia marketing area for milk testing 3.5 percent butterfat (based on the preceding month's butterfat differential) adjusted by adding 40 cents in the months of April, May and June and subtracting 40 cents in the months of October, November and December and no adjustment in other months.

(ii) Compute the annual equivalent of the Class I–A price for the same month (prior to seasonal adjustment) under Order No. 2 for the New York-New Jersey marketing area.

[F.R. Doc. 62–12577; Filed, Dec. 19, 1962; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 207]

[Docket No. 14148]

CHARTER TRIPS AND SPECIAL SERVICES

Passenger Charters Operated by All-Cargo Route Air Carriers; Extension of Time for Filing Comments

DECEMBER 17, 1962.

The Board, in 27 F.R. 11322 and by circulation of a notice of proposed rule making, EDR–48, dated November 13, 1962, gave notice that it had under consideration the questions (1) whether Part 207 should be amended to contain specific provisions on passenger charter trips by certificated all-cargo route air carriers, (2) if so, what the contents of such provisions should be, and (3) whether any other amendment to Part 207 should be adopted in light of the provisions of Public Law 87–528. Interested persons were invited to participate in the rule making proceeding by the submission of ten (10) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C., on or before December 17, 1962.

A request has been received that the time for filing such data, views or argument be extended. It appears to the undersigned that good cause has been shown for filing such comments, data, views or arguments concerning these proposals. The undersigned finds that it is in the public interest to extend the date to December 26, 1962, which will afford an additional nine-day period for such submissions.

Accordingly, pursuant to authority delegated under sections 7.3C and 7.6 of public notice PN–15, the undersigned hereby extends the date for submitting comments on the subject proposal until December 26, 1962. All relevant matter in communications received on or before this date will be considered by the Board before taking final action on these proposals. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

(Secs. 204(a), 1001, Federal Aviation Act of 1958; 72 Stat. 743, 788; 49 U.S.C. 1324, 1481)

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel,
Rules and Special Counsel Division.

[F.R. Doc. 62–12600; Filed; Dec. 19, 1962; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 40, 41, 42]

[Regulatory Docket No. 1522; Draft Release No. 62–54]

CLOSING AND LOCKING FLIGHT CREW COMPARTMENT DOORS

Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (sec. 11.45 27 F.R. 9585), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Parts 40, 41, and 42 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before January 21, 1963, will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time.

The amendments to the regulations proposed herein will require the door of the flight crew compartment of a large passenger-carrying airplane operated by an air carrier or commercial operator to be closed and locked during en route flight.

The operation of large airplanes under conditions of high-density traffic requires the flight crewmembers of such airplanes to give full attention to their duties and to be constantly alert and available for emergency action. Passenger conduct which distracts or interferes with the flight crewmembers in the performance of their duties affects the security and safety of the airplane. Therefore, the regulations for many years have restricted the admission of passengers and other persons to the flight crew compartment of airplanes used by air carriers and commercial operators. In conjunction with this requirement a means for locking all companionway doors which separate the passenger compartment from the flight crew compartment has been required as part of the equipment for most airplanes used by air carriers and commercial operators. However, the rules have not specifically required that the door to the

flight crew compartment be closed and locked during en route operations.

Other regulatory restrictions upon passenger conduct, such as those pertaining to the drinking of alcoholic beverages aboard aircraft, and the prevention of hijacking were recently adopted by this Agency. However, during previous rule making actions the Agency did not adopt a mandatory provision requiring the door between the passenger and the flight crew compartment to be closed and locked. Although the air carriers were requested to take such precautions during the hijacking incidents, this responsibility was left to the air carrier. Notwithstanding this responsibility, several incidents have been reported in which passengers, and in one instance, an animal were permitted in the flight crew compartment of the airplane during flight.

In view of the foregoing and of recent events involving the national security, the Agency considers it appropriate to propose amendments to Parts 40, 41, and 42 which will further provide for the security and safety of large passenger-carrying airplanes by making it mandatory to close and lock the door between the passenger and the flight crew compartment during en route operations. These proposed rules will apply to all large airplanes operated by an air carrier or commercial operator when engaged in the carriage of passengers in scheduled or charter flights.

Accordingly, notice is hereby given that it is proposed to amend Parts 40, 41, and 42 of the Civil Air Regulations as follows:

1. By adding a new § 40.372 to Part 40 to read as follows:

§ 40.372 Closing and locking of flight crew compartment doors.

Each door separating the flight crew compartment from the passenger compartment of a large airplane operated by an air carrier or commercial operator in the carriage of passengers shall be closed and locked during flight except during:

(a) The takeoff or landing of the airplane, or

(b) Such times as it may be necessary to provide access to the flight crew or passenger compartment for the crewmembers in the performance of their duties, or other persons authorized admission to the flight deck by § 40.356.

2. By promulgating amendments to Parts 41 and 42 of the Civil Air Regulations similar to that proposed herein.

These amendments are proposed under the authority of sections 313(a), 601, and 604 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 778; 49 U.S.C. 1354, 1421, 1424).

Issued in Washington, D.C., on December 6, 1962.

GEORGE C. PRILL,
Director,
Flight Standards Service.

[F.R. Doc. 62-12543; Filed, Dec. 19, 1962; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 62-WE-98]

CONTROLLED AIRSPACE

Proposed Alteration of Control Zone

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.65), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator (Part 71 (New) of the Federal Aviation Regulations, effective December 12, 1962, 27 F.R. 10352), the substance of which is stated below.

The Colorado Springs, Colo., control zone is designated within a 5-mile radius of Peterson Field. The Federal Aviation Agency has under consideration the alteration of the Colorado Springs control zone by enlarging the 5-mile radius zone to include the area within a 1-mile radius of Pikes Peak Airport, Fountain, Colo.

The Pikes Peak Airport is located adjacent to the southern edge of the present Colorado Springs control zone, and has a single runway aligned in a north/south direction. As a result, aircraft utilizing the Pikes Peak Airport must operate within the Colorado Springs control zone while approaching for landings to the south or after take-off to the north. In addition, the primary instrument approach procedure based on the Peterson Field ILS and two of the departure procedures at Peterson Field specify flight over or near the Pikes Peak Airport traffic pattern. Therefore, inclusion of the Pikes Peak Airport and its traffic pattern within the Colorado Springs control zone would provide a basis for the observance of uniform rules of flight at the two airports in accordance with the reported weather conditions at Peterson Field. Communications service at the Pikes Peak Airport will be furnished by the FAA control tower at Peterson Field.

If this action is taken, the Colorado Springs control zone would be designated within a 5-mile radius of Peterson Field (latitude 38°48'35" N., longitude 104°42'20" W.), and within a 1-mile radius of Pikes Peak Airport, Fountain, Colo. (latitude 38°43'40" N., longitude 104°42'00" W.).

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Western Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 9, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on December 13, 1962.

CLIFFORD P. BURTON,
Chief, Airspace Utilization Division.

[F.R. Doc. 62-12544; Filed, Dec. 19, 1962; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[AA 643.3–s]

STEEL WIRE RODS FROM BELGIUM

Purchase Price; Foreign Market Value

DECEMBER 14, 1962.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of steel wire rods from Belgium is less or likely to be less than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of steel wire rods from Belgium pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

The complaint in this case was made by the firm of Covington and Burling on behalf of the following domestic steel wire rod producers:

Bethlehem Steel Company.
Colorado Fuel & Iron Corporation.
Detroit Steel Corporation.
Armco Steel Corporation.
Jones & Laughlin Steel Corporation.
Republic Steel Corporation.
Youngstown Sheet and Tube Company.

[SEAL] PHILIP NICHOLS, JR.,
Commissioner of Customs.

[F.R. Doc. 62–12572; Filed, Dec. 19, 1962; 8:49 a.m.]

[AA 643.3–s]

STEEL WIRE RODS FROM FRANCE

Purchase Price; Foreign Market Value

DECEMBER 14, 1962.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of steel wire rods from France, except as to importations from the firm Societe Metallurgique de Normandie, Paris, France, is less or likely to be less than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of steel wire rods from France, except as to importations from the firm Societe Metallurgique de Normandie, Paris, France, pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

The complaint in this case was made by the firm of Covington and Burling on behalf of the following domestic steel wire rods producers:

Bethlehem Steel Company.
Colorado Fuel & Iron Corporation.
Detroit Steel Corporation.
Armco Steel Corporation.
Jones & Laughlin Steel Corporation.
Republic Steel Corporation.
Youngstown Sheet and Tube Company.

[SEAL] PHILIP NICHOLS, JR.,
Commissioner of Customs.

[F.R. Doc. 62–12573; Filed, Dec. 19, 1962; 8:49 a.m.]

[AA 643.3–s]

STEEL WIRE RODS FROM LUXEMBOURG

Purchase Price; Foreign Market Value

DECEMBER 14, 1962.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of steel wire rods from Luxembourg is less or likely to be less than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of steel wire rods from Luxembourg pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

The complaint in this case was made by the firm of Covington and Burling on behalf of the following domestic steel wire rod producers:

Bethlehem Steel Company.
Colorado Fuel & Iron Corporation.
Detroit Steel Corporation.
Armco Steel Corporation.
Jones & Laughlin Steel Corporation.
Republic Steel Corporation.
Youngstown Sheet and Tube Company.

[SEAL] PHILIP NICHOLS, JR.,
Commissioner of Customs.

[F.R. Doc. 62–12574; Filed, Dec. 19, 1962; 8:49 a.m.]

[AA 643.3–s]

STEEL WIRE RODS FROM WEST GERMANY

Purchase Price; Foreign Market Value

DECEMBER 14, 1962.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from information presented to me, that the purchase price of steel wire rods from West Germany is less or likely to be less than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of steel wire rods from West Germany pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

The complaint in this case was made by the firm of Covington and Burling on behalf of the following domestic steel wire rod producers:

Bethlehem Steel Company.
Colorado Fuel & Iron Corporation.
Detroit Steel Corporation.
Armco Steel Corporation.
Jones & Laughlin Steel Corporation.
Republic Steel Corporation.
Youngstown Sheet and Tube Company.

[SEAL] PHILIP NICHOLS, JR.,
Commissioner of Customs.

[F.R. Doc. 62–12575; Filed, Dec. 19, 1962; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 299]

ARIZONA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

DECEMBER 10, 1962.

