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HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

OCCUPANT CRASH PROTECTION—

- DoT amendment with option of installing seat belt systems with ignition interlocks; effective 1-1-72 19254
- DoT proposal regarding installed belt systems during interim period; comments by 11-2-71... 19266

- MEDICARE—HEW notice of inpatient hospital deductible for 1972..... 19271

- ONIONS—USDA amendment of standards; effective 10-1-71..... 19243

- SUGAR BEETS—USDA determination that farm proportionate shares are not required for 1972 crop 19244

- PHYSICAL THERAPISTS—HEW amendment providing alternatives to Medicare job requirements; effective 10-1-71..... 19249

PESTICIDES—

- EPA amendment revoking certain tolerances; effective 10-1-71..... 19251
- EPA proposed establishment of tolerances; comments within 30 days..... 19268

- INDIAN AFFAIRS—Interior Dept. rules on applications for shares in a judgment awarded to certain tribes; effective 10-1-71..... 19251

- INTEREST EQUALIZATION TAX—IRS amendments simplifying election to subject certain debt obligations to tax..... 19251

- SUBSISTENCE ALLOWANCES—VA clarification regarding certain additional payments; effective 9-27-71 19252

(Continued inside)

Latest Edition

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HIGHLIGHTS—Continued

MERCHANT VESSELS—Coast Guard adoption of new winter load lines for Great Lakes; effective 10-31-71	19253	OIL IMPORTS—Interior Dept. notice adjusting the maximum level for Puerto Rico.....	19269
CARGO PREFERENCE—Maritime Admin. regulation for "Fix-American-flag tonnage first"; effective 11-1-71.....	19253	POULTRY INSPECTION—USDA notice requiring Federal inspection in Pennsylvania.....	19271
INCOME TAX—IRS proposals on gross income from certain mineral property for percentage depletion; comments by 11-30-71.....	19256	ECONOMICS—Federal Open Market Committee notice regarding a policy directive.....	19277
		MINIMUM WAGES—Labor Dept. modifications to area wage determination decisions for specified localities	19282

Contents

AGRICULTURAL RESEARCH SERVICE

Rules and Regulations
Texas (splenetic) fever in cattle; changes in areas quarantined... 19245

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations
Domestic beet sugar producing area; proportionate shares for 1972 crop not required..... 19244

AGRICULTURE DEPARTMENT

See Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.

CIVIL AERONAUTICS BOARD

Notices
Hearings, etc.:
Northwest Airlines, Inc..... 19272
Northwest Airlines, Inc., and National Airlines, Inc..... 19272
United Air Lines, Inc. (2 documents)

CIVIL SERVICE COMMISSION

Rules and Regulations
Excepted service:
Department of Commerce..... 19245
Environmental Protection Agency

COAST GUARD

Rules and Regulations
Merchant vessels when engaged in voyage on Great Lakes; winter freeboard

COMMERCE DEPARTMENT

See also International Commerce Bureau; Maritime Administration.
Notices
National Technical Information Service; organization and functions

CONSUMER AND MARKETING SERVICE

Rules and Regulations
Onions (other than Bermuda-Granex-Grano and Creole types); standards for grades... 19243
Proposed Rule Making
Olives grown in California; modified grade requirement for specified styles of canned ripe type... 19265
Notices
Humanely slaughtered livestock; identification of carcasses; changes in list of establishments

EMPLOYMENT STANDARDS ADMINISTRATION

Notices
Minimum wages for Federal and federally assisted construction; modification to area wage determination decisions for specified localities in certain States..... 19282

ENVIRONMENTAL PROTECTION AGENCY

Rules and Regulations
Tolerances and exemptions for pesticide chemicals in or on raw agricultural commodities; dinitro-o-cyclohexylphenol 19251

Proposed Rule Making
Tolerances for pesticide chemicals in or on raw agricultural commodities; naled and 2,2-dichlorovinyl dimethyl phosphate

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations
Standard instrument approach procedures; miscellaneous amendments

FEDERAL COMMUNICATIONS COMMISSION

Notices
Common carrier services information; domestic public radio services applications accepted for filing

FEDERAL POWER COMMISSION

Notices
Hearings, etc.:
Natural Gas Pipeline Company of America..... 19274
Southern Union Production Co. et al..... 19275

FEDERAL RESERVE SYSTEM

Notices
Applications for approval of acquisition of shares of banks:
Chemical New York Corp..... 19278
Midlantic Banks Inc..... 19278
State National Bancshares, Inc. 19278
Virginia National Bankshares, Inc

(Continued on next page)

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Social Security Administration.

Notices

Inpatient hospital deductible for 1972; average per diem rate..... 19271

INDIAN AFFAIRS BUREAU**Rules and Regulations**

Preparation of rolls of Indians; qualifications for enrollment and deadline for filing applications 19251

INTERIOR DEPARTMENT

See also Indian Affairs Bureau; Land Management Bureau.

