

§ 0.331 Authority delegated.

(b) * * *

(18) To act on requests for waiver of application procedures to allow a licensee to submit a request for the identical modification or assignment of a number of outstanding authorizations without filing a separate application for each station. Action taken under this delegation does not include authority to waive or reduce applicable fee requirements which shall be determined as if separate applications were filed for each station.

[F.R. Doc. 66-8202; Filed, July 26, 1966; 8:48 a.m.]

[FCC 66-670]

PART 73—RADIO BROADCAST SERVICES

Miscellaneous Amendments

Report and order. 1. The Commission has under consideration various sections of the rules governing FM broadcast stations and desires to make certain editorial and clarifying changes in order to remove ambiguities, repetitions, etc.

2. Section 73.202(a) refers to the FM assignments in the 48 conterminous states. However, in the fourth report and order in Docket 14185, assignments were added in Alaska and Hawaii and the U.S. Territories and possessions. This section will be amended to reflect this change.

3. Section 73.205(a) is an incorrect description of the Zone I line in the area near Lake Erie, in that it implies that the line extends across Ontario instead of following the United States-Canadian border in this area. This section will be amended to correct this error.

4. In § 73.207(a) the parenthetical expression starting on line 5 and reading "(except as provided in paragraph (b) of this section)" was pertinent under a previous version of this rule but is no longer significant. We are deleting this expression from the rule.

5. Sections 73.210(c) and 73.315(a) both contain the same requirement for coverage of the principal community. Since this repetition is unnecessary and the provision more appropriately belongs in § 73.315(a), 73.210(c) will be deleted.

6. Section 73.211(b) (3) permits stations in Puerto Rico to utilize antenna heights up to 2,000 feet with powers up to 25 kw E.R.P. but requires reduction in power for heights above 2,000 feet to the equivalent of 25 kw-2,000 feet. The rule is not clear however as to the facilities which are permitted for antenna heights below 2,000 feet and powers above 25 kw but not over 50 kw (the power limit for Class B stations). In order to clarify this rule we are adding the statement that in the event that powers above 25 kw are used antenna heights will not be authorized which result in greater coverage by the 1 mv/m contour than obtained from the combination of 25 kw power and 2,000 feet antenna

height. Section 73.211 specifies the maximum and minimum authorized facilities for FM broadcast stations. Subsection (d) "grandfathers" in existing "super-maximum" stations which were in operation as of September 10, 1962, but states that any application for a change in facilities for such stations will be subject to the provisions of the section except for minimum power. There is contained no definitions of change in facilities, and it is not in the public interest to apply this rule to any change regardless of how inconsequential. Since the rule was adopted it has been interpreted by the Commission to permit changes in facilities as long as there was no increase in the power authorized and no extension of the 1 mv/m field strength contour in any direction. The rule will be amended to reflect this practice and interpretation.

7. In § 73.242(a), the "AM-FM non-duplication" rule, it is stated that the rule applies to stations in cities of over 100,000 population "as listed in the latest U.S. Census Reports." In addition to the decennial census of the entire population, the Bureau of the Census on occasion takes censuses of individual cities and publishes the reports thereof. The question has arisen as to whether the applicability of the rule is based on such special reports. This was not our intention; the basis of the rule was intended to be the latest regular census. Therefore, the word "decennial" will be added in the text of the paragraph mentioned.

8. In § 73.311(b) (3) there is an incorrect reference to "paragraph (a) of this section." The corrected version of this paragraph will make the correct reference, which is to § 73.315(a).

9. Section 73.312(c) states where certain maps may be obtained and includes the costs of these maps. Since the prices change from time to time and the ones listed are now incorrect it is proposed to delete reference to prices in this rule.

10. Since the changes in the FM rules adopted herein are editorial, clarifying or interpretative in nature, the Commission finds that prior notice and rule-making proceedings are unnecessary and would not serve the public interest. For the same reasons, and also since in some respects they represent a relaxation of existing restrictions, it is appropriate that they be made effective immediately. Authority for the rule amendments below is contained in sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended.

11. In view of the foregoing: *It is ordered*, That, effective August 1, 1966, Part 73 of the Commission's rules and regulations is amended as set forth below.

¹ The antenna heights referred to in this section are those above average terrain and not above ground. Normally, the higher heights above average terrain are obtained by placing a short tower on top of a mountain or other high natural elevation. Thus, there is no apparent conflict with our rule making in Docket No. 16030, which concerns certain restrictions on antenna heights of over 1,000 feet above ground.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: July 20, 1966.

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,²

[SEAL] BEN F. WAPLE, Secretary.

Part 73 of the Commission's rules and regulations is amended in the following respects:

1. In § 73.202 paragraph (a) is amended to read as follows:

§ 73.202 Table of Assignments.

(a) *General.* The following table of assignment contains the channels (other than noncommercial educational channels) assigned to the listed communities in the United States, its Territories and possessions. Channels designated with an "A" are for Class A FM stations. All other listed channels are for Class B stations in Zones I and I-A and for Class C stations in Zone II.