1. Plat of survey of the lands described below will be officially filed in the Land Office, Phoenix, Arizona effective January 15, 1963, at 10 a.m.:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 6 S., R. 28 E.,
Sec. 1, lots 3, 4, 5, 6, S½N½, S½;
Sec. 2, lots 1, 2, 3, 4, S½N½, S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, lots 6, 7, S½NE¼, SE¼;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 11;
Sec. 12;
Sec. 13;
Sec. 14;
Sec. 15;
Sec. 17, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 18, lots 3, 4, 5, 6, 7, 8, S½NE¼, E½W½, SE¼;
Sec. 19, lots 1, 2, 3, 4, E½W½, E½;
Sec. 20, lots 1, 2, 3, 4, E½W½, E½;
Sec. 21;
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27;
Sec. 28;
Sec. 30, lots 3, 4, E½NW¼, E½;
Sec. 33;
Sec. 34;
Sec. 35.

The areas described aggregate 19,624.18 acres.

2. The northern and eastern portions of the township are mountainous. The central, southern, and western portions are rolling land, and the soil within the township is very shallow. The soil along

the banks of the Gila River is of a silty and sandy clay loam nature.

3. Certain lands in this township were withdrawn by Executive Order of July 2, 1910, creating Power Site Reserve No. 83, and memorandum of November 2, amended by memorandum of November 16, 1962, interpreted this withdrawal to embrace the following lands:

T. 6 S., R. 28 E.,
Sec. 1, lot 3, S½N½, S½;
Sec. 2, NE¼SW¼, S½SW¼, SE¼;
Sec. 10, SE¼NW¼, NE¼SW¼, E½;
Sec. 11, N½, SW¼, W½SE¼;
Sec. 12, N½;
Sec. 14, W½NE¼, W½;
Sec. 15, E½;
Sec. 20, SE¼SW¼, S½SE¼;
Sec. 21, SE¼NE¼, S½SW¼, SE¼;
Sec. 22, N½, SW¼, NW¼SE¼;
Sec. 23, NE¼NW¼, W½NW¼;
Sec. 27, NW¼, NW¼SW¼;
Sec. 28, N½, N½S½.

Certain lands in this township were withdrawn by Executive Order of November 22, 1924, creating Power Site Reserve No. 759, and memorandum of November 2, 1962, interpreted this withdrawal to embrace the following lands:

T. 6 S., R. 28 E.,
Sec. 1;
Sec. 2;
Sec. 3, lot 1, S½NE¼, S½;
Sec. 10;
Sec. 11;
Sec. 12;
Sec. 13, N½NE¼, NW¼, W½SW¼;
Sec. 14;
Sec. 15;
Sec. 21;
Sec. 22;
Sec. 23;
Sec. 26, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 27;
Sec. 28;
Sec. 30, lots 1, 2, 3, 4, NE¼, E½NW¼, E½SW¼, N½SE¼, SW¼SE¼;
Sec. 33;
Sec. 34.

Certain lands in this township were withdrawn by Departmental Order of February 1, 1917, as Water Power Designation No. 4, Arizona No. 1, and memorandum of November 2, 1962, interpreted this withdrawal to embrace the following lands:

T. 6 S., R. 28 E.,
Sec. 1, lot 3, S½N½, S½;
Sec. 2, NE¼SW¼, S½SW¼, SE¼;
Sec. 10, SE¼NW¼, NE¼SW¼, E½;
Sec. 11, N½, SW¼, W½SE¼;
Sec. 12, N½;
Sec. 14, W½NE¼, W½;
Sec. 15, E½;
Sec. 20, SE¼SW¼, S½SE¼;
Sec. 21, SE¼NE¼, S½SW¼, SE¼;
Sec. 22, N½, SW¼, NW¼SE¼;
Sec. 23, N½NW¼, SW¼NW¼;
Sec. 27, NW¼, NW¼SW¼;
Sec. 28, N½, N½S½.

4. The following described lands are opened to application, location, selection and petition as outlined in paragraph 5 below. No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have already been classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified:

T. 6 S., R. 28 E.,
Sec. 3, lots 2, 3, 4, S½NW¼;
Sec. 4, lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, lots 6, 7, S½NE¼, SE¼;[1]
Sec. 8;
Sec. 9;
Sec. 13, E½SW¼, S½NE¼, SE¼;
Sec. 17, lots 1, 2, 3, 4, 5, 6, 7, SE¼NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 18, lots 3, 4, 5, 6, 7, 8, E½NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 19, lots 1, 2, 3, 4, E½W½, E½;
Sec. 20, lots 1, 2, 3, 4, E½NW¼, NE¼, NE¼SW¼, N½SE¼;
Sec. 24;
Sec. 25;
Sec. 26, NE¼NE¼, S½NE¼, SE¼NW, S½;
Sec. 30, SE¼SE¼;
Sec. 35.

The areas described aggregate 7,586.65 acres.

5. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 4 hereof, are hereby opened to filing applications, selections and locations in accordance with the following:

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

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

(2) All valid applications and selections under the nonmineral public land laws presented prior to 10 a.m. on January 15, 1963, will be considered as simultaneously filed at that hour. Rights under such applications and selections and offers filed after that hour will be governed by the time of filing.

6. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

ROY T. HELMANDOLLAR,
Manager.

[F.R. Doc. 62–12557; Filed, Dec. 19, 1962; 8:47 a.m.]

[1] Lot 6 is embraced in Application for Withdrawal Arizona 017298 by Town of Safford for municipal water supply site. Any application filed for lot 6 Sec. 6 will be suspended in accordance with 43 CFR § 295.11a.

[Group 299]

ARIZONA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands; Correction

DECEMBER 13, 1962.

The following corrections are made to paragraphs numbered 3 and 7(2) of the Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands, dated November 27, 1962, which order appears on pages 12003 and 12004 of the FEDERAL REGISTER issued on December 5, 1962:

a. "Power Site Reservoir No. 83", is corrected to read, "Power Site Reserve No. 83."

b. "January 2, 1962", is corrected to read, "January 2, 1963."

ROY T. HELMANDOLLAR,
Manager.

[F.R. Doc. 62–12556; Filed, Dec. 19, 1962; 8:46 a.m.]

[Serial No. Los Angeles 0168791]

CALIFORNIA

Order Providing for Opening of Lands

DECEMBER 14, 1962.

Roland H. Wiley and Mary Wiley having acquired the hereinafter described lands, which were originally acquired by the State of California (title to which passed to the State of California upon acceptance of the official plat of survey), have reconveyed such lands to the United States for and in consideration of the exchange of certain lands, as authorized by section 8 of the Act of June 28, 1934 (48 Stat. 1272) as amended by section 3 of the Act of June 26, 1936 (49 Stat. 1976). The lands so reconveyed to the United States are described as follows:

SAN BERNARDINO MERIDIAN

T. 21 N., R. 9 E.,
Tracts 37 and 38.

The areas described aggregate 1,263.56 acres.

The lands are located in Chicago Valley, about 15 miles northeast of the hamlet of Tecopa, California, in a dry desolate interior desert basin. The western portion of Tract 37 consists of the foothills and lower slopes of the Nopah Range, a barren desert mountain range, while the remainder of the land is on the valley floor. The soil is generally coarse and sandy and low in organic matter and fertility. The vegetation consists of scattered creosote bush, cholla cactus, barrel cactus, Spanish bayonet and various ephemeral annuals.

The public lands affected by this order are hereby restored to the operation of the public land laws, with the exception of the mining laws and the mineral leasing laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules and regulations.

Inquiries and applications concerning the above lands shall be addressed to the

Manager, Land Office, Bureau of Land Management, Department of the Interior, 1414 8th Street, Box 723, Riverside, California.

JENS C. JENSEN,
Manager.

[F.R. Doc. 62-12552; Filed, Dec. 19, 1962; 8:46 a.m.]

CALIFORNIA

Order Providing for Opening of Public Lands

DECEMBER 12, 1962.

1. In exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended by section 3 of the Act of June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), as amended, the following described lands have been conveyed to the United States:

MOUNT DIABLO MERIDIAN, CALIFORNIA

[CALIFORNIA 034638]

T. 26 N., R. 16 E.,
Sec. 2, SE¼SE¼;
Sec. 3, SW¼;
Sec. 10, N½, SE¼, N½SW¼;
Sec. 11;
Sec. 12;
Sec. 14, SW¼NE¼, NW¼, N½SE¼;
Sec. 15, E½NE¼.

[CALIFORNIA 055538]

T. 39 N., R. 13 E.,
Sec. 25, SW½NW¼, NW¼SW¼;
Sec. 26, SE¼NE¼, E½SW¼, NE¼SE¼, SW¼SE¼;
Sec. 27; E½;
Sec. 33, S½NE¼;
Sec. 34, NE¼, S½NW¼;
Sec. 35, NE¼NW¼, SW¼.
T. 40 N., R. 13 E.,
Sec. 26, SE¼.
T. 41 N., R. 13 E.,
Sec. 26, NW¼NW¼;
Sec. 27, E½NE¼, SW¼NE¼, NE¼SW¼, S½SW¼;
Sec. 28, SE¼SE¼.

[CALIFORNIA 048504 AND 055875]

T. 41 N., R. 13 E.,
Sec. 36.
T. 41 N., R. 14 E.,
Sec. 4, SE¼SE¼;
Sec. 9. E½, S½NW¼, N½SW¼.

The afore-described areas aggregate 5,160 acres more or less of public lands.

2. The lands in T. 26 N., R. 16 E., M.D.M., are located south of and adjacent to the town of Herlong and the Sierra Ordnance Depot in Honey Lake Valley, California. The land surface is fairly level and the soil somewhat alkaline in places with sagebrush and annual grasses the predominant vegetation. The average elevation is approximately 4,000 feet. Although Honey Lake Valley is generally an agricultural area, such activity on the subject lands is precluded by soil conditions and lack of water.

3. The lands in Tps. 39 to 41 N., R. 13 E., M.D.M., are rather widely scattered northeast and east, three to ten miles from Likely, California, along the eastern edge of the Pit River Valley. The topography is moderately rolling with some fairly level areas and occasional volcanic rock outcrops. Sagebrush and scattered juniper predominate with an understory of annual grasses. Numerous washes traverse nearly all of the lands.

4. The lands in T. 41 N., Rs. 13 and 14 E., M.D.M., are located approximately seven to ten miles southeast of Alturas, California, on a bench intermediate in elevation between the Pit River Valley and mountains to the east. The topography is level to gentle rolling. The entire area is covered by surface and subsurface volcanic rocks. Vegetation is chiefly sagebrush with a scattering of annual grasses and occasional junipers.