Notices

T. C. Lockhart; statement of changes in financial interests... 19269
Puerto Rico; maximum level of imports of finished products... 19269

INTERNAL REVENUE SERVICE**Rules and Regulations**

Income tax; amortization of certain coal mine safety equipment; correction..... 19251

Temporary regulations under Interest Equalization Tax Act; election to subject certain debt obligations to tax..... 19251

Proposed Rule Making

Income tax; percentage depletion; gross income from property in case of minerals other than oil and gas..... 19256

INTERNATIONAL COMMERCE BUREAU**Notices**

J. A. Goldschmidt S.A.; order restoring export privileges conditionally and placing respondent on probation..... 19269

INTERSTATE COMMERCE COMMISSION**Notices**

Assignment of hearings (2 documents) 19289

Fourth section application for relief 19289

Motor carrier temporary authority applications..... 19290

LABOR DEPARTMENT

See Employment Standards Administration; Occupational Safety and Health Administration.

LAND MANAGEMENT BUREAU**Notices**

Chief, Division of Management Services, Idaho State Office, et al.; delegation of authority regarding contracts and leases... 19269

MARITIME ADMINISTRATION**Rules and Regulations**

Cargo preference; U.S.-flag vessels; fixing of American-flag tonnage first..... 19253

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**Rules and Regulations**

Motor vehicles safety standards; occupant crash protection for passenger cars, multipurpose passenger vehicles, trucks and buses 19254

Proposed Rule Making

Occupant crash protection in passenger cars; safety standards... 19266

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**Proposed Rule Making**

Safety and health regulations for construction; clarification..... 19268

POSTAL RATE COMMISSION**Notices**

Career and excepted service; establishment and operation... 19279

SECURITIES AND EXCHANGE COMMISSION**Notices***Hearings, etc.:*

Continental Vending Machine Corp..... 19281
Jersey Central Power & Light Co..... 19281

SOCIAL SECURITY ADMINISTRATION**Rules and Regulations**

Federal health insurance for aged; qualifications of physical therapists 19249

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

See Internal Revenue Service.

VETERANS ADMINISTRATION**Rules and Regulations**

Vocational rehabilitation and education; subsistence allowance... 19252

List of CFR Parts Affected

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 following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

5 CFR	20 CFR	29 CFR
213 (5 documents) ----- 19245	405 ----- 19249	PROPOSED RULES:
7 CFR	21 CFR	1518 ----- 19266
51 ----- 19243	420 ----- 19251	1910 ----- 19266
850 ----- 19244	PROPOSED RULES:	38 CFR
PROPOSED RULES:	420 ----- 19268	21 ----- 19252
932 ----- 19265	25 CFR	46 CFR
9 CFR	41 ----- 19251	45 ----- 19253
72 ----- 19245	26 CFR	381 ----- 19253
14 CFR	1 ----- 19251	49 CFR
97 ----- 19248	147 ----- 19251	571 ----- 19254
	PROPOSED RULES:	PROPOSED RULES:
	1 ----- 19256	571 ----- 19266

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes of the Code of Federal Regulations. The rate for subscription service to all revised volumes issued as of January 1, 1971, is \$175 domestic, \$45 additional for foreign mailing. The subscription price for revised volumes to be issued as of January 1, 1972, will be \$195 domestic, \$50 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR unit (Rev. as of Jan. 1, 1971):

Title	Price
1	\$1.00
2-3	2.50
3	1936-1938 Compilation 6.00
	1938-1943 Compilation 9.00
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	1949-1953 Compilation 7.00
	1954-1958 Compilation 4.00
	1959-1963 Compilation 6.00
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	1936-1965 Consolidated Indexes 3.50
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	1967 Compilation 1.00
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	900-944 1.75
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	981-999 1.00
	1000-1029 1.25
	1030-1059 1.00
	1060-1089 1.25
	1090-1119 1.25
	1120-1199 1.50
	1200-1499 2.00
	1500-end 2.50
8	1.00
9	2.00
10	1.75
11	[Reserved]

*Out of print.