2. In § 73.205 the introduction and paragraph (a) is amended to read as follows:

§ 73.205 Zones.

For the purpose of allocation and assignment, the United States is divided into three zones as follows:

(a) Zone I consists of that portion of the United States located within the confines of the following lines drawn on the United States Albers Equal Area Projection Map (based on standard parallels 29½° and 45½°; North American datum): Beginning at the most easterly point on the State boundary line between North Carolina and Virginia; thence in a straight line to a point on the Virginia-West Virginia boundary line located at north latitude 37°49' and west longitude 80°12'30"; thence westerly along the southern boundary lines of the States of West Virginia, Ohio, Indiana, and Illinois to a point at the junction of the Illinois, Kentucky, and Missouri State boundary lines; thence northerly along the western boundary line of the State of Illinois to a point at the junction of the Illinois, Iowa, and Wisconsin State boundary lines; thence easterly along the northern State boundary line of Illinois to the 90th meridian; thence north along this meridian to the 43.5° parallel; thence east along this parallel to the United States-Canada border; thence southerly and following that border until it again intersects the 43.5° parallel; thence east along this parallel to the 71st meridian; thence in a straight line to the intersection of the 69th meridian and the 45th parallel; thence east along the 45th parallel to the Atlantic Ocean. When any of the above lines pass through a city, the city shall be considered to be located in Zone I. (See Figure 1 of § 73.699.)

² Commissioner Johnson not participating.

3. In § 73.207 the text of paragraph (a) preceding the table is amended to delete the second parenthetical expression and as amended will read as follows:

§ 73.207 Minimum mileage separations between cochannel and adjacent-channel stations on commercial channels.

(a) Petitions to amend the table of assignments (§ 73.202(b)) (other than those expressly requesting amendment of this section or § 73.205) will be dismissed and no application for a new station, change in the channel of an existing station, or increase in antenna height or effective radiated power, or change in location of an existing station will be accepted for filing unless the proposed facilities will be located at least as far from the transmitter sites of other cochannel and adjacent-channel stations (both existing and proposed) as the distances in miles specified in this paragraph. Proposed stations of the respective classes shown in the left-hand column of the following table shall be located no less than the distance shown from cochannel stations and first adjacent-channel stations (200 kc/s removed) and second and third adjacent-channel stations (400 and 600 kc/s removed) of the classes shown in the remaining columns of the table. The distances shown between stations of different classes apply regardless of which is the proposed stations under consideration (e.g., distances shown from a new Class A station to an existing Class C station are also the distances between a new Class C and an existing Class A station). The distances between Class B and Class C stations apply only across zone lines. The adjacent-channel spacings listed also apply: (1) To applications for noncommercial educational facilities on Channels 218, 219, or 220, with respect to other stations on Channels 221, 222, or 223; (2) to applications for facilities on Channels 221, 222, or 223, with respect to noncommercial educational stations on Channels 218, 219, or 220 (for classification of noncommercial education stations, see § 73.504).

§ 73.210 [Amended]

4. In § 73.210 delete paragraph (c).

5. In § 73.211 paragraphs (b) (3) and (d) are amended to read as follows:

§ 73.211 Power and antenna height requirements.

(b) Maximum power and antenna height.

(3) In Puerto Rico antenna heights may be used up to 2,000 feet above average terrain with effective radiated powers up to 25 kw. For antenna heights above 2,000 feet the power shall be reduced so that the station's 1 mv/m contour (located pursuant to Figure 1 of § 73.333) will be no further from the station's transmitter than with the facilities of 25 kw and antenna height of 2,000 feet. For powers above 25 kw (up to 50 kw) no antenna heights will be authorized which result in greater cover-

age by the 1 mv/m contour than that obtained with the facilities of 25 kw and antenna height of 2,000 feet.

(d) *Existing stations.* Stations authorized as of September 10, 1962 which do not conform to the requirements of this section, may continue to operate as authorized. For stations operating with facilities in excess of those specified in paragraph (b) of this section no changes in facilities will be authorized which either increases the effective radiated power or extends the location of the 1 mv/m field strength contour beyond that of its present authorization in any direction. The provisions of this section shall not apply to applications to increase facilities for those stations operating with powers less than the minimum powers specified in paragraph (a) of this section.

6. In § 73.242 paragraph (a) is amended to read as follows:

§ 73.242 Duplication of AM and FM programming.

(a) After October 15, 1965, licensees of FM stations in cities of over 100,000 population (as listed in the latest regular U.S. Census Reports) shall operate so as to devote no more than 50 percent of the average FM broadcast week to programs duplicated from an AM station owned by the same licensee in the same local area. For the purposes of this paragraph, duplication is defined to mean simultaneous broadcasting of a particular program over both the AM and FM station or the broadcast of a particular FM program within 24 hours before or after the identical program is broadcast over the AM station.

7. In § 73.311 paragraph (b) is amended to read as follows:

§ 73.311 Field strength contours.