5. Pursuant to the authority delegated to me by § 2.5, Part II, Bureau Order No. 684, dated August 28, 1961 (26 F.R. 8216), of the Associate Director, Bureau of Land Management, the lands described in paragraph 1 are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules and regulations.

6. The lands described in paragraph 1 will be open to mining location and to applications and offers under the mineral leasing laws at 10:00 a.m., December 12, 1962. Applications and offers, under the mineral leasing laws, for the lands described in paragraph 1, presented prior to 10:00 a.m., on December 12, 1962, will be considered as simultaneously filed as of that date and hour. The lands will also be open to mining location at that date and hour.

7. Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, 4201 U.S. Courthouse and Federal Building, 650 Capitol Avenue, Sacramento 14, California.

WALTER E. BECK,
Manager, Land Office,
Sacramento.

[F.R. Doc. 62-12553; Filed, Dec. 19, 1962; 8:46 a.m.]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 13, 1962.

The United States Forest Service of the Department of Agriculture has filed an application, serial number Colorado 099612, for the withdrawal from location and entry under the General Mining Laws, subject to existing valid claims, certain public lands in the sections and townships described below.

The applicant desires the land for use as recreation sites, campgrounds, overlooks and picnic areas, located in the San Isabel and Pike National Forests, Colorado. The specific areas are:

SAN ISABEL NATIONAL FOREST

Garfield Campground.
Lower North Fork Campground Addition.
Monarch Park Campground Addition.
Shavano Campground Addition.
Hermit Spring Roadside Rest Area.
Monarch Portal Site.
Cottonwood Lake Campground Addition No. 2.
Fox Lake Campground Area Addition.
Fox Lake Picnic Area.
Indian Flats Organization Camp.
Trout Creek Pass Picnic Area.

PIKE NATIONAL FOREST

Pike's Peak Overlook.
Ridge Crest Picnic Ground (Addn.)
Observation Point Overlook.
Weston Pass Campground.
Michigan Creek Campground (Addn.)
Lodgepole, Aspen and Flat Top Campgrounds.
Queen's Canyon Geological Area.
Sacramento Gulch.

For a period of thirty 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 undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado Land Office, Gas and Electric Building, 910—15th Street, Denver 2, Colorado.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands affected are:

NEW MEXICO PRINCIPAL MERIDIAN

SAN ISABEL NATIONAL FOREST

T. 49 N., R. 6 E.,
In sec. 8.
T. 50 N., R. 6 E.,
In secs. 13, 25, 33.
T. 50 N., R. 7 E.,
In secs. 17, 31.

SIXTH PRINCIPAL MERIDIAN

SAN ISABEL NATIONAL FOREST

T. 13 S., R. 77 W.,
In secs. 22, 23.
T. 14 S., R. 79 W.,
In secs. 28, 29.
T. 14 S., R. 80 W.,
In secs. 35, 36.
T. 15 S., R. 80 W.,
In secs. 2, 3.

SIXTH PRINCIPAL MERIDIAN

PIKE NATIONAL FOREST

T. 13 S., R. 67 W.,
In secs. 20, 21, 28, 29.
T. 13 S., R. 68 W.,
In secs. 13, 14.
T. 8 S., R. 69 W.,
In sec. 26.
T. 7 S., R. 76 W.,
In secs. 24, 27, 28.
T. 9 S., R. 78 W.,
In sec. 36.
T. 11 S., R. 78 W.,
In sec. 20.

Lands proposed to be withdrawn in the above designated area aggregate approximately 3,358 acres.

J. ELLIOTT HALL,
Manager, Land Office,
Denver.

[F.R. Doc. 62-12555; Filed, Dec. 19, 1962; 8:46 a.m.]

[Oregon 011617]

OREGON

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 12, 1962.

Notice of an application, serial number Oregon 011617, for withdrawal and reservation of lands was published as F.R. Doc. No. 62–1592 on page 11515 of the issue for November 22, 1962. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Part 295, such lands will be at 10 a.m. on January 11, 1963, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

WILLAMETTE MERIDIAN, OREGON

T. 34 S., R. 39 E.,
Sec. 13: W½SW¼NE¼SW¼, E½SE¼NW¼SW¼, W½NW¼SW¼SW¼.

Containing 15 acres.

STANLEY D. LESTER,
Land Office Manager.

[F.R. Doc. No. 62–12562; Filed, Dec. 19, 1962; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

RICE

Notice of Marketing Quota Referendum for 1963 Crop

Marketing quotas for the crop of rice to be produced in 1963 have been duly proclaimed pursuant to provisions of the Agricultural Adjustment Act of 1938, as amended. Said act requires a referendum to be conducted within 30 days after the date of the issuance of said proclamation of farmers who were engaged in the production of rice in 1962 to determine whether such farmers are in favor of or opposed to such quotas. Prior to establishing the date for the referendum on the 1963 crop of rice, public notice (27 F.R. 9612) was given in accordance with the Administrative Procedure Act (5 U.S.C. 1003) that it was proposed to hold the referendum on December 11, 1962. No data, views, or recommendations pertaining thereto were submitted pursuant to such notice. However, it was found necessary to delay the proclamation with respect to marketing quotas beyond the date originally anticipated and likewise to delay the date of the referendum. Such proclamation has now been made and it is hereby determined that the rice marketing quota referendum under said act for the 1963 crop of rice shall be held on January 11, 1963, which is within thirty days from the date of issuance of the proclamation of marketing quotas.

Signed at Washington, D.C., on December 12, 1962.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62–12576; Filed, Dec. 19, 1962; 8:49 a.m.]

Office of the Secretary

TEXAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of Public Law 87–128 (7 U.S.C. 1961) it has been determined that in Jones County, Texas, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named county after June 30, 1963, 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 December 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62–12578; Filed, Dec. 19, 1962; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

AUSTRALIAN TONNAGE COMMITTEE AND CUNARD STEAM-SHIP CO., LTD.

Notice of Filing of Agreement

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733; 75 Stat. 763; 46 U.S.C. 814):

Agreement 9094, between the Australian Tonnage Committee, on behalf of the parties comprising the P. O.-Orient Lines joint service, Federal Steam Navigation Co., Ltd., British India Steam Navigation Co., Ltd., Shaw Savill & Albion Co., Ltd., Port Line, Ltd., Alfred Holt & Co., Clan Line Steamers, Ltd., Scottish Shire Line, Ltd., Ellerman & Bucknall Steam Ship Co., Ltd., Blue Star Line, Ltd. (the originating carriers) and the Cunard Steam-Ship Company Ltd. (the delivering carrier), covers the carriage of cargo on through bills of lading between ports in Australia called at by the originating carriers and ports on the Atlantic Coast of the United States called at by the delivering carrier with transhipment at ports in the United Kingdom.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Foreign Regulation, Federal Maritime Commission, Washington, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: December 17, 1962.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 62–12581; Filed, Dec. 19, 1962; 8:50 a.m.]

CITY OF PORTLAND, OREGON AND MATSON NAVIGATION CO.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814):

Agreement No. 8965, between the City of Portland, Oregon (Port), and Matson Navigation Company (Matson), provides for a preferential assignment and lease of certain terminal property in Portland, Oregon. Matson may assess rates, charges, rules and regulations contained in Matson Terminals, Inc., Terminal Tariff, except as to Australian or New Zealand cargo which shall be subject to the Port's tariff. Matson's Terminal Tariff shall be subject to review by the Port. The Port further reserves the right to use the premises when not being used by Matson.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: December 17, 1962.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 62–12482; Filed, Dec. 19, 1962; 8:50 a.m.]

[Docket No. 1083]

HONG KONG-UNITED STATES ATLANTIC AND GULF TRADE

Investigation of Rates

During the past year there have been filed with this Commission numerous reductions in the rates applicable to various commodities transported in the trade from Hong Kong to United States

Atlantic and Gulf ports. The New York Freight Bureau (Hong Kong) on behalf of its member lines has filed one or more such rate reductions for certain commodities including, but not limited to, artificial flowers, footwear, toys and cotton piece goods, and Sabre Line has filed with the Commission a protest against the present level of rates of the New York Freight Bureau (Hong Kong) for those commodities.

In addition, several independent common carriers engaged in this trade have filed rate reductions during 1962 for artificial flowers, footwear, toys, cotton piece goods, and other items, as reflected in the following tariffs:

China Merchants Steam Navigation Co., Ltd.—Japan/USEC.
China Union Lines, Ltd.—No. HK/US–1.
Eddie Steamship Co., Ltd.—No. H 1.
Isbrandtsen Steamship Co.—F No. 8.
Orient Overseas Line—No. HKUE–1.
Sabre Line—Frt. Tariff No. 1.
Zim Israel Navigation Co., Ltd.—No. 2.

In order to determine whether any rate in this trade (including any rate adopted or reduced after the issuance of this order) is so unreasonably low as to be detrimental to the commerce of the United States in violation of section 18(b)(5) of the Shipping Act, 1916 (75 Stat. 765):

It is ordered, That pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821), an investigation is instituted to determine whether the Commission shall pursuant to section 18(b)(5) of the Act disapprove any rate in the trade from Hong Kong to United States Atlantic and Gulf ports.

It is further ordered, That the following are made respondents in this investigation:

New York Freight Bureau (Hong Kong) and its member and associated lines, listed in Appendix A hereof;

China Merchants Steam Navigation Co., Ltd.;
China Union Lines, Ltd.;
Eddie Steamship Co., Ltd.;
Isbrandtsen Steamship Co.;
Orient Overseas Line;
Sabre Line; and
Zim Israel Navigation Co., Ltd.

It is further ordered, That this investigation be assigned for hearing before an Examiner at the earliest practicable date, and that this order be served on each of the named respondents and published in the FEDERAL REGISTER.

By order of the Commission, December 10, 1962.

THOMAS LISI,
Secretary.

APPENDIX A

MEMBERS

American President Lines, Ltd.
Barber-Fern-Ville Lines—Fearnley & Eger and A. F. Klaveness & Co., A/S—Joint Service.
Barber-Wilhelmsen Line—Joint Service.
Daido Kaiun Kaisha, Ltd.
De La Rama Lines—Joint Service.
Iino Kaiun Kaisha, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Marchessini Lines—Joint Service.
Maritime Company of the Philippines, Inc.
Mitsubishi Shipping Co., Ltd.
Mitsui Steamship Co., Ltd. (Mitsui Line).
Moller-Maersk Line, A. P.—Joint Service.
Nippon Yusen Kaisha, Ltd.
Osaka Shosen Kaisha, Ltd.
Prince Line, Ltd.
Spolsna Plovba.
States Marine Lines—Joint Service.
Transocean Transport Corporation (Magsaysay Lines).
United Philippine Lines, Inc.
United States Lines Company (American Pioneer Line).
Waterman Steamship Corporation.
Yamashita Kisen Kaisha (The Yamashita Steamship Co., Ltd).