Title	Price	Title	Price
12	Parts:	36	1.25
	1-299 2.50	37	.70
	300-end 2.50	38	3.50
13	1.25	39	3.25
14	Parts:	40	[Reserved]
	1-59 3.00	41	Chapters:
	60-199 2.75		1-2 2.75
	200-end 3.00		3-5D 1.75
15	1.75		6-17 3.50
16	Parts:		18 3.25
	0-149 3.00		19-100 1.00
	150-end 2.00		101-end 2.00
17	2.75	42	1.75
18	Parts:	43	Parts:
	1-149 2.00		1-999 1.50
	150-end 2.00		1000-end 2.75
19	2.50	44	.40
20	Parts:	45	Parts:
	01-399 1.25		1-999 2.00
	400-end 3.00		200-end 2.00
21	Parts:	46	Parts:
	1-119 1.75		1-65 2.75
	120-129 1.75		66-145 2.75
	130-146e 2.75		146-149 3.75
	147-end 1.50		150-199 2.75
22	1.75		200-end 3.00
23	.50	47	Parts:
24	2.75		0-19 1.75
25	1.75		20-69 2.50
26	Parts:		70-79 1.75
	1 (§§ 1.0-1-1.300) 3.00		80-end 2.75
	1 (§§ 1.301-1.400) 1.00	48	[Reserved]
	1 (§§ 1.401-1.500) 1.50	49	Parts:
	1 (§§ 1.501-1.640) 1.25		1-199 4.00
	1 (§§ 1.641-1.850) 1.50		200-999 1.75
	1 (§§ 1.851-1.1200) 2.00		1000-1199 1.25
	1 (§§ 1.1201-end) 3.25		1200-1299 3.00
	2-29 1.25		1300-end 1.00
	30-39 1.25	50	1.25
	40-169 2.50		General Index 1.50
	170-299 3.50		List of Sections Affected, 1949-1963 (Compilation) 6.75
	300-499 1.50		
	500-599 1.75		
	600-end .60		
27	.45		
28	.75		
29	Parts:		
	0-499 1.50		
	500-899 3.00		
	900-end 1.50		
30	2.00		
31	2.00		
32	Parts:		
	1-8 3.25		
	9-39 2.00		
	40-399 3.00		
	400-589 2.00		
	590-699 1.00		
	700-799 3.25		
	800-999 2.00		
	1000-1399 .75		
	1400-1599 1.50		
	1600-end 1.00		
32A	1.25		
33	Parts:		
	1-199 2.50		
	200-end 1.75		
34	[Reserved]		
35	1.75		

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types)¹

On page 15760 of the FEDERAL REGISTER of August 18, 1971, there was published a

¹Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

notice of proposed rule making to amend these grade standards by allowing, en route or at destination, up to 3 onions affected by decay or wet sunscald or 4 percent (whichever is the larger amount) in individual packages of at least 50 pounds when the onions are packed to meet a minimum size of 3 inches or larger. These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

Interested persons were given until September 15, 1971, to submit written data, views, or arguments regarding the proposal. No adverse comments have been received and the proposed amended standards are hereby adopted without change and are set forth below.

It is hereby found that good cause exists for not postponing the effective date of this amendment beyond the date of publication hereof in the FEDERAL REGISTER, in that: (1) The 1971 packing season for onions is well under way in Idaho and Oregon and it is in the interest of the public and the industry that this amendment be placed in effect at the earliest possible date; and (2) no special preparation is required for compliance with this amendment on the part of members of the onion industry or of others.

Accordingly this amendment shall become effective upon publication in the FEDERAL REGISTER (10-1-71).

Dated: September 27, 1971.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

Section 51.2839 is amended as set forth below:

§ 51.2839 Application of tolerances.

(a) Except for tolerances for off-size in the U.S. Export No. 1 grade, the contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(1) Packages which contain more than 10 pounds shall have not more than one and one-half times a specified tolerance of 10 percent and not more than double a specified tolerance of less than 10 percent, except that at least one defective and one off-size onion may be permitted in any package: *Provided*, That en route or at destination when onions in containers of 50 pounds or more are packed to a minimum size of 3 inches or larger not more than three onions or more than 4 percent (whichever is the larger amount) may be affected by decay or wet sunscald: *And provided further*, That the averages for the entire lot are within the tolerances specified for the grade; and,

(2) Packages which contain 10 pounds or less shall have not more than three times the tolerance specified, except that at least one defective and one off-size onion may be permitted in any package: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade.

(b) The tolerances for off-size in the U.S. Export No. 1 grade apply to individual containers and the application of tolerances set forth in paragraph (a) of this section does not apply to these tolerances.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624)

[FR Doc.71-14431 Filed 9-30-71;8:45 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[S.D. 850.232]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

Proportionate Shares for Farms for 1972 Crop of Sugar Beets Not Required

The following determination is issued pursuant to section 302 of the Sugar Act of 1948, as amended.

§ 850.232 Proportionate shares for the 1972 crop of sugar beets not required.

It is determined for the 1972 crop of sugar beets that, in the absence of proportionate shares, the production of sugar from such crop will not be greater than the quantity needed to enable the area to meet its quota for 1973, the calendar year during which the larger part of the sugar from such crop normally will be marketed, and provide a normal carryover inventory. Consequently, proportionate shares will not be in effect in the domestic beet sugar producing area for the 1972 crop.