(b) The field strength contours provided for in this section shall be considered for the following purposes only:

(1) In the estimation of coverage resulting from the selection of a particular transmitter site by an applicant for an FM broadcast station.

(2) In connection with problems of coverage arising out of application of § 73.240.

(3) In determining compliance with § 73.315(a) concerning the minimum field strength to be provided over the principal community to be served.

8. In § 73.312 paragraph (c) is amended to read as follows:

§ 73.312 Topographic data.

(c) The U.S. Geological Survey Topography Quadrangle Sheets may be obtained from the U.S. Geological Survey Department of the Interior, Washington, D.C. 20240. The Sectional Aeronautical Charts are available from the U.S. Coast and Geodetic Survey, Department of Commerce, Washington, D.C. 20235. These maps may also be secured from

branch offices and from authorized agents or dealers in most principal cities.

[F.R. Doc. 66-8203; Filed, July 26, 1966; 8:48 a.m.]

[FCC 66-659]

PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

PART 85—PUBLIC FIXED STATIONS AND STATIONS OF MARITIME SERVICES IN ALASKA

Miscellaneous Amendments

In the matter of amendment of Parts 83 and 85 of the Commission's rules to permit certain changes in respect to the transmitting equipment of a ship radio station without the need for filing application for modification of ship station license; RM-924.

1. At a session of the Federal Communication Commission held at its offices in Washington, D.C., on the 20th day of July 1966 the Commission considered the above-captioned matter.

2. Parts 83 and 85 of the Commission's rules now require licensees of all ship stations to file application for modification of ship station license whenever there is a change in equipment in the station.

3. North Pacific Marine Radio Council, Inc., 610 Pontius Avenue North, Seattle, Wash., has filed a petition to amend Parts 83 and 85 of the Commission's rules to permit ship station licensees to substitute type accepted radiotelephone transmitters and/or radar units without the need for modification of ship station license.

4. In support of the request, petitioner has indicated that the current regulations requiring application for modification of ship station licenses when there is a change in equipment tends to discourage ship owners to upgrade their equipment. The time needed to comply with the licensing requirements is such that the repair of old equipment instead of replacement with modern equipment is necessary to avoid delaying the vessel. Petitioner has further stated that the amendment requested would be consistent with the Commission's program to upgrade marine radio and thus enhance safety in the maritime services.

5. Recently, we have been reexamining our requirements for filing formal applications. As a result, we have concluded that in many instances, our practices and procedures requiring application for modification of license regarding minor changes are no longer necessary. In light of this and the instant petition, we are amending the rules in Parts 83 and 85 to eliminate certain requirements that necessitate the filing of application for modification of ship station license when changes occur in regard to the authorized transmitting equipment.

6. Accordingly, the petitioner's request is granted to the extent that Parts 83 and 85 of the Commission's rules are amended to permit ship station licensees to replace type accepted radiotelephone transmit-

ters and/or type approved radar units which operate in the same frequency band or bands as specified in the license without the need for filing application for modification of license. On our own motion, we are further amending Parts 83 and 85 to eliminate the requirement that application for modification of license be filed when deletions occur with respect to the authorized transmitting equipment in a ship station. Also, no application for modification will be required to add transmitting equipment that operates in the same frequency band or bands specified in the ship station license if the equipment is type accepted or type approved.

7. Since ship stations in the maritime services are allocated numerous frequency bands for operation by international agreement, we are of the opinion it is necessary for proper administration that the Commission's files contain complete and up-to-date information in this regard. Therefore, the rule amendments ordered herein will still require ship station licensees to submit application for modification of license when they replace or add type accepted radiotelephone transmitters and/or type approved radar units that operate in a frequency band or bands other than specified in the station license. Licensees, however, should exercise caution in interchanging or adding used transmitting equipment, some of which may not be type accepted.

8. Moreover, licensees of ship stations subject to the requirements of Title III, Part II of the Communications Act of 1934, as amended, will continue to be required to file application for modification of ship station license whenever there are additions, deletions, or replacement with respect to the transmitting equipment required by the Act to be installed because section 362 of the Act requires that the particulars of such equipment be included in the station license.

9. These rule amendments adopted herein to reflect revisions in the Commission's practices and procedures with regard to licensing should result in a convenience to both licensees and the Commission. The rule amendments adopted herein are procedural in nature and hence the public notice, procedure, and effective date provisions of section 4 of the Administrative Procedures Act are not applicable. Authority for the amendments ordered herein is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended.

10. In view of the foregoing: *It is ordered*, Effective August 1, 1966, that Parts 83 and 85 of the Commission's rules are amended as set forth below.

11. *It is further ordered*, That this proceeding is terminated.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: July 22, 1966.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

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

1. Section 83.33, paragraph (a) is amended to read and new paragraphs (d) and (e) are added:

§ 83.33 Changes during license term.

(a) Application for modification of license shall be submitted in the following instances:

(1) Additions, deletions or replacement of transmitting equipment required to be installed to comply with the provisions of Title III, Part II of the Communications Act;

(2) Additions or replacement of transmitting equipment which operates in a frequency band or bands other than specified in the license.