ASSOCIATED LINES

American Mail Line, Ltd.
American President Lines, Ltd.
Barber-Wilhelmsen Line—Joint Service.
Daido Kaiun Kaisha, Ltd.
De La Rama Lines—Joint Service.
Fern-Ville Lines—Fearnley & Eger and A. F. Klaveness & Co. A/S—Joint Service.
Iino Kaiun Kaisha, Ltd.
Java Pacific & Høegh Lines.
Kawasaki Kisen Kaisha, Ltd.
Klaveness Line—Joint Service.
Knutsen Line—Joint Service.
Maritime Company of the Philippines, Inc.
National Development Company.
Mitsubishi Shipping Co., Ltd.
Mitsui Steamship Co., Ltd. (Mitsui Line).
A. P. Moller-Maersk Line—Joint Service.
Nippon Yusen Kaisha, Ltd.
Nissan Kisen Kaisha, Ltd.
Osaka Shosen Kaisha, Ltd.
P&O-Orient Lines—Joint Service.
Pacific Far East Line, Inc.
Spiosna Piovba.
States Marine Lines—Joint Service.
States Steamship Company.
Transocean Transport Corporation (Magsaysay Lines).
United Philippine Lines, Inc.
United States Lines Company (American Pioneer Line).
Waterman Steamship Corporation.
Yamashita Kisen Kaisha (The Yamashita Steamship Co., Ltd.).

[F.R. Doc. 62–12583; Filed, Dec. 19, 1962; 8:50 a.m.]

LEVANT LINE JOINT SERVICE

Notice of Filing of Agreement

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733; 75 Stat. 763; 46 U.S.C. 814):

Agreement 7812–9, between Atlantic Ocean Transport Corporation and Mediterranean Transport Corporation (parties to the Levant Line joint service) and Continental-Atlantic Corporation, provides for the substitution of Continental-Atlantic Corporation as a party to the Levant Line joint service in place of Atlantic Ocean Transport Corporation and for revision of the signature utilized by this joint service in conformity with the substitution of parties.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Foreign Regulation, Federal Maritime Commission, Washington, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: December 17, 1962.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 62–12580; Filed, Dec. 19, 1962; 8:50 a.m.]

[Docket No. 1064]

PURCHASE OF VESSELS "ALICIA" AND "DOROTHY"

Agreements 8745 and 8745–1

Waterman Steamship Corporation of Puerto Rico, a respondent herein has filed a motion to dismiss this proceeding. Before said motion was filed, American Union Transport, Inc., whose representations to the Commission brought about the institution of this proceeding, withdrew and thereby gave notice that it will not support the allegations which it made. Grace Line, Inc., Seatrain Lines, Inc., and the Commonwealth of Puerto Rico who intervened did not oppose the motion to dismiss.

In view of the foregoing, the Commission is of opinion that this proceeding should be, and it is hereby discontinued.

By the Commission, December 6, 1962.

THOMAS LISI,
Secretary.

[F.R. Doc. 62–12484; Filed, Dec. 19, 1962; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP63–94]

ARKANSAS LOUISIANA GAS CO.

Notice of Application and Date of Hearing

DECEMBER 13, 1962.

Take notice that on October 15, 1962, Arkansas Louisiana Gas Company (Applicant), Slattery Building, Shreveport, Louisiana, filed in Docket No. CP63–94 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1963 and the operation of field facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally co-extensive with said system.

The total cost of the proposed facilities will not exceed $3,247,850, and no single project will exceed a cost of $500,000. The application states that the proposed facilities will be financed from funds on

hand, cash generated by operations, and internal sources.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 17, 1963, at 9:30 a.m., e.s.t, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 9, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-12548; Filed, Dec. 19, 1962; 8:45 a.m.]

[Docket No. CP63-95]

ARKANSAS LOUISIANA GAS CO.

Notice of Application and Date of Hearing

DECEMBER 13, 1962.

Take notice that on October 15, 1962, Arkansas Louisiana Gas Company (Applicant), Slattery Building, Shreveport, Louisiana, filed in Docket No. CP63-95 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1963 and the operation of unspecified natural gas facilities to enable Applicant to make new direct industrial sales of natural gas from its main pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to enable Applicant to act with reasonable dispatch in establishing new delivery points without the delay incident to filing and processing individual certificate applications for each new delivery point.

Applicant estimates the annual gas requirements of the new direct industrial customers to be served through the subject facilities to be approximately 10,000,000 Mcf.

The total cost of the proposed facilities will not exceed a maximum of $800,000, and no single project will exceed a cost of $200,000.

Applicant states that deliveries of interstate gas will not be made into the pipeline operated by Arkansas Industrial Pipeline Corporation which extends from a point near Perla, Arkansas, to a point near Helena, Arkansas, under the authorization herein requested.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 17, 1963, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 9, 1963. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-12549; Filed, Dec. 19, 1962; 8:45 a.m.]

[Docket No. CP62-31]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application and Date of Hearing

DECEMBER 13, 1962.

Take notice that on August 10, 1961, Transcontinental Gas Pipe Line Corporation (Transco), a Delaware corporation having its principal place of business in Houston, Texas, filed an application, as amended on August 28, 1962, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the sale and delivery under its Rate Schedule ACQ-3 of an Annual Contract Quantity of 1,803,673 Mcf to North Penn Gas Company (North Penn) on a long-term basis commencing in the year 1963 and an Annual Contract Quantity of 3,577,381 Mcf to United Natural Gas Company (United) for the year 1963 only, all as more fully set forth in the application which is on file with the Commission and open to public inspection. North Penn requires its service from Transco commencing in the latter part of 1963, making its ACQ-3 volume for that first year 300,612 Mcf.

The application recites that North Penn and United require the additional gas service proposed in order to meet the requirements of the residential, commercial and industrial establishments and public authorities which they serve directly and indirectly.

Transco states that no facilities in addition to presently certificated facilities are required in order to render the proposed service except for a pipeline with two meter stations connecting Transco's Leidy line with the transmission facilities of the purchasers in the vicinity of Wharton, Potter County, Pennsylvania, presently pending certification in another proceeding before the Commission in Docket No. CP61-284.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 17, 1963, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 7, 1963.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-12550; Filed, Dec. 19, 1962; 8:45 a.m.]

[Docket Nos. RI63-224—RI63-234]

MIDWEST OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates;[1] and Allowing Rate Changes To Become Effective Subject To Refund

DECEMBER 13, 1962.

Midwest Oil Corporation, Docket No. RI63-224; Texaco Inc., Docket No. RI63-225; Walter E. Smith, et al. d/b/a J. L. Jarvis et al. Oil and Gas Company, Docket No. RI63-226; Walter E. Smith, et al. d/b/a G. M. Yeager Gas Company, RI63-227; The Atlantic Refining Company, Docket No. RI63-228; Hunt Oil Company, Docket No. RI63-229; Forest Oil Corporation, Docket No. RI63-230; Pan American Petroleum Corporation, Docket No. RI63-231; Gulf Oil Corporation, Docket No. RI63-232; J. E. Jernigan

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

and Max V. Morgan, d/b/a Jernigan & Morgan Oil Company, Docket No. RI63–233; Jernigan & Morgan Transmission Company, Docket No. RI63–234.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. All of the sales are made at a pressure base of 14.65 psia with the exceptions of the sales made by Walter E. Smith, et al. d/b/a J. L. Jarvis et al. Oil and Gas Company, and Walter E. Smith, et al. d/b/a G. M. Yeager Gas Company, which are made at a pressure base of 15.325 psia, and the sale made by Hunt Oil Company [2] which is made at a pressure base of 15.025 psia. The proposed changes, which constitute increased rates and charges, are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI63-224	Midwest Oil Corp., 1700 Broadway, Denver 2, Colo.	4	6	El Paso Natural Gas Co. (Slaughter Field, Hockley County, Tex.) (R.R. Dist. No. 8).	$3,943	10-26-62	[1] 1-1-63	6-1-63	[3] 11.0	[3] 12.0	
RI63-225	Texaco, Inc., P.O. Box 2332, Houston 1, Tex. Attn: Mr. W. V. Vietti.	149	2	Colorado Interstate Gas Co. (Table Rock Unit, Sweetwater County, Wyo.).	43,520	11-5-62	[1] 1-1-63	6-1-63	15.0	[3] 16.0	
RI63-226	Walter E. Smith et al., d/b/a J. L. Jarvis et al., Oil and Gas Co., Grantsville, W. Va.	15	2	Cabot Corp. (Big Root Field, Center Dist., Calhoun County, W. Va.).	33	11-13-62	[4] 12-14-62	[5] 12-15-62	12.0	[6] 13.824	
RI63-227	Walter E. Smith et al., d/b/a G. M. Yeager Gas Co., Grantsville, W. Va.	14	2	Cabot Corp. (Middle Run Field, Sherman Dist., Calhoun County, W. Va.).	33	11-13-62	[4] 12-14-62	[5] 12-15-62	12.0	[6] 13.824	
RI63-228	The Atlantic Refining Co., P.O. Box 2819, Dallas 21, Tex. Attn: Mr. Wayne S. Smith.	240	1 to 3	El Paso Natural Gas Co. (Spraberry Field, Reagan County, Tex.) (R.R. Dists. Nos. 7-c).	12	11-14-62	[4] 12-15-62	[5] 12-16-62	17.1632	[7] 17.2295	[8] RI60-177S
RI63-229	Hunt Oil Company, 700 Mercantile Bank Bldg., Dallas 1, Tex.	37	4	Southern Natural Gas Co. (Gwinville Field, Simpson and Jefferson Davis Counties, Miss.).	2,980	11-16-62	[4] 12-17-62	5-17-63	20.0	[3] 21.0	G-14408
	Hunt Oil Co.	51	2	Jernigan & Morgan Transmission Co. (E. Victor Field, Lincoln County, Okla.) (Other Oklahoma Area).	900	11-14-62	[1] 12-23-62	5-23-63	[9] 9.0	[3] [9] 10.0	
RI63-230	Forest Oil Corp., National Bank of Commerce Bldg., San Antonio 5, Tex.	19	2	do	300	9-28-62	[1] 12-23-62	5-23-63	[9] 9.0	[3] [9] 10.0	
RI63-231	Pan American Petroleum Corp., P.O. Box 591, Tulsa 2, Okla.	165	4	do	323	11-19-62	[1] 12-23-62	5-23-63	[9] 9.0	[9] [10] 10.0	
RI63-232	Gulf Oil Corp., P.O. Drawer 2100, Houston 1, Tex.	129	2	do	512	11-23-62	[4] 12-24-62	5-24-63	[9] [10] 9.0	[3] [10] 10.0	
RI63-233	J. E. Jernigan and Max V. Morgan, d/b/a Jernigan & Morgan Oil Co., c/o Mr. Barth P. Walker, 220 Cravens Bldg., Oklahoma City 2, Okla.	2	3	do	6,090	11-23-62	[4] 12-24-62	5-24-63	[9] 9.0	[3] [9] 10.0	
RI63-234	Jernigan & Morgan Transmission Co., c/o Mr. Barth P. Walker, 220 Cravens Bldg., Oklahoma City 2, Okla.	1	5	Cities Service Gas Co. (East Victor Field, Lincoln County, Okla.) (Other Oklahoma Area).	13,795	11-23-62	[4] 12-24-62	5-24-63	[9] 11.0	[3] [9] 12.0	