STATEMENT OF BASES AND CONSIDERATIONS

Section 302 of the Sugar Act, as amended, provides, in part, that the Secretary shall determine for each crop year whether the production of sugar from any crop of sugar beets will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

General. The national acreage requirement for the 1970 crop of sugar beets

was first established at 1,450,000 acres, but was increased subsequently to 1,550,000 acres to partially offset the expected low recovery of sugar from 1969 crop beets. Restrictions on the 1970 crop were removed altogether in April 1970 after it became apparent that even less sugar than expected would be recovered from 1969 crop beets, and that plantings to the 1970 crop would be less than anticipated. Despite the removal of 1970 crop acreage restrictions, plantings to that crop were about 230,000 acres below those for the previous crop. Beet sugar production from the 1970 crop totaled about 3,325,000 short tons, raw value, or about 272,000 tons less than the marketing opportunity for calendar year 1970. Thus, the effective inventory on January 1, 1971, was reduced below that of a year earlier and represented about 75.5 percent of the 1971 quota for the area, as compared with 78.2 percent the previous year. These percentages are well below the range of 82 to 90 percent suggested as appropriate in the congressional committees' reports on the 1965 amendments to the Sugar Act.

Proportionate shares were not established for the 1971 crop of beets. Plantings to the 1971 crop of about 1,300,000 acres at average yields indicates a sugar production of 3,200,000 tons. This would be about 206,000 tons less than the 1971 marketing quota currently in effect for the area. Assuming the area markets its full quota in 1971, the effective inventory on January 1, 1972, would be reduced by an equivalent quantity.

Public hearing. At the public hearing held in San Francisco, Calif., on August 10, 1971, views and recommendations were requested on the need for establishing proportionate shares for the 1972 crop. In the notice of hearing, persons proposing the establishment of proportionate shares were asked to include recommendations on the details of a program.

Representatives testifying on behalf of sugar beet growers recommended that proportionate shares not be established for the 1972 crop, since the effective inventory on January 1, 1972, is likely to be only 65 to 69 percent of the probable 1972 quota. They urged, however, that acreage be restricted whenever the area can provide a normal carryover inventory. A representative of all beet sugar processors also recommended that farm proportionate shares not be established.

Determination. This determination provides that proportionate shares will not be established for farms in the domestic beet sugar producing area for the 1972 crop of sugar beets.

The effective inventory of beet sugar on January 1, 1971, was about 2,570,000 tons. Although the 1971 crop is unrestricted, the estimated production from the crop suggests that the effective inventory on January 1, 1972, will be lower than a year earlier by over 200,000 tons if this year's quota is fully marketed. The effective inventory would then represent only about 69 percent of the area's 1972 marketing opportunities if they are the

same as this year's. That level would be about 429,000 tons below the bottom of the range indicated as appropriate in legislative history.

After a thorough review of the latest information available, it is determined that the production of sugar from the 1972 crop of sugar beets, in the absence of proportionate shares, will not be greater than the quantity needed to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the Sugar Act of 1948, as amended.

(Secs. 301, 302, 403, 61 Stat. 929, 930, as amended, 932; 7 U.S.C. 1131, 1132, 1153)

Effective date: Date of publication (10-1-71).

Signed at Washington, D.C., on September 27, 1971.

KENNETH E. FRICK,
*Administrator, Agricultural
Stabilization and Conservation
Service.*

[FR Doc.71-14447 Filed 9-30-71;8:48 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that the position of Private Secretary to the Director, Office of Field Services, is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10-1-71), subparagraph (10) of paragraph (a) of § 213.3314 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,

*Executive Assistant to
the Commissioners.*

[FR Doc.71-14416 Filed 9-30-71;8:46 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 of Schedule C is amended to reflect the redesignation of the Assistant Administrator for Field Coordination as the Assistant Administrator for Media Programs. It is also amended to show that an additional position of Special Assistant to the Assistant Administrator for Media Programs (Physical Sciences) is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10-1-71), paragraphs (n) and

(p) are amended and paragraph (w) is added to § 213.3318 as set out below.

§ 213.3318 Environmental Protection Agency.

(n) One Special Assistant to the Assistant Administrator for Media Programs.

(p) One Confidential Assistant to the Assistant Administrator for Media Programs.

(w) One Special Assistant to the Assistant Administrator for Media Programs (Physical Sciences).

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,

*Executive Assistant to
the Commissioners.*

[FR Doc.71-14418 Filed 9-30-71;8:46 am]

PART 213—EXCEPTED SERVICE

Federal Home Loan Bank Board

Section 213.3354 is amended to show that one additional position of Assistant to the Chairman is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10-1-71), paragraph (c) is amended as set out below.

§ 213.3354 Federal Home Loan Bank Board.

(c) Two Assistants to the Chairman of the Board and one Assistant to each of the other two Board Members.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,

*Executive Assistant to
the Commissioners.*

[FR Doc.71-14419 Filed 9-30-71;8:46 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Deputy Associate Director for Human Rights is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10-1-71), subparagraph (29) is added to paragraph (a) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* * * *

(29) One Deputy Associate Director for Human Rights.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,

*Executive Assistant to
the Commissioners.*

[FR Doc.71-14420 Filed 9-30-71;8:47 am]

PART 213—EXCEPTED SERVICE

Equal Employment Opportunity Commission

Section 213.3377 is amended to show that one additional Special Assistant to the Vice Chairman is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10-1-71), paragraph (g) is added to § 213.3377 as set out below.