(d) Except as provided in paragraph (a) of this section, no application for modification of license is required when deletions occur with respect to the authorized transmitting equipment.

(e) Except as provided in paragraph (a) of this section, no application for modification of license is required for additions or replacement of type accepted radiotelephone transmitters and/or type approved radar units that operate in the same frequency band or bands as specified in the license.

2. Section 83.35, paragraph (a) is amended to read:

§ 83.35 Request for interim ship station license.

(a) A formal application for a new ship station license or for a modification of an existing license if required by § 83.33 to authorize the use of telephony and/or radar on board a vessel when accompanied by a request for an interim ship station license, shall be filed in accordance with § 83.36 and presented in person by the applicant or his agent at the nearest Field Engineering Office of the Commission or at the Commission's main office in Washington, D.C.: *Provided*, That, as an alternative procedure, an applicant, in Alaska, for such a ship station license may submit an application by mail to the Commission's Field Engineering Office at Anchorage, Alaska, when accompanied by a written request for an interim ship station license.

3. Section 83.134, paragraph (a) is amended to read and paragraph (g) is deleted in its entirety:

¹ Commissioner Johnson not participating.

§ 83.134 Transmitter power.

(a) Unless specifically expressed otherwise, transmitter power is peak envelope power (see § 83.7) for A3A, A3B, A3H, and A3J emissions, and total plate input power to the final radio stage of the transmitter (without modulation present in the case of A3 emission) for other emissions.

(g) [Deleted]

B. Part 85, Public Fixed Stations and Stations of the Maritime Services in Alaska is amended as follows:

1. Section 85.22, paragraph (a) is amended to read:

§ 85.22 Application precedent to authorization.

(a) Except as otherwise provided in §§ 81.26 and 81.41 of this chapter in respect to stations on land (including Alaska-public fixed stations), and in §§ 83.26, 83.41, and 83.42 of this chapter in respect to radio stations on board ship, no authorization will be granted for use or operation of any radio station subject to this part unless formal written application therefor in proper form first is filed with the Commission. Except as otherwise permitted by § 85.23 or by applicable rules in Parts 81 and 83 of this chapter (including such rule sections applicable to Alaska-public fixed stations as are designated in § 85.24), a separate application shall be filed in respect to each station and service subject to this part. Except as otherwise provided in §§ 81.32, 81.36, and 81.41 of this chapter in respect to stations on land (including Alaska-public fixed stations), and in §§ 83.35, 83.41, and 83.42 of this chapter in respect to radio stations on board ship, an application in writing should be filed at least 60 days prior to the earliest date on which it is desired that the requested authorization (or change in authorization) be granted by the Commission in order that action thereon may be taken by that date. Each application shall be specific and complete with regard to the information requested in the application form or otherwise specifically requested by the Commission.

2. Section 85.153, paragraph (a) is amended to read:

§ 85.153 Transmitter power.

(a) Unless specifically expressed otherwise, transmitter power is peak envelope power (see § 81.8 or § 83.7 of this chapter) for A3A, A3H, and A3J emissions and total plate input power to the final radio stage of the transmitter (without modulation present in the case of A3 emission) for other emissions.

[F.R. Doc. 66-8204; Filed, July 26, 1966; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Time for Mailing Certain Notices to Shareholders of Regulated Investment Companies; Certain Redemptions by Unit Investment Trusts

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: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any 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] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 852 to 855, inclusive, of the Internal Revenue Code of 1954 to sections 201(d) and 229 of the Revenue Act of 1964 (78 Stat. 32, 99), such regulations are amended as follows:

PARAGRAPH 1. Section 1.852 is amended by revising section 852(b)(3)(C), by revising section 852(b)(3)(D)(i), by adding a subsection (d) to section 852, and by revising the historical note. These revised and added provisions read as follows:

§ 1.852 Statutory provisions; taxation of regulated investment companies and their shareholders.

Sec. 852. Taxation of regulated investment companies and their shareholders. * * *

(b) Method of taxation of companies and shareholders. * * *

(3) Capital gains. * * *

(C) Definition of capital gain dividend. For purposes of this part, a capital gain dividend is any dividend, or part thereof, which is designated by the company as a capital gain dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including capital gains dividends paid after the close of the taxable year described in section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated.

(D) Treatment by shareholders of undistributed capital gains. (i) Every shareholder of a regulated investment company at the close of the company's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the company's taxable year falls, such amount as the company shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 45 days after close of its taxable year, but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A) which he would have received if all of such amount had been distributed as capital gain dividends by the company to the holders of such shares at the close of its taxable year.

(d) Distributions in redemption of interests in unit investment trusts. In the case of a unit investment trust—

(1) Which is registered under the Investment Company Act of 1940 and issues periodic payment plan certificates (as defined in such Act), and

(2) Substantially all of the assets of which consist of securities issued by a management company (as defined in such Act),

section 562(c) (relating to preferential dividends) shall not apply to a distribution by such trust to a holder of an interest in such trust in redemption of part or all of such interest, with respect to the net capital gain of such trust attributable to such redemption.