[1] The stated effective date is the effective date requested by respondent.
[2] Subject to B.t.u. adjustment downward from a base of 985 B.t.u.'s. (Average B.t.u. content of gas during last 12-month period—1014 B.t.u.'s.)
[3] Periodic rate increase.
[4] The stated effective date is the 1st day after expiration of the required statutory notice.
[5] Suspension period is limited to 1 day.
[6] Revenue-sharing rate increase.
[7] Tax correction to supplement No. 3.
[8] Supplement No. 3 is suspended in docket No. RI60-177 until Aug. 17, 1960. Motion pursuant to section 4(e) of the Natural Gas Act filed on Nov. 14, 1962.
[9] Subject to downward B.t.u. adjustment for gas containing less than 1,000 B.t.u.'s per cubic foot.
[10] Includes 2.0 cents per Mcf compression charge deducted by buyer.

NOTE: The proposed rates of 10.0 cents per Mcf of Hunt, Forest, Pan American and Gulf for sales to Jernigan & Morgan Transmission Co. (Jernigan) do not exceed the applicable area price level but are related to Jernigan's proposed rate of 12.0 cents per Mcf which does exceed the applicable ceiling.

The revenue-sharing rate increases of Walter E. Smith, et al. d/b/a J. L. Jarvis et al. Oil and Gas Company and Walter E. Smith, et al. d/b/a G. M. Yeager Gas Company fall below the ceiling for increased rates in West Virginia, but should be suspended because they are based on the buyer's (Cabot Corporation) resale rate which is currently effective subject to refund in Docket No. RI61–308. The suspension period for each of the aforementioned revenue-sharing increases may be shortened to one day from December 14, 1962, the date of expiration of the required statutory notice.

The tender of The Atlantic Refining Company (Atlantic) is a tax correction to a previous rate increase suspended by the Commission's order issued on March 9, 1960, in Docket No. RI60–177 (formerly designated as Argo Oil Corporation). Consistent with the Commission's usual practice in similar instances, the proposed tax correction should be suspended for one day from December 15, 1962, the date of expiration of the required statutory notice.

The other producers' rate changes herein are periodic increases and exceed the applicable area price levels set forth in the Commission's Statement of General Policy No. 61–1, as amended (18 CFR Ch. I, Part 2, § 2.56).

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

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed changed rates and charges contained in the above-designated supplements.

[2] Contained in Supplement No. 4 to Hunt's FPC Gas Rate Schedule No. 37.

(B) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Walter E. Smith, et al. d/b/a J. L. Jarvis et al. Oil and Gas Company, in Docket No. RI63–226, Walter E. Smith, et al. d/b/a G. M. Yeager Gas Company, in Docket No. RI63–227, and The Atlantic Refining Company, in Docket No. RI63–228, suspended for one day, as set forth above, shall become effective subject to refund on the date and in the manner prescribed if within 20 days from the date of issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its (or his) agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 28, 1963.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62–12547; Filed, Dec. 19, 1962; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812–1543]

BROAD STREET INVESTING CORP.

Notice of Filing of Application

DECEMBER 14, 1962.

Notice is hereby given that Broad Street Investing Corporation ("Broad Street"), 65 Broadway, New York, New York, a registered open-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act the proposed issuance of its shares at net asset value for substantially all of the cash and securities of Merrill-Worth Corporation ("Merrill-Worth"). All interested persons are referred to the application as filed with the Commission for a complete statement of the representations therein which are summarized below.

Shares of Broad Street, a Maryland Corporation, are offered to the public on a continuous basis at net asset value plus varying sales charges dependent on the amount purchased. As of November 21, 1962 the net assets of Broad Street amounted to $243,933,562.

Merrill-Worth, a Michigan corporation, is a closed-end investment company with seventeen stockholders (with seventeen other persons having beneficial interest in its stock) which engages in the business of investing and reinvesting its funds. Merrill-Worth is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof. Pursuant to an agreement between Broad Street and Merrill-Worth, substantially all of the cash and securities of Merrill-Worth with a value of approximately $3,036,699 as of November 21, 1962, will be transferred to Broad Street in exchange for shares of stock of Broad Street. The shares acquired by Merrill-Worth are to be distributed to its shareholders, on the liquidation of Merrill-Worth. None of the stockholders have any present intention of redeeming or otherwise transferring the shares of Broad Street which they acquire. The number of shares of Broad Street to be delivered to Merrill-Worth will be determined by dividing the net asset value per share of Broad Street in effect at the closing time into the value of the Merrill-Worth assets to be exchanged (with certain adjustments as set forth below). The valuation time is fixed in the agreement as 3:30 p.m. on December 20, 1962 or on such later date as may be mutually agreed upon.

Since the exchange will be tax free for Merrill-Worth and its shareholders, Broad Street's cost basis for tax purposes on the assets acquired from Merrill-Worth will be the same as for Merrill-Worth, rather than the price actually paid by Broad Street for the assets. Of the assets to be acquired from Merrill-Worth, Broad Street intends to retain in its portfolio, subject to changes in investment conditions and considerations, securities having a value as of November 21, 1962, of $1,646,321, including unrealized appreciation of $533,196. Broad Street will also acquire from Merrill-Worth for retention cash in the amount of $387,000. Other securities to be acquired from Merrill-Worth will be sold by Broad Street after acquisition. As of November 21, 1962, the market value of these securities was $1,003,378 and the unrealized capital gain thereon was $487,327. As of November 21, 1962, Broad Street had unrealized appreciation of $65,646,756 and undistributed realized gains of $4,689,901, of which $799,454 and $56,654, respectively, would have become applicable to the shares of Broad Street issued to Merrill-Worth if the proposed acquisition of Merrill-Worth assets had occurred on this date.

Because Broad Street will acquire securities from Merrill-Worth at a tax-cost basis less than the price actually paid therefor, their sale after acquisition will result in artificial capital gains and consequent tax liability thereon to the present shareholders of Broad Street. As an offset to this unfavorable tax consequence, the acquisition of the Merrill-Worth assets will result in a potential tax benefit to the present shareholders of Broad Street by reason of a reduction in the net unrealized appreciation applicable to their shares. An adjustment, which takes into account the tax consequences of the exchange, is to be made in the value of the Merrill-Worth assets in accordance with the following formula:

(1) In respect of the securities of Merrill-Worth that Broad Street presently intends to sell and the resulting artificial capital gain thereon, there shall be determined the difference between net unrealized taxable capital gain on said securities and the portion of the realized but undistributed taxable long-term capital gain of Broad Street allocable to the aggregate shares of Broad Street to be issued to Merrill-Worth. (Such difference, as of November 21, 1962 amounted to $430,673.)

(2) In respect of the securities of Merrill-Worth that Broad Street presently intends to hold following acquisition, there shall be determined the difference between net unrealized taxable capital gain on said securities and the portion of Broad Street's unrealized appreciation applicable to the aggregate shares of Broad Street to be issued to Merrill-Worth determined on a pro forma basis giving effect to the acquisition of the assets of Merrill-Worth. (Such difference as of November 21, 1962 amounted to a negative amount of $266,258.)

(3) The amount computed under (1) shall be increased by the amount, if positive, or decreased by 50 percent of the amount, if negative, computed under (2), and 12½ percent of the resulting amount ($297,544 as of November 21, 1962), which is the adjustment for excess unrealized appreciation of Merrill-Worth, shall be applied to reduce the value of the assets of Merrill-Worth to be acquired. If the valuation under the agreement had taken place on November 21, 1962 the adjustment to the market value of the assets of Merrill-Worth to be acquired would have amounted to $37,193.

The application, in the foregoing formula, of a 50 percent factor to the reduction in unrealized appreciation resulting from the acquisition of the Merrill-Worth assets, is intended to recognize that this will be of full benefit to the present shareholders of Broad Street only in the indefinite future at such time, if any, as all the present unrealized appreciation in Broad Street's portfolio is realized, whereas an immediate tax liability will result from the realization of artificial capital gains upon the sale after acquisition of certain securities acquired from Merrill-Worth. The rate of 12½ percent applied to the excess unrealized appreciation of Merrill-Worth is used as an estimated meas-

ure of the average tax rate payable on capital gains by Broad Street shareholders.

Applicant states that the increase in the number of applicant's shares outstanding which would result from the proposed transaction would tend to reduce per share expenses, since it is furnished investment research and administrative facilities and services at cost and it is not expected that such cost will increase in proportion to the increase in assets which would result from the proposed transaction.

The application recites that the terms of the entire transaction were arrived at through arm's-length bargaining between Broad Street and Merrill-Worth. The application further states that there is no affiliation or relationship of any kind between the officers and directors of Broad Street and the officers, directors, and stockholders of Merrill-Worth.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current offering price described in the prospectus, with certain exceptions not applicable here. Under the terms of the Agreement, however, the shares of Broad Street are to be issued to Merrill-Worth at a price other than the public offering price stated in the prospectus, which lists a sales charge of 1.8 percent for sales of $500,000 or over.

Section 6(c) of the Act authorizes the Commission by order upon application to exempt, conditionally or unconditionally, any transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 28, 1962 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, Washintgon 25, D.C. 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. 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 O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 62–12559; Filed, Dec. 19, 1962; 8:47 a.m.]

[File No. 812–1547]

CONSOLIDATION COAL CO. AND NATIONAL STEEL CO.

Notice of Filing of Application

DECEMBER 14, 1962.