§ 213.3377 Equal Employment Opportunity Commission.

(g) One Special Assistant to the Vice Chairman.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,

*Executive Assistant to
the Commissioners.*

[FR Doc.71-14417 Filed 9-30-71;8:46 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

Changes in Areas Quarantined

Pursuant to the provisions of sections 1-4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4-7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f), § 72.5 of Part 72, Title 9, Code of Federal Regulations, which quarantines certain portions of Texas because of splenetic or tick fever in cattle, a contagious, infectious, and communicable disease, is hereby amended in the following respects:

In § 72.5, the provisions in paragraph (d) are deleted and paragraphs (a), (c), and (h) are changed to read respectively, as follows:

§ 72.5 Areas quarantined in Texas.

(a) That portion of Val Verde County lying south and west of the following described line:

Beginning at a point on the south bank of the Devils River where the Amistad Dam Compound east fence intersects the water-line and following this east fence of the compound in a southerly direction to the southeast corner of the Amistad Dam Compound, approximately $1\frac{3}{4}$ miles; thence, following the meanderings of this Compound fence in a southwesterly direction to where it intersects the east right-of-way fence of the old railroad, approximately $3\frac{1}{4}$ miles; thence, following said old railroad right-of-way fence in a southeasterly direction to its intersection with the right-of-way fence of the present Southern Pacific Railroad, approximately $3\frac{1}{2}$ miles; thence, following the Southern Pacific Railroad in a southeasterly direction to where it joins the east fence of the Burnell Parker Field No. 1, approximately $5\frac{3}{4}$ miles; thence, following the east fence of the Burnell Parker Field No. 1, in a southwesterly direction to where it intersects Kite Road, approximately one-half mile; thence, following Kite Road in a southerly direction to where it intersects Garza Lane, approximately three-tenths mile; thence, following Garza Lane in a westerly direction to a corner, thence proceeding in a southeasterly direction to where the Lane intersects U.S. Highway 277 Spur, approximately $1\frac{1}{4}$ miles; thence, following U.S. Highway 277 Spur in a southeasterly direction to where it intersects Hudson Drive, approximately one-half mile; thence, following Hudson Drive in a southeasterly direction to where it joins Rio Grande Drive, formerly called Silo Field Road, approximately six-tenths mile; thence, following the west fence of Rio Grande Drive in a southeasterly direction to where it joins the east fence of the Rudy Mota Vega,² approximately four-tenths mile; thence, following the east fence of the Rudy Mota Vega in a southeasterly direction to where it joins San Felipe Creek, approximately two-tenths mile; thence, following San Felipe Creek in a southeasterly direction to where it joins the new W. L. Moody double fence, approximately two-tenths mile; thence, following the new W. L. Moody double fence in a southwesterly direction to a corner approximately $1\frac{1}{10}$ miles; thence, following the new W. L. Moody double fence in a southeasterly direction to where it joins the old W. L. Moody double fence at the south end of Silo Vega,² approximately $1\frac{9}{10}$ miles; thence, following the meanderings of the new W. L. Moody double fence paralleling the Rio Grande River in a southeasterly direction to where it joins the old W. L. Moody double fence at the south end of the White Ranch Vega,² approximately $4\frac{9}{10}$ miles; thence, following the meanderings of the old W. L. Moody double fence in a southeasterly direction to the Val Verde-Kinney County line at Sycamore Creek, approximately $5\frac{1}{2}$ miles.

(c) That portion of Maverick and Webb Counties lying generally west of the following described line:

Beginning at a point where the Maverick County Water District main canal intersects the Kinney-Maverick County line and following this main canal in a southeasterly direction to where it intersects the west right-of-way fence of U.S. Highway 277, approximately $5\frac{1}{2}$ miles; thence, following the west right-of-way fence of U.S. Highway 277, in a southerly direction to where it intersects Maverick County Water District Lateral No. 2, approximately one-half mile; thence, following the Maverick County Water District Lateral No. 2 in a southerly direction to where it intersects the north double fence of the J. R. Jones west field, approximately $1\frac{1}{2}$ miles; thence, along the north double fence of the J. R. Jones west field in a westerly

direction to a corner, approximately one-eighth mile; thence, along the west double fence of the J. R. Jones west field in a southerly direction to a corner, approximately one-half mile; thence, along the south double fence of the J. R. Jones west field in an easterly direction to where it intersects the Maverick County Water District Lateral No. 2, approximately one-eighth mile; thence, along the Maverick County Water District Lateral No. 2 in a southerly direction to where it intersects the north fence of the Calley property, approximately 3 miles;