[Sec. 852 as amended by sec. 2, Act of July 11, 1956 (Pub. Law 700, 84th Cong., 70 Stat. 530); secs. 39, 101, Technical Amendments Act 1958 (72 Stat. 1638, 1674); sec. 10(b), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1009); sec. 229, Rev. Act 1964 (78 Stat. 99)]

PAR. 2. Paragraph (b)(1) of § 1.852-2 is amended to read as follows:

§ 1.852-2 Method of taxation of regulated investment companies.

(b) Taxation of capital gains.—(1) In general. Section 852(b)(3)(A) imposes a tax of 25 percent for each taxable year on the excess, if any, of the net long-term capital gain of a regulated investment company (subject to tax under

part I, subchapter M, chapter 1 of the Code) over the sum of its net short-term capital loss and its deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only. For the definition of capital gain dividend paid by a regulated investment company, see section 852(b)(3)(C) and paragraph (c) of § 1.852-4. See § 1.852-10, relating to certain distributions in redemption of interests in unit investment trusts which for purposes of the deduction for dividends paid with reference to capital gains dividends only under section 852(b)(3)(A) are not considered preferential dividends under section 562(c). See section 855 and § 1.855-1, relating to dividends paid after the close of the taxable year.

PAR. 3. Paragraph (c) of § 1.852-4 is amended to read as follows:

§ 1.852-4 Method of taxation of shareholders of regulated investment companies.

(c) Definition of capital gain dividend.

A capital gain dividend, as defined in section 852(b)(3)(C), is any dividend or part thereof which is designated by a regulated investment company as a capital gain dividend in a written notice mailed to its shareholders not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of its taxable year. If the aggregated amount so designated with respect to the taxable year (including capital gain dividends paid after the close of the taxable year pursuant to an election under section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated. For example, a regulated investment company making its return on the calendar year basis advised its shareholders by written notice mailed December 30, 1955, that of a distribution of \$500,000 made December 15, 1955, \$200,000 constituted a capital gain dividend, amounting to \$2 per share. It was later discovered that an error had been made in determining the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, and that such excess was \$100,000 instead of \$200,000. In such case each shareholder would have received a capital gain dividend of \$1 per share instead of \$2 per share.

PAR. 4. Paragraphs (a) (1), (a) (2) (ii), and (b) of § 1.852-9 are amended to read as follows:

§ 1.852-9 Special procedural requirements applicable to designation under section 852(b) (3) (D).

(a) *Regulated investment company*—
(1) *Notice to shareholder.* A designation of undistributed capital gains under section 852(b) (3) (D) and paragraph (b) (2) (i) of § 1.852-2 shall be made by notice on Form 2439 mailed by the regulated investment company to each person who is a shareholder of record of the company at the close of the company's taxable year. The notice on Form 2439 shall show the name and address of the regulated investment company, the taxable year of the company for which the designation is made, the name and address of the shareholder, the amount designated by the company for inclusion by the shareholder in computing his long-term capital gains, and the tax paid with respect thereto by the company, which tax is deemed to have been paid by the shareholder. Form 2439 shall be prepared in triplicate, and copies B and C of the form shall be mailed to the shareholder on or before the 45th day (30th day for a taxable year ending before February 26, 1964) following the close of the company's taxable year. Copy A of each Form 2439 must be associated with the duplicate copy of the undistributed capital gains tax return of the company (Form 2438), as provided in subparagraph (2) (ii) of this paragraph.

(2) *Return of undistributed capital gains tax.* * * *

(i) *Copies A of Form 2439.* For each taxable year which ends on or before December 31, 1965, there shall be submitted with the company's return on Form 2438 all copies A of Form 2439 furnished by the company to its shareholders in accordance with subparagraph (1) of this paragraph. For each taxable year which ends after December 31, 1965, there shall be submitted with the duplicate copy of the company's return on Form 2438, which is attached to and filed with the income tax return of the company on Form 1120 for the taxable year, all copies A of Form 2439 furnished by the company to its shareholders in accordance with subparagraph (1) of this paragraph. The copies A of Form 2439 shall be accompanied by lists (preferably in the form of adding machine tapes) of the amounts of undistributed capital gains and of the tax paid with respect thereto shown on such forms. The totals of the listed amounts of undistributed capital gains and of tax paid with respect thereto must agree with the corresponding entries on Form 2438.