Notice is hereby given that Consolidation Coal Company ("Consol"), Koppers Building, Pittsburgh 19, Pennsylvania, and National Steel Company ("National"), 2800 Grant Building, Pittsburgh 19, Pennsylvania, have filed an application pursuant to sections 6(c), 17(b) and 17(d) of the Investment Company Act of 1940 and Rule 17d–1 thereunder to permit Consol and National to participate in the organization, financing and operation of the Itmann Coal Company ("Itmann"). All interested persons are referred to the application, which is on file with the Commission, for a full statement of the applicants' representations which are summarized below.

The M. A. Hanna Company ("Hanna"), a registered closed-end, non-diversified investment company, owns approximately 22 percent of the outstanding voting securities of Consol and approximately 26 percent of the outstanding voting securities of National. By reason of these holdings, Consol and National are affiliated persons of Hanna and National is presumptively controlled by Hanna. Consol is primarily engaged in the production and marketing of bituminous and lignite coal and National is principally engaged in the business of producing, processing and marketing steel and steel products.

Itmann is to be incorporated in West Virginia and will have a total authorized capital stock of 30,000 shares, of which Consol will purchase ⅔ (20,000 shares) for $2,000,000 cash and National will purchase ⅓ (10,000 shares) for $1,000,000 cash. Consol will convey to Itmann the Itmann coal mine, together with a modern cleaning plant, loading facilities and related buildings and equipment, for a total consideration of $16,000,000. The Itmann mine is a modern underground mine in Wyoming County, West Virginia presently in operation, and has an annual capacity of 3,000,000 tons of coal and an estimated life expectancy of 30 years. The purchase price for the mine will be $4,500,000 in cash and $11,500,000 face amount of promissory notes of Itmann. Itmann will arrange for a bank loan with a bank unaffiliated with Hanna, National or Consol, for $4,000,000 of the cash payment, the remaining $500,000 to be paid out of the proceeds of the above-mentioned sales to Consol and National of Itmann stock. The promissory notes will call for level payments of principal and interest over a period of seven years; interest will be at the rate of 4½ percent for the first five years and 4¾ percent for the remaining two years; and the notes will be prepayable at any time without penalty. The interest rates and term of the notes given to Consol will be the same as those of the bank loan. National will guarantee ⅓ of the total debt to be incurred by Itmann, by guaranteeing the entire $4,000,000 bank loan and $1,166,667 of the principal amount of the Itmann notes given to Consol.

Consol will sublease to Itmann approximately 25,000 acres of coal lands located in Wyoming and adjacent counties in West Virginia and now held by Consol under leases. The Itmann mine is located on such coal lands and the coal reserves contained therein will be adequate to maintain the mine for 30 years. The royalty rate and the minimum royalties provided in such sublease are comparable to other such royalties being paid under similar leases entered into with unaffiliated companies by Consol as lessor. The lease will be the standard form of lease used in the Pocahontas coal field in West Virginia and Virginia and will continue in effect until all of the coal in the subleased premises has been mined and removed by Itmann. While the sublease will be subject to the terms of existing leases for such coal acreage now held by Consol, none of such terms will materially effect the right of Itmann to mine and remove all the coal in the sublease.

In the event that, for each of any three consecutive years after January 1, 1965, National's low-volatile coal purchases are less than one-third of the production of the Itmann mine, Consol will have the option to purchase from National, at book value, shares of Itmann stock sufficient to adjust National's relative stock ownership downward to its percentage of total Itmann production. National will have an option to repurchase such shares at book value when its low-volatile coal purchases again equal one-third of the total production of the Itmann mine for three consecutive calendar years.

In the event that, for any three-year period after January 1, 1965, Consol's purchases from Itmann are less than the amount specified in the contract, National will have the option to purchase from Consol at book value shares of Itmann stock sufficient to adjust its percentage of stock ownership to its percentage of the total coal production of Itmann during such three-year period. In the event of such downward adjustment in Consol's stock ownership, its coal purchase commitment will be adjusted accordingly; and Consol will have the option to repurchase from Itmann shares at book value when its coal purchases over a three-year period again meet its commitment as it existed before the adjustment.

Under a proposed coal purchase contract between National, Consol, and Itmann, the price for all coal purchased by National and Consol from Itmann will be the domestic market price in effect from time to time for coal of similar

quality sold under similar terms and conditions for metallurgical use. The contract will continue in effect for the life of the Itmann mine, and while Consol has no right to cancel the contract, National has the right, exercisable on two years' notice, to cancel the contract after either ten or twenty years. In the event of cancellation by National on either of such dates, National will sell and Consol will purchase all of National's shares of Itmann stock at a price per share equal to Itmann's net current assets divided by the total number of Itmann shares then outstanding.

Other than as set out above, the Itmann shares will not be transferable, except that, if either National or Consol should desire to dispose of all of its Itmann shares, the other such stockholder will have the option to purchase such shares at a price equal to that of any bona fide offer by a third party. National and Consol contemplate that there may be other participants in Itmann and its coal production, and Consol may sell to another company part of Consol's shares in Itmann and of the production of the Itmann mine, other than that to which National is entitled, on terms no more favorable than those then available to National.

Itmann and Consol will also enter into a management agreement whereby Consol will have supervision of the Itmann mine and will be paid an annual fee equal to 2 percent of the gross proceeds received from the first 1,500,000 tons of coal sold by Itmann, and 1½ percent on any additional tonnage. This management fee is generally comparable to that received by Consol for rendering similar services to jointly owned companies and parallels that received in the most recently formed joint company negotiated with a company not affiliated with Hanna, National or Consol.

Finally, Consol will agree to waive (beginning November 1, 1962) the minimum annual royalty of $319,200 now payable under a lease dated January 14, 1952 between Consol and a subsidiary of National, for the remaining period of such lease, unless and until mining operations are resumed thereunder. This waiver by Consol was agreed to as a part of the overall realignment of National's sources of coal supply and in order to provide Consol another market for its coal, although of a different type and produced from other properties. In the opinion of Consol, the overall benefits to be derived from the realignment fully justify the waiver.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together provide, among other things, that it shall be unlawful, with certain exceptions not applicable here, for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by the Commission, and that, in passing upon such an application, the Commission will consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to, or purchasing from, such registered company or any company controlled by such company securities or property, unless the Commission upon application pursuant to section 17(b), grants an exemption from section 17(a) upon a finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated 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.

Applicants state that from the standpoint of National, participation in joint enterprises such as Itmann provides an assured supply of coal extremely important and necessary to meet its steel coking needs and, from the standpoint of Consol, the formation of Itmann affords an opportunity to have a steady customer for some of its low-volatile coal capacity, the market for which is normally subject to wide fluctuation. Applicants also state that in the coal industry today, joint ownership of coal producing companies by commercial coal operators and large steel companies is becoming increasingly common. The proposed formation of Itmann Coal Company represents the fourth such venture to be entered into by Consol and the third by National. Recently, National has entered into a similar transaction with a competitor of Consol covering other than low-volatile coal and Consol has entered into a similar transaction with another steel company, a competitor of National.

The relative participation by Consol and National in Itmann is based primarily on National's needs for coal now and in the future. Thus National is to own one-third of the stock and guarantee one-third of the debt of Itmann and its obligation and rights to purchase the coal production of Itmann is generally one-third of total production. Adjustment provisions are provided in the contract to permit changes in its stock ownership (and thus participation in profits) to the extent its purchases exceed one-third of total production or Consol fails to meet its obligations to purchase coal.

The price of $16,000,000 for the Itmann mine was reached after a detailed appraisal by representatives of Consol and National of the depreciated fair market value of items of plant and equipment to be sold, and this appraisal totals somewhat in excess of $16,000,000. The price also takes into account the estimated return which Consol could expect to receive from the property if it were operated on a commercial basis without a substantial amount of production being consumed by a part owner, and is in line with the price at which Consol and others have sold mines in recent years. The parties also took into account replacement value, having in mind that it is generally recognized in the industry today that to open a new underground mine would cost $10 to $11 per annual ton of capacity. For a mine comparable to Itmann this would mean an aggregate cost in excess of $30,000,000.

Applicants further represent that the terms of the agreement between them have been reached only after extensive and prolonged bargaining by both applicants and represent the best economic and business judgment of the two applicants.

The application further states that the royalty rates relevant to Itmann and certain information and certain terms of the coal purchase contract have been omitted from the application on the grounds that public disclosure of such information would be detrimental to the competitive position of both Consol and National. The application states further that such royalty rates, as well as certain information supporting the statements contained in the application will be furnished to the Commission by separate amendments to the application by Consol and National. Applicants state that the disclosure of certain of such information solely within the knowledge of Consol or National would be revealing trade secrets to National of National's competitors and to Consol of Consol's competitors and confidential treatment of such information has accordingly been requested pursuant to section 45(a) of the Act.

Notice is further given that any interested person may, not later than December 28, 1962, 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 25, D.C. 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 O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the

Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 62-12560; Filed, Dec. 19, 1962; 8:47 a.m.]

[File No. 812-1549]

TRANSATLANTIC FUND LTD.

Notice of Application by Canadian Investment Company for Conditional Order Permitting its Registration

DECEMBER 14, 1962.

Notice is hereby given that Transatlantic Fund Ltd. ("Applicant"), an investment company chartered under the Companies Act of Canada has filed an application pursuant to section 7(d) of the Investment Company Act of 1940 and Rule 7d-1 thereunder seeking a conditional order of the Commission permitting the Applicant to register as an investment company under the Act. All interested persons are referred to the application on file with the Commission for a complete statement of the facts which are summarized below.

Section 7(d) of the Act, among other things, prohibits a foreign investment company from making a public offering of any security of which it is the issuer by use of the mails or any means or instrumentality of interstate commerce unless the Commission, upon application, issues a conditional or unconditional order permitting such company to register under the Act and to make a public offering of its securities in the United States. To issue such an order the Commission must find that by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the Act against such company and that the issuance of such order is otherwise consistent with the public interest and the protection of investors.

Applicant is a Canadian corporation organized under the Dominion Companies Act by Letters Patent dated April 7, 1959; its main office is located at 20 King Street, East, Toronto, Ontario.

Applicant was organized to provide a medium for investment primarily in shares or other equity securities of companies domiciled in the European Common Market countries, Great Britain, the British Commonwealth countries and, to a limited extent elsewhere in the Free World. The investment adviser of the Applicant is Kleinwort, Benson Ltd., London. Applicant's net assets as of September 30, 1962 expressed in United States Dollars was $18,440,670, equivalent to $1,356.63 per outstanding share.