Thence, east along the north fence of the Calley property to a corner, approximately 200 yards; thence, following the east fence of the Calley property in a southerly direction to the northeast corner of the Hal Bowles ranch, approximately three-eighths mile; thence, following the east fence of the Hal Bowles ranch in a southeasterly direction to where it intersects the north fence of the Lehman Brothers ranch, approximately three-fourths mile; thence, in a southerly direction along the Maverick County quarantine fence, which is the east fence of the C. O. Myers Lehman River Pasture, to where it intersects the north fence of the Las Vegas ranch, approximately seven-eighths mile; thence, along the north fence of the Las Vegas Ranch in an easterly direction to the northeast corner of the Ranch, approximately three-fourths mile; thence, along the east fence of the Las Vegas Ranch in a southerly direction to where it intersects the northwest corner of the Shoftner property, approximately one-eighth mile; thence, along the west fence of the Shoftner property in a southeasterly direction to the southwest corner of the property, approximately one-eighth mile; thence, along the south fence of the Shoftner property in an easterly direction to where it intersects the Maverick County quarantine fence or the east fence of the Las Vegas ranch, approximately one-eighth mile; thence, following the meanderings of the east fence of the Las Vegas Ranch in a southerly direction to where it intersects the north fence of the Alex Ritchie Farm, approximately $3\frac{1}{2}$ miles;

Thence, along the north fence of the Alex Ritchie Farm in an easterly direction to where it intersects the Maverick County Water District main canal, approximately three-eighths mile; thence, following the meanderings of the Maverick County Water District main canal in a southerly direction to where it intersects the C.P. & L. Power Plant Road, approximately $3\frac{1}{2}$ miles; thence, following the C.P. & L. Power Plant Road in an easterly direction to where it intersects the west fence of the Beer Joint Trapp,² approximately $1\frac{3}{8}$ miles; thence, following the west fence of the Beer Joint Trapp² in a southerly direction to the southwest corner of the Trap, approximately five-eighths mile; thence, following the south fence of the Beer Joint Trapp in an easterly direction to where it intersects the west right-of-way fence of U.S. Highway 277, approximately three-fourths mile; thence, following the U.S. Highway 277 in a southerly direction to where it intersects the south fence of the De Bona Trap,² approximately $7\frac{1}{2}$ miles; thence, following the south fence of the De Bona Trap in a westerly direction to where it intersects the east fence of Meyers Vega¹ in a southerly direction to where it intersects the northwest corner of the Jack Spence premises, approximately one-eighth mile; thence, following the meanderings of the east fence of the Jack Spence premises in a southerly direction to the southwest corner of the Spence premises where the line meets the Meyers Vega¹ fence, approximately 1 mile;

Thence, following the Meyers Vega fence in a southerly direction to where it joins the Eagle Pass City Vega¹ fence and continu-

ing in a southerly direction to where it intersects the north fence of the Tom Bowles Kifuri pasturo, approximately $1\frac{1}{4}$ miles; thence, following the north fence of the Tom Bowles Kifuri pasturo in an easterly direction to the northeast corner of the pasturo, approximately $1\frac{1}{4}$ miles; thence, following the east fence of the Tom Bowles Kifuri pasturo in a southerly direction to where it intersects the north fence of the G. H. Lawless Trap,² approximately three-sixteenths mile; thence, following the north fence of the G. H. Lawless Trap in an easterly direction to where it intersects Edison Drive Road, approximately three-sixteenths mile; thence, across Edison Drive Road to the northwest corner of the Edison property; thence, following the north fence of the Edison property in an easterly direction to the northwest corner of the Webster property, approximately one-eighth mile; thence, following the north fence of the Webster property in an easterly direction to where it intersects Farm Road No. 1021, approximately three-sixteenths mile; thence, following F.M. Road No. 1021 in a southeasterly direction to where it intersects a double fence at the junction of F.M. Road No. 1021 and F.M. Road No. 2366, approximately $10\frac{1}{2}$ miles; thence, following this double fence in a southwesterly direction to the northeast corner of the Loma Linda Ranch, approximately $2\frac{1}{2}$ miles; thence, following the same double fence in a westerly direction to a corner, approximately five-eighths mile;

Thence, following the same double fence in a northerly direction to a corner, approximately three-fourths mile; thence, following the same double fence in a westerly direction to the northwest corner of the Loma Linda Ranch, approximately seven-eighths mile; thence, following the meanderings of the same double fence in a southerly direction to a corner of the W. D. Ranch, approximately $1\frac{1}{2}$ miles; thence, following the same double fence along the north property line of the W. D. Ranch, in a westerly direction to the northwest corner of the Ranch, approximately three-eighths mile; thence, following the same double fence along the meanderings of the Rio Grande River in a southeasterly direction to the northwest corner of the El Indio Land Co. Ranch, approximately 1 mile; thence, following the meanderings of the same double fence parallel to the Rio Grande River in a southeasterly direction to where it intersects the west fence of the Klesling Rio Lado Farm, approximately 4 miles; thence, following the same double fence in a southeasterly direction to where it joins the west double fence of the Stone Ranch Upper Pasture, approximately $1\frac{1}{4}$ miles; thence, following the meanderings of the Stone Ranch Upper Pasture west double fence in a northerly direction to a corner, approximately one-half mile; thence, following the same double fence along the north property line of the Stone Ranch Upper Pasture in a northeasterly direction to the east fence of the Pasture, approximately three-fourths mile to the Maverick County quarantine fence; thence, following the quarantine fence in a southerly direction to the northwest corner of the Klesling Lake Pasture, approximately $10\frac{3}{4}$ miles;