(b) *Shareholder of record not actual owner*—(1) *Notice to actual owner.* In any case in which a notice on Form 2439 is mailed pursuant to paragraph (a) (1) of this section by a regulated investment company to a shareholder of record who is a nominee of the actual owner or owners of the shares of stock to which the notice relates, the nominee shall

furnish to each such actual owner notice of the owner's proportionate share of the amounts of undistributed capital gains and tax with respect thereto, shown on the Form 2439 received by the nominee from the regulated investment company. The nominee's notice to the actual owner shall be prepared in triplicate on Form 2439 and shall contain the information prescribed in paragraph (a) (1) of this section, except that the name and address of the nominee, identified as such, shall be entered on the form in addition to, and in the space provided for, the name and address of the regulated investment company, and the amounts of undistributed capital gains and tax with respect thereto entered on the form shall be the actual owner's proportionate share of the corresponding items shown on the nominee's notice from the regulated investment company. Copies B and C of the Form 2439 prepared by the nominee shall be mailed to the actual owner—

(i) For taxable years of regulated investment companies ending after February 25, 1964, on or before the 75th day (135th day if the nominee is a resident of a foreign country) following the close of the regulated investment company's taxable year, or

(ii) For taxable years of regulated investment companies ending before February 26, 1964, on or before the 60th day (120th day if the nominee is a resident of a foreign country) following the close of the regulated investment company's taxable year.

(2) *Transmittal of Form 2439.* The nominee shall enter the word "Nominee" in the upper right hand corner of copy B of the notice on Form 2439 received by him from the regulated investment company, and on or before the appropriate day specified in subdivision (i) or (ii) of subparagraph (1) of this paragraph shall transmit such copy B, together with all copies A of Form 2439 prepared by him pursuant to subparagraph (1) of this paragraph, to the internal revenue officer with whom his income tax return is required to be filed.

PAR. 5. Immediately following § 1.852-9, there is inserted the following new section:

§ 1.852-10 Distributions in redemption of interests in unit investment trusts.

(a) *In general.* In computing that part of the excess of its net long-term capital gain over net short-term capital loss on which it must pay a capital gains tax, a regulated investment company is allowed under section 852(b) (3) (A) (ii) a deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only. Section 561(b) provides that in determining the deduction for dividends paid, the rules provided in section 562 are applicable. Section 562(c) (relating to preferential dividends) provides that the amount of any distribution shall not be considered as a dividend unless such distribution is pro-rata, with no preference to any share of stock as compared with other shares of the same class ex-

cept to the extent that the former is entitled to such preference.

(b) *Redemption distributions made by unit investment trust*—(1) *In general.* Where a unit investment trust (as defined in paragraph (c) of this section) liquidates part of its portfolio represented by shares in a management company in order to make a distribution to a holder of an interest in the trust in redemption of part or all of such interest, and by so doing, the trust realizes net long-term capital gain, that portion of the distribution by the trust which is equal to the amount of the net long-term capital gain realized by the trust on the liquidation of the shares in the management company will not be considered a preferential dividend under section 562(c). For example, where the entire amount of net long-term capital gain realized by the trust on such a liquidation is distributed to the redeeming interest holder, the trust will be allowed the entire amount of net long-term capital gain so realized in determining the deduction under section 852 (b) (3) (A) (ii) for dividends paid determined with reference to capital gains dividends only. This paragraph and section 852(d) shall apply only with respect to the net capital gain realized by the trust which is attributable to a redemption by a holder of an interest in such trust.

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

Example. B entered into a periodic payment plan contract with X, a unit investment trust, under which he purchased 100 certificates of X. Under this contract, upon B's demand, X must redeem B's certificates at a price substantially equal to the market value of X's net assets dividend by the number of shares of X which are then outstanding. Except for a small amount of cash, all of the assets of X consist of shares in Y, a management company. Both X and Y have elected to be treated as regulated investment companies. On March 1, 1965, B notified X that he wished to redeem his entire interest in X. At that time the pro-rata share of X's net assets was \$15 per certificate. In order to redeem B's interest, X redeemed 100 shares of Y which had at that time a value of \$15 per share. X then distributed the \$1,500 to B. X's basis for the Y stock which it redeemed was \$10 a share. Therefore, X realized a long-term capital gain of \$500.00 (\$5 x 100 shares) which is attributable to the redemption by B of his interest in the trust. Under section 852(d), the \$500 capital gain distributed to B will not be considered a preferential dividend. Therefore, X is allowed a deduction of \$500 under section 852(b) (3) (A) (ii) for dividends paid determined with reference to capital gains dividends only, with the result that X will not pay a capital gains tax with respect to such amount.

(c) *Definition of unit investment trust.* A unit investment trust to which paragraph (a) of this section refers is a trust which—

(1) Is registered under the Investment Company Act of 1940 as a unit investment trust;

(2) Issues periodic payment plan certificates (as defined in such Act);

(3) Possesses, as substantially all of its assets, securities issued by a management company (as defined in such Act);

(4) Qualifies as a regulated investment company under section 851; and

(5) Complies with the requirements provided for by section 852(a).

PAR. 6. Section 1.853 is amended by revising section 853(c) and by adding a historical note. These revised and added provisions read as follows:

§ 1.853 Statutory provisions; foreign tax credit allowed to shareholders.