The authorized capital stock of Applicant consists of 20,000 Special Shares, of the par value of $100 each, of which 13,593 shares are outstanding, and 1,000 deferred shares of the par value of $1 each, of which none are outstanding. Its outstanding Special Shares are held of record by 71 stockholders in the aggregate, 13,507 shares being held of record by 67 stockholders having addresses within the United States and the remaining 86 outstanding Special Shares being held by others. Applicant is advised that the shares held of record by one of such United States stockholders include shares owned beneficially by more than 50 persons. It is stated that Applicant's outstanding shares have been privately offered and issued in "transactions * * * not involving any public offering" within the meaning of section 4(1) of the Securities Act of 1933. The initial placement of its shares consisted of 7,500 shares sold on or about May 1, 1959 at a price of $1,000 per share, the minimum purchase by any single purchaser, other than directors of Applicant, being required to be at least $100,000.

The Applicant represents that it has not made and is not presently making any public offering of its securities and has no principal underwriter.

At the present time a majority of the directors of Applicant are not citizens of the United States. The Applicant proposes to elect additional directors so that a majority of its directors will be United States citizens of whom a majority will be resident in the United States.

Applicant proposes to enter into an amended investment advisory agreement with its present advisor, Kleinwort, Benson Ltd., London containing provisions in compliance with the requirements of sections 15, 17(i) and 31 of the Act and the rules thereunder requiring that the investment advisor maintain in the United States its books and records or duplicate copies thereof relating to the Applicant.

At the present time, the custodian of Applicant's assets is Brown Brothers Harriman & Co., New York, New York under a contract dated April 30, 1959. The Applicant proposes to enter into a custodian agreement with Bankers Trust Co. under which said bank will maintain in its sole custody in the United States all of the Applicant's securities and cash other than cash necessary to meet Applicant's current administrative expenses which new contract will contain the provisions required by Rule 7d-1.

The present auditors of the Applicant are Messrs. Clarkson, Gordon & Co., Toronto, Ontario. Applicant proposes to appoint as its auditors Messrs. Arthur Young, Clarkson, Gordon & Co. who maintain a permanent office and place of business in the United States and who are qualified to act as independent public accountants for Applicant under section 32(a) of the Act and the rules thereunder.

The Applicant desires to register under the Act to avoid detrimental tax consequences to the United States shareholders. Under the provisions of the Internal Revenue Code of 1954, as amended ("Code") by the Revenue Act of 1962, the United States shareholders of the Applicant will suffer substantial detriment unless prior to January 1, 1963 the Applicant (a) is registered under the Act and (b) makes the election provided for in section 1247(a)(1) of the Code for distribution of income currently with respect to each taxable year beginning after December 31, 1962. The Applicant intends to make such election immediately upon its registration under the Act. Absent such registration and election, gains realized on a sale or exchange of Applicant's stock would be taxed as ordinary income.

The Applicant cannot at this time effect full compliance with Rule 7d-1 and there is insufficient time between the date hereof and December 31, 1962 for the Applicant to effect such full compliance. The Applicant's charter and by-laws must be amended for such purpose and under Canadian statutory procedure and Applicant's by-laws, such amendment will require a period of not less than 30 days following adoption and approval of such amendment by its Board of Directors. Applicant represents that it anticipates no difficulties on its part in effecting compliance with the requirements of Rule 7d-1, subject to such modifications thereof as have been permitted by the Commission on application for other foreign registrants under the Act, principally as to the custody and exercise of rights received by Applicant as a shareholder of foreign companies and as to treating certain foreign securities exchanges in addition to the Toronto and Montreal Stock Exchanges as recognized securities exchanges for purposes of section 22(e) of the Act.

Applicant represents that it believes the Commission may properly issue the order herein applied for permitting the Applicant to register under the Act on or prior to December 31, 1962 by the filing of a notification of registration on Form N-8A as being consistent with the public interest and the protection of investors if such order be on condition that, until further order of the Commission, (a) Applicant shall make no public offering of any securities of which it is the issuer and (b) Applicant will effect full compliance with the requirements of the Commission's Rule 7d-1, except as they may be modified by the Commission, on or prior to June 30, 1963.

Notice is further given that any interested person may, not later than December 28, 1962, 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 25, D.C. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Transatlantic. 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 O-5 of the rules and regulation promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for

hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 62-12561; Filed, Dec. 19, 1962; 8:48 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), and Administrative Order No. 561 (27 F.R. 4001) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (29 CFR 522.1 to 522.9) are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Bestform Foundations of Windber, Inc., 21st Street and Stockholm Avenue, Windber, Pa.; effective 12-9-62 to 12-8-63 (ladies' brassieres and girdles).

H. & L. Block, Inc., Decherd, Tenn.; effective 12-7-62 to 12-6-63 (men's single pants).

Blue Bell, Inc., Prentiss County, Boonsville, Miss.; effective 12-17-62 to 12-16-63 (ladies' and girls' blouses, and men's and boys' shirts).

Corman & Wasserman, Inc., 1220 Curtain Avenue, Baltimore, Md.; effective 12-3-62 to 12-2-63 (men's trousers).

Frances Gee Garment Co., Inc., Higginsville, Mo.; effective 12-9-62 to 12-8-63 (women's cotton, nylon, and dacron uniforms).

Garan Sportswear, Inc., Adamsville, Tenn.; effective 12-7-62 to 12-6-63 (men's and boys' sport shirts).

Harrington Shirt Corp., Clark Street, Harrington, Delaware; effective 12-4-62 to 12-3-63 (men's and boys' sport shirts).

Kenrose Manufacturing Co., Inc., Radford, Va.; effective 12-12-62 to 12-11-63 (women's dresses).

Liberty Manufacturing Corp., Liberty, Ky.; effective 12-8-62 to 12-7-63 (boys' sport shirts).

Mammoth Cave Garment Co., Cave City, Ky.; effective 12-11-62 to 12-10-63 (men's and boys' dungarees).

Mayflower Manufacturing Co., Inc., 460-506 North Main Avenue, Scranton, Pa.; effective 12-12-62 to 12-11-63 (boys' and students' trousers).

Newton Grove Manufacturing Co., Newton Grove, N.C.; effective 12-6-62 to 12-5-63 (women's dresses).

Ridgely Manufacturing Co., Ridgely, Tenn.; effective 12-6-62 to 12-5-63 (men's outdoor jackets).

Salant & Salant Inc., Henderson, Tenn.; effective 12-13-62 to 12-12-63 (men's cotton work shirts).

Salemburg Manufacturing Co., Salemburg, N.C.; effective 12-8-62 to 12-7-63 (women's dresses).

Scottsboro Manufacturing Co., Scottsboro, Ala., effective 12-8-62 to 12-7-63 (children's knit shirts).

Sun Garment Co., 2401 Hyde Parkway, St. Joseph, Mo.; effective 12-1-62 to 11-30-63 (shirts).

Swansea Manufacturing Co., Inc., Route 3, Swansea, S.C.; effective 12-6-62 to 12-5-63 (men's and boys' robes).

Warner Bros. Co., Thomasville, Ga.; effective 12-22-62 to 12-21-63 (corsets and brassieres).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Acme Garment Co., Fifth and Elm Streets, Wentzville, Mo.; effective 12-7-62 to 12-6-63; 10 learners (ladies' blouses and slacks).

Angela Sportswear, 106 South Main Street, Pittston, Pa.; effective 12-8-62 to 12-7-63; six learners (dresses).

Bridgton Dress Co., Bridgton, Maine; effective 12-5-62 to 12-4-63; 10 learners (women's dresses).

Cylvick Dress Co., Inc., 293 East Main Street, Patchogue, N.Y.; effective 12-5-62 to 12-4-63; eight learners (women's and misses' dresses).

The Loudoun Manufacturing Co., d/b/a Emmitsburg Manufacturing Co., Emmitsburg, Md.; effective 12-8-62 to 12-7-63; 10 learners (men's trousers).

Town Dress Co., Lewistown, Maine; effective 12-10-62 to 12-9-63; 10 learners (women's dresses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Chester Shirt Corp., Chester, S.C.; effective 12-3-62 to 6-2-63; 40 learners (men's dress shirts).

Cluett, Peabody & Co., Inc., U.S. Highway No. 78, Jasper, Ala.; effective 12-8-62 to 3-9-63; 100 learners (men's dress shirts) (supplemental certificate).

The Exylin Co., 925 North Main Street, Mount Vernon, Ind.; effective 12-5-62 to 6-4-63; 10 learners (raincoats).

Sandy Lee Manufacturing Co., Menomonie, Wis.; effective 12-3-62 to 6-2-63; 25 learners (boys' lined and unlined outerwear jackets).

Swansea Manufacturing Co., Inc., Route 3, Swansea, S.C., effective 12-6-62 to 6-5-63; 75 learners (men's and boys' robes).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.60 to 522.65, as amended).

Newton Glove, Inc., Newton, N.C.; effective 12-7-62 to 6-6-63; 12 learners for plant expansion purposes (cotton and leather work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Royal Hosiery Mills, Inc., Yanceyville, N.C.; effective 12-10-62 to 6-9-63; 10 learners for plant expansion purposes (full-fashioned and seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.30 to 522.35, as amended).

Ashland Knitting Mills, Inc., Front and Chestnut Streets, Ashland, Pa.; effective 12-6-62 to 12-5-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's underwear).

Van Raalte Co., Inc., Bristol, Vt.; effective 12-6-62 to 12-5-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's underwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

Active Quilting Corp., 421 North Pennsylvania Avenue, Wilkes-Barre, Pa.; effective 12-5-62 to 6-4-63; five learners for normal labor turnover purposes, in the occupation of quilting machine operator for a learning period of 320 hours at the rate of not less than $1.00 an hour (quilted products).

Each learner certificate has been issued upon the representations of the employers which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 13th day of December.

VERL E. ROBERTS, *Authorized Representative of the Administrator.*

[F.R. Doc. 62-12558; Filed, Dec. 19, 1962; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 17, 1962.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 38079: *Substituted service—SP for Strickland Transportation Co., Inc.* Filed by J. D. Hughett, Agent, (No. 42), for the Southern Pacific Company and other interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Dallas and Houston, Tex., on the one hand, and New Orleans, La., and Beaumont, Tex., on the other; between

Beaumont, Tex., and Lake Charles, La.; between Dallas, Tex., and Houston, Tex.; and between San Antonio, Tex., on the one hand, and Lake Charles, La., Beaumont, Dallas and Houston, Tex., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 9 to Agent J. D. Hughett's tariff MF–I.C.C. 351.