Thence, along the Klesling Lake Pasture double fence in a southeasterly direction to where it intersects the north fence of the R. C. Cage Mansfield Pasture, approximately $1\frac{3}{4}$ miles; thence, continuing along a double fence paralleling the river in a southeasterly direction to where it intersects the Maverick-Webb County line, approximately $15\frac{1}{4}$ miles; thence, beginning at the Maverick-Webb County line and following a double fence paralleling the Rio Grande River in a southeasterly direction to the west fence of the

See footnotes at end of document.

Chupadero Ranch Alamita Trap,² approximately 5½ miles; thence, following the same double fence in a northeasterly direction to the southwest corner of the Chupadero Ranch Rincon Trap,² approximately one-half mile; thence, following the same double fence in a northwesterly direction to a corner, approximately 1 mile; thence, following the same double fence in a northerly direction to where it intersects the Webb-Maverick County line, approximately 1½ miles; thence, following the same double fence in a northerly direction to where it intersects the Eagle Pass-Laredo River Road, approximately one-eighth mile; thence, following the Eagle Pass-Laredo River Road in an easterly direction to where it intersects the Maverick-Webb County line, approximately three-fourths mile; thence, following the Eagle Pass-Laredo River Road and following this road in a southeasterly direction to where it intersects the north double fence of the Las Minas Ranch, approximately 43½ miles; thence, following the north double fence of the Las Minas Ranch in a westerly direction to the northwest corner of the ranch, approximately 1¼ miles;

Thence, following the west double fence of the Las Minas Ranch in a southerly direction to the southwest corner of the ranch, approximately 3¾ miles; thence, following the south double fence of the Las Minas Ranch in an easterly direction, approximately 2½ miles to where it intersects the Eagle Pass-Laredo River Road which is called "Mines Road" from this point south; thence, following the Mines Road in a southeasterly direction to where it intersects the northwest corner of the Laredo Municipal Airport, approximately 12½ miles; thence, following the north fence of the Laredo Municipal Airport in an easterly direction to the northeast corner of the airport, approximately three-sixteenth mile; thence, proceeding south along the east fence of the Laredo Municipal Airport to where it intersects the north fence of the Farias Farm, approximately three-fourths mile; thence, following the north fence of the Farias Farm in an easterly direction to where it intersects U.S. Highway 83, approximately 1½ miles; thence, following U.S. Highway 83 in a southerly direction to where it intersects the south fence of the Alfredo Santos Pasture, approximately three-fourths mile; thence following the south fence of the Alfredo Santos Pasture in an easterly direction to where it intersects the west fence of the De Llano Pasture, approximately 2 miles; thence, following the west fence of the De Llano Pasture in a southerly direction to the southwest corner of the Pasture, approximately one-eighth mile; thence, following the south fence of the De Llano Pasture in a northeasterly direction to a corner, approximately one-half mile;

Thence, following the same fence in a northwesterly direction to a corner, approximately 50 yards; thence, following the same fence in a northeasterly direction to the northeast corner of the Trautmann Farm, approximately four-tenths mile; thence, following the meanderings of the Trautmann Farm east property line in a southeasterly direction to its junction with the Test Site Road, approximately 1½ miles; thence, following the Test Site Road in a southwesterly direction to the west fence of the Alexander property, approximately 1¼ miles; thence, following the west fence of the Alexander property in a southerly direction to a corner, approximately seven-eighths mile; thence, following the Alexander property south fence in an easterly direction to where it intersects the J. Jacaman north fence, approximately one-fourth mile; thence, following the J. Jacaman north fence in a

southwesterly direction to a corner, approximately three-sixteenths mile; thence, following the J. Jacaman west fence in a southerly direction to where it intersects the northwest corner of the Rash Trap,² approximately three-sixteenths mile; thence, following the north fence of the Rash Trap in an easterly direction to where it intersects the Laredo Air Force Base north fence, approximately three-eighths mile; thence, following the Laredo Air Force Base north fence in an easterly direction around the Laredo Air Force Base to where it intersects the north fence of the Casa Blanca Recreation Area, approximately 1¾ miles; thence, following the Casa Blanca Recreation Area north fence in an easterly direction to where it intersects Casa Blanca Lake, approximately three-eighths mile;