SEC. 853. *Foreign tax credit allowed to shareholders.* * * *

(c) *Notice to shareholders.* The amounts to be treated by the shareholder, for purposes of subsection (b) (2), as his proportionate share of—

(1) Taxes paid to any foreign country or possession of the United States; and

(2) Gross income derived from sources within any foreign country or possession of the United States,

shall not exceed the amounts so designated by the company in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year.

[Sec. 853 as amended by sec. 229, Rev. Act 1964 (78 Stat. 99)]

PAR. 7. Section 1.853-3 is amended to read as follows:

§ 1.853-3 Notice to shareholders.

If a regulated investment company makes an election under section 853(a), in the manner provided in § 1.853-4, the investment company is required, under section 853(c), to furnish its shareholders with a written notice mailed not later than 45 days (30 days for taxable years ending before February 26, 1964) after the close of its taxable year. The notice must designate the shareholder's portion of foreign taxes paid to each such country or possession and the portion of the dividend which represents income derived from sources within each such country or possession. For purposes of section 853(b) (2) and paragraph (b) of § 1.853-2, the amount that a shareholder may treat as his proportionate share of foreign taxes paid and the amount to be included as gross income derived from any foreign country or possession of the United States shall not exceed the amounts so designated by the company in such written notice. If, however, the amount designated by the company in the notice exceeds the shareholder's proper proportionate shares of foreign taxes or gross income from sources within any foreign country or possession, the shareholder is limited to the amount correctly ascertained.

PAR. 8. Section 1.854 is amended by revising subsections (a), (b) (1), and (b) (2) of section 854 and by adding a historical note. These revised and added provisions read as follows:

§ 1.854 Statutory provisions; limitations applicable to dividends received from regulated investment company.

SEC. 854. *Limitations applicable to dividends received from regulated investment company—(a) Capital gain dividend.* For purposes of section 116 (relating to an ex-

clusion for dividends received by individuals) and section 243 (relating to deductions for dividends received by corporations), a capital gain dividend (as defined in section 852(b) (3)) received from a regulated investment company shall not be considered as a dividend.

(b) *Other dividends—(1) General rule.* In the case of a dividend received from a regulated investment company (other than a dividend to which subsection (a) applies)—

(A) If such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend; and

(B) The aggregate dividends received by such company during such taxable year are less than 75 percent of its gross income,

then, in computing the exclusion under section 116 and the deduction under section 243, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate dividends received by such company during such taxable year bear to its gross income for such taxable year.

(2) *Notice to shareholders.* The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the exclusion under section 116 and the deduction under section 243 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

[Sec. 854 as amended by secs. 201, 229, Rev. Act 1964 (78 Stat. 32, 99)]

PAR. 9. Paragraphs (a) and (b) of § 1.854-1 are amended to read as follows:

§ 1.854-1 Limitations applicable to dividends received from regulated investment company.

(a) *In general.* Section 854 provides special limitations applicable to dividends received from a regulated investment company for purposes of the exclusion under section 116 for dividends received by individuals, the deduction under section 243 for dividends received by corporations, and, in the case of dividends received by individuals before January 1, 1965, the credit under section 34.

(b) *Capital gain dividend.* Under the provisions of section 854(a) a capital gain dividend as defined in section 852(b) (3) and paragraph (c) of § 1.852-4 shall not be considered a dividend for purposes of the exclusion under section 116, the deduction under section 243, and, in the case of taxable years ending before January 1, 1965, the credit under section 34.

PAR. 10. Section 1.854-2 is amended to read as follows:

§ 1.854-2 Notice to shareholders.

Section 854(b) (2) provides that the amount that a shareholder may treat as a dividend for purposes of the exclusion under section 116 for dividends received by individuals, the deduction under section 243 for dividends received by corporations, and, in the case of dividends received by individuals before January 1, 1965, the credit under section 34, shall not exceed the amount so designated by the company in written notice to its

shareholders mailed not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of the company's taxable year. If, however, the amount so designated by the company in the notice exceeds the amount which may be treated by the shareholder as a dividend for such purposes, the shareholder is limited to the amount as correctly ascertained under section 854(b) (1) and paragraph (c) of § 1.854-1.

PAR. 11. Section 1.855 is amended by revising section 855(c) and by revising the historical note. These revised provisions read as follows:

§ 1.855 Statutory provision; dividends paid by regulated investment company after close of taxable year.

SEC. 855. *Dividends paid by regulated investment company after close of taxable year.* * * *

(c) *Notice to shareholders.* In the case of amounts to which subsection (a) is applicable, any notice to shareholders required under this part with respect to such amounts shall be made not later than 45 days after the close of the taxable year in which the distribution is made.

[Sec. 855 as amended by sec. 10(b), Act of Sept. 14, 1960 (Pub. Law 86-799, 74 Stat. 1009), sec. 229, Rev. Act 1964 (78 Stat. 99)]

PAR. 12. Paragraph (e) of § 1.855-1 is amended to read as follows:

§ 1.855-1 Dividends paid by regulated investment company after close of taxable year.