FSA No. 38080: *Liquid caustic soda from Geismar, La., to Pacolet, S.C.* Filed by O. W. South, Jr. Agent, (No. A4267), for interested rail carriers. Rates on liquid caustic soda, in tank-car loads, from Geismar, La., to Pacolet, S.C.

Grounds for relief: Market competition.

Tariff: Supplement 87 to Southern Freight Association tariff I.C.C. S–89.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 62–12566; Filed, Dec. 19, 1962; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR

Page

PROCLAMATIONS:
- 3279 — 11985
- 3290 — 11985
- 3328 — 11985
- 3386 — 11985
- 3389 — 11985
- 3508 — 11913
- 3509 — 11985
- 3510 — 12115

EXECUTIVE ORDERS:
- Mar. 4, 1891 — 12370
- July 2, 1910 — 12220, 12371, 12651
- July 21, 1915 — 12059
- Aug. 27, 1915 — 12059
- Oct. 30, 1916 — 12220
- Nov. 22, 1924 — 12277, 12651
- 6616 — 12058
- 7211 — 12219
- 9708 — 12393
- 10532 — 12393
- 11017 — 11847
- 11069 — 11847
- 11070 — 12393

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
- Memorandum, Nov. 2, 1962 — 12277

4 CFR
- 30 — 12044
- 51 — 12044, 12395
- 52 — 12395

5 CFR
- 6 — 11989, 12313, 12395, 12427, 12611
- 204 — 12395

6 CFR
- 308 — 12611
- 373 — 12396
- 375 — 12396
- 464 — 11918

7 CFR
- 47 — 12398
- 354 — 12044
- 401 — 12044, 12117, 12252, 12253
- 404 — 12253
- 601 — 12209
- 719 — 11919
- 722 — 12045, 12054, 12427, 12428
- 724 — 11919
- 728 — 12332
- 729 — 11920
- 730 — 12611
- 776 — 12430
- 811 — 12340, 12473
- 905 — 11870, 11871
- 907 — 11872, 12182, 12437, 12576
- 909 — 12437
- 912 — 12117
- 947 — 12183
- 949 — 11872
- 970 — 12183
- 971 — 11934

7 CFR—Continued

Page

- 982 — 12344
- 990 — 12344, 12576
- 1040 — 12255
- 1042 — 12256
- 1125 — 11873
- 1133 — 11874
- 1136 — 11874
- 1138 — 12346

PROPOSED RULES:
- 52 — 11954, 12190, 12222
- 319 — 12641
- 322 — 12643
- 728 — 11955
- 730 — 12270
- 811 — 11895
- 812 — 12375
- 910 — 12449
- 959 — 11998, 12190
- 970 — 12583
- 982 — 12191, 12375
- 1001 — 12449
- 1003 — 12644
- 1004 — 11999
- 1006 — 12449
- 1007 — 12449
- 1010 — 11999
- 1014 — 12449
- 1015 — 12449
- 1016 — 12644
- 1032 — 12222
- 1048 — 11955
- 1050 — 12222
- 1063 — 12222
- 1108 — 12271
- 1130 — 11955, 12376

8 CFR
- 252 — 11875

9 CFR
- 76 — 11935
- 80 — 12183
- 101 — 11935
- 112 — 11935
- 117 — 11936
- 118 — 11936
- 119 — 11937
- 120 — 11937

PROPOSED RULES:
- 74 — 12062

10 CFR
- 2 — 12184
- 30 — 12257
- 50 — 12184
- 115 — 12184

12 CFR
- 1 — 12399
- 220 — 12346

PROPOSED RULES:
- 209 — 12271
- 219 — 12001
- 334 — 12000

13 CFR

Page

- 105 — 12612
- 121 — 12438

PROPOSED RULES:
- 121 — 11973

14 CFR
- 4b — 12399
- 6 — 12400
- 10 — 12399
- 40 — 12258, 12399
- 41 — 12258, 12399
- 42 — 12258, 12399
- 43 — 12399
- 46 — 12258
- 60 — 12614
- 71 [New] — 11938, 11939, 11989, 12165, 12166, 12209, 12211, 12258, 12347, 12348, 12438, 12544, 12615.
- 73 [New] — 11941, 12438
- 75 [New] — 11939, 11989, 12438
- 151 [New] — 12349
- 153 [New] — 12360
- 155 [New] — 12361
- 157 [New] — 12363
- 161 [New] — 12363
- 163 [New] — 12364
- 208 — 12259
- 302 — 12545
- 507 — 11990, 11991, 12056, 12117, 12167, 12405, 12473, 12616.
- 514 — 12405
- 550 — 12366
- 555 — 12366
- 565 — 12366
- 574 — 12366
- 575 — 12366
- 576 — 12366
- 577 — 12366
- 601 — 12057, 12212
- 608 — 12057, 12212
- 609 — 12168, 12174, 12181, 12564, 12570
- 610 — 12406
- 625 — 12366

PROPOSED RULES:
- 1 — 12412
- 3 — 11999, 12412
- 4b — 11999, 12412
- 5 — 12412
- 6 — 12224, 12412
- 7 — 12412
- 10 — 12412
- 13—14 — 12412
- 18 — 12412
- 20—21 — 12412
- 24 — 12412
- 40 — 12191, 12412, 12649
- 41 — 12191, 12412, 12649
- 42 — 12191, 12412, 12649
- 43 — 12412
- 45 — 12376
- 46 — 12191, 12412

14 CFR—Continued

Page

PROPOSED RULES—Continued

49 ... 12412
52 ... 12412
73 [New] ... 12583
207 ... 12649
221 ... 11898
294 ... 12223
507 ... 12583
514 ... 12141
515 ... 12412
600 ... 11898, 11970
601 ... 11898, 11900, 11970, 12650
602 ... 11898, 11900, 11901, 12450
1245 ... 12486

15 CFR

6 ... 11941

16 CFR

13 ... 11875, 11876, 11991, 11992, 12057, 12441, 12442, 12474, 12576–12579.

17 CFR

150 ... 12366
270 ... 11993

18 CFR

1 ... 12212
3 ... 12212
125 ... 12241
225 ... 12241

PROPOSED RULES:

4 ... 12378

19 CFR

1 ... 12258
3 ... 12475
10 ... 12409
24 ... 11943
201—208 ... 12117

20 CFR

404 ... 12260
501 ... 12186
502 ... 12186

21 CFR

3 ... 11943, 12092
120 ... 12092, 12212
121 ... 11876, 11877, 11944, 11995, 12060, 12061, 12213, 12409, 12410, 12475, 12616
141c ... 11944
146c ... 11944, 12126, 12480

PROPOSED RULES:

3 ... 12412
120 ... 12222
121 ... 11902, 11999, 12139, 12222, 12223, 12486

22 CFR

92 ... 12616

24 CFR

200 ... 12126

25 CFR

254 ... 12399

26 CFR

1 ... 11877, 11881, 11915, 12541
16 ... 12544
301 ... 11881

PROPOSED RULES:

1 ... 12137, 12582, 12621
48 ... 12267

28 CFR

0 ... 12617
21 ... 12619
30 ... 12619
31 ... 12619

29 CFR

Page

614 ... 12367
615 ... 12480

PROPOSED RULES:

522 ... 11968
601 ... 12062
670 ... 12062
673 ... 12449
675 ... 12449

31 CFR

340 ... 12481

32 CFR

231 ... 11893
564 ... 12165
751 ... 11946
805 ... 12260
1001 ... 12213
1007 ... 12213
1008 ... 11946
1010 ... 12213
1012 ... 12213
1013 ... 12213
1014 ... 12127
1016 ... 12127
1017 ... 12128
1030 ... 12128
1053 ... 12214
1054 ... 12214
1055 ... 12216
1057 ... 12216
1059 ... 12217
1060 ... 12217

32A CFR

OIA (*Ch. X*):

OI Reg. 1 ... 12442

33 CFR

203 ... 11995, 12184, 12482
207 ... 12368

36 CFR

213 ... 12217

PROPOSED RULES:

1 ... 12190

38 CFR

3 ... 11886, 11995, 12044, 12131
6 ... 11893
8 ... 11893
17 ... 12218
21 ... 12482

39 CFR

Chapter I ... 12483, 12484
4 ... 12448
12 ... 12448
168 ... 12410

41 CFR

9–7 ... 11946
9–9 ... 12037
18–7 ... 12499
18–9 ... 12499

PROPOSED RULES:

50–202 ... 12450

42 CFR

21 ... 12544

43 CFR

260 ... 12368

PUBLIC LAND ORDERS:

576 ... 12219
669 ... 12059
712 ... 11974
786 ... 12059
861 ... 11894
1489 ... 12131
1960 ... 12219
2340 ... 11894
2390 ... 12219

43 CFR—Continued

Page

PUBLIC LAND ORDERS—Continued

2497 ... 12370
2771 ... 12219
2786 ... 12219
2787 ... 12219
2820 ... 11894
2821 ... 12058
2822 ... 12058
2823 ... 12058
2824 ... 12059
2825 ... 12059
2826 ... 12059
2827 ... 12131
2828 ... 12131
2829 ... 12132
2830 ... 12132
2831 ... 12218
2832 ... 12218
2833 ... 12219
2834 ... 12219
2835 ... 12219
2836 ... 12219
2837 ... 12220
2838 ... 12220
2839 ... 12220
2840 ... 12261
2841 ... 12370
2842 ... 12370
2843 ... 12370
2844 ... 12370
2845 ... 12371
2846 ... 12371
2847 ... 12371
2848 ... 12372
2849 ... 12447
2850 ... 12447
2851 ... 12448

45 CFR

13 ... 12261

46 CFR

146 ... 12133, 12619
206 ... 12189
402 ... 11947

PROPOSED RULES:

510 ... 12412

47 CFR

0 ... 11948, 11996, 12221
1 ... 11948
2 ... 12372, 12579
3 ... 11996, 12221
9 ... 12579
18 ... 11950

PROPOSED RULES:

1 ... 11971, 11999, 12584
3 ... 12063, 12193, 12451, 12584
4 ... 12585
8 ... 12584
11 ... 12585, 12586
25 ... 11971
31 ... 12486
33 ... 12486
34 ... 12486
35 ... 12486

49 CFR

1 ... 12188
7 ... 12189
71–78 ... 11849

PROPOSED RULES:

170 ... 12001, 12587

50 CFR

32 ... 12060
33 ... 11952, 12619
290 ... 12580

PROPOSED RULES:

11 ... 12138
33 ... 12582