(e) *Notice to shareholders.* Section 855(c) provides that in the case of dividends, with respect to which a regulated investment company has made an election under section 855(a), any notice to shareholders required under subchapter M, chapter 1 of the Code, with respect to such amounts, shall be made not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of the taxable year in which the distribution is made. Thus, the notice requirements of section 852(b) (3) (C) and paragraph (c) of § 1.852-4 with respect to capital gain dividends, section 853(c) and § 1.853-3 with respect to allowance to shareholder of foreign tax credit, and section 854(b) (2) and § 1.854-2 with respect to the amount of a distribution which may be treated as a dividend, may be satisfied with respect to amounts to which section 855(a) and this section apply if the notice relating to such amounts is mailed to the shareholders not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of the taxable year in which the distribution is made. If the notice under section 855(c) relates to an election with respect to any capital gain dividends, such capital gain dividends shall be aggregated by the investment company with the designated capital gain dividends actually paid during the taxable year to which the election applies (not including such dividends with respect to which an election has been made for a prior year under

section 855) for the purpose of determining whether the aggregate of the designated capital gain dividends with respect to such taxable year of the company is greater than the excess of the net long-term capital gain over the net short-term capital loss of the company. See section 852(b) (3) (C) and paragraph (c) of § 1.852-4.

[F.R. Doc. 66-8177; Filed, July 26, 1966; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 991]

HANDLING OF HOPS OF DOMESTIC PRODUCTION

Notice of Proposed Salable Quantity and Allotment Percentage for 1966-67 Marketing Year

Notice is hereby given of a proposal to establish, for the 1966-67 marketing year, which begins August 1, 1966, a salable quantity and allotment percentage of 51,200,000 pounds and 93 percent, respectively, applicable to hops produced in Washington, Oregon, Idaho, and California. The proposed percentages would be established in accordance with the provisions of Marketing Order No. 991 (31 F.R. 9713) regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal is made in view of the July crop estimate of 54,755,000 pounds being in excess of market requirements and of the order requirement that the allotment percentage must be established prior to August 15 to be effective on the 1966 crop.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than August 5, 1966. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposed salable quantity and allotment percentage is based upon information contained in the record of the public hearing held in Yakima, Wash., March 1 through March 8, 1966, and would result in the following determinations for the marketing year beginning August 1, 1966:

- (1) A salable quantity of 51,200,000 pounds consisting of domestic brewery and extract use of 26,400,000, exports of 24,000,000 and miscellaneous use of 800,000 pounds;
- (2) A total of all producer allotments of at least 55,200,000 pounds;
- (3) An allotment percentage (salable quantity divided by the total of all producer allotment bases) of 93 percent,

the minimum percentage permitted, pursuant to § 991.37, on the 1966 crop.

Since the allotment percentage may determine a different salable quantity, the proposal is as follows:

§ 991.201 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1966.

The allotment percentage during the marketing year beginning August 1, 1966, shall be 93 percent, and the salable quantity shall be 51,200,000 pounds or such quantity as is salable by application of the allotment percentage to the producer allotment bases.

Dated: July 22, 1966.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 66-8200; Filed, July 26, 1966; 8:48 a.m.]

[7 CFR Part 1069]

[Docket No. AO-153-A12]

MILK IN DULUTH-SUPERIOR MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Auditorium of the Zion Lutheran Church, 25th Avenue West and Third Street, Duluth, Minn., beginning at 10 a.m. local time, on August 10, 1966, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Duluth-Superior marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Arrowhead Cooperative Milk Producers Association:

Proposal No. 1. Revise paragraph (b) of § 1069.51 to read as follows:

§ 1069.51 Class prices.

(b) Class II milk. The Class II price shall be the basic formula price for the month.

Proposed by Twin Ports Cooperative Dairy Association:

Proposal No. 2. Amend § 1069.51(b), Class II milk price, to provide:

A. A seasonal basis of pricing Class II milk; and

B. A basis of pricing milk used to produce butter and milk powder separate from that of pricing milk for other Class II uses.

Proposal No. 3. Amend the pertinent provisions of the order to provide for a reasonable rate of interest on unpaid obligations of handlers under the terms of the order.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 4. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Earl E. Gulland, 508 Providence Building, Duluth, Minn. 55802, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on July 25, 1966.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 66-8224; Filed, July 26, 1966; 8:49 a.m.]

[7 CFR Part 1079]

[Docket No. AO 295-A11]

MILK IN DES MOINES, IOWA, MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Hotel Savery, Fourth and Locust Streets, Des Moines, Iowa, beginning at 9:30 a.m., local time, on August 3, 1966, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Des Moines, Iowa, marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Des Moines Co-operative Dairy:

Proposal No. 1. Revoke the provisions of the Des Moines order relating to the base-excess payment plan.

This includes §§ 1079.22, 1079.23, 1079.27(j) (3), 1079.65, 1079.66, 1079.67, 1079.73, and parts of §§ 1079.30(a), 1079.72(b), 1079.80(a), and 1079.82(a).