Thence, crossing the Casa Blanca Lake and proceeding about one-fourth mile to the south to the Lower Lake Trap² north fence and following said fence in an easterly direction to the northeast corner of the Lower Lake Trap, approximately eight-tenths mile; thence, proceeding south along the east fence of the Lower Lake Trap to a corner approximately five-eighths mile; thence, following the same fence in an easterly direction to a corner approximately 100 yards; thence, following the same fence in a northeasterly direction to a corner approximately 300 yards; thence, following the same fence in a southeasterly direction to U.S. Highway 59 and across this highway to the south fence of the highway approximately 220 feet; thence, following the south fence of U.S. Highway 59 in a southwesterly direction to the northwest corner of the Ponderosa Ranch, approximately 1¾ miles; thence, following the west fence of the Ponderosa Ranch in a southerly direction to the northeast corner of the Alex Villarreal Property, approximately one-fourth mile; thence, following the north fence of the Alex Villarreal Property in a westerly direction to a corner, approximately one-fourth mile; thence, following the same fence in a southerly direction to a corner, approximately two-tenths mile; thence, following the same fence in a westerly direction to where it intersects the east fence of the P. Young Ranch, approximately two-tenths mile;

Thence, following the east fence of the P. Young Ranch in a southerly direction to the northwest corner of the Ortiz Pasture, approximately two-tenths mile; thence, following the west fence of the Ortiz Pasture in a southwesterly direction to the southwest corner of the pasture, approximately five-eighths mile; thence, following the south fence of the Ortiz Pasture in an easterly direction to the southeast corner of the pasture, approximately 1¼ miles; thence, following the west fence of the Killam Ranch in a southerly direction to where it intersects the Tex-Mex Railroad, approximately three-eighths mile; thence, following the Tex-Mex Railroad in a westerly direction to where it intersects the northwest corner of the Chavana property, approximately one-half mile; thence, following the west fence of the Chavana property in a southerly direction to where it intersects the Chavana Road, approximately one-half mile; thence, following the Chavana Road in a westerly direction to a corner, approximately three-sixteenths mile; thence, following the Chavana Road in a southerly direction to where it intersects State Highway 359, approximately three-eighths mile; thence, proceeding south across State Highway 359 and Loop 20 at the intersection to the north fence of the Bruni-Sommer-Dickenson property, approximately 100 yards; thence, following the north fence of the Bruni-Sommer-Dickenson property in a southwesterly direction to a corner, approximately one-fourth mile; thence,

south along the west fence of the Bruni-Sommer-Dickenson property to where it intersects the north fence of the S. Vasquez Ranch, approximately three-fourths mile;

Thence, east along the north fence of the S. Vasquez Ranch to a corner, approximately three-fourths mile; thence, following the east fence of the S. Vasquez Ranch in a southerly direction to the north fence of the Dr. Wright Ranch, approximately five-eighths mile; thence, following the north fence of the Dr. Wright Ranch in a westerly direction to a corner, approximately 1¼ miles; thence, following the same fence in a southerly direction across Wormser Road to a corner, approximately one-sixteenth mile; thence, west along the same fence to a corner, approximately three-sixteenths mile; thence, following the same fence in a southerly direction to a corner, approximately three-eighths mile; thence, following the same fence in a westerly direction to a corner, approximately five-eighths mile; thence, south along the same fence to a corner, approximately three-sixteenths mile; thence, continuing along the same fence in a westerly direction to where it intersects U.S. Highway 83, approximately one-eighth mile; thence, following U.S. Highway 83 in a southerly direction to where it intersects the north double fence of the A. W. Gates Santa Rita Farm, approximately 1¼ miles; thence, following the meanderings of the north double fence of the A. W. Gates Santa Rita Farm in a westerly direction to the northwest corner of the farm, approximately 1¼ miles; thence, following the west double fence of the A. W. Gates Santa Rita Farm in a southerly direction to the southwest corner of the farm, approximately seven-sixteenths mile;

Thence, following the south double fence of the A. W. Gates Santa Rita Farm in an easterly direction to where it intersects U.S. Highway 83, approximately 1 mile; thence, south along U.S. Highway 83 to the northeast corner of San Andres Dairy, approximately five-sixteenths mile; thence, following the north double fence of the San Andres Dairy in a westerly direction to a corner, approximately one-eighth mile; thence, following the same double fence in a southerly direction to a corner, approximately one-fourth mile; thence, following the same double fence in a westerly direction to a corner, approximately five-eighths mile; thence, following the same double fence in a southerly direction to the southwest corner, approximately five-eighths mile; thence, following the same double fence in an easterly direction to where it intersects the U.S. Highway 83, approximately five-eighths mile; thence, following U.S. Highway 83 in a southerly direction to the northeast corner of the T. J. Yancey San Rafael Farm, approximately 2½ miles; thence, following the north double fence of the T. J. Yancey San Rafael Farm in a westerly direction to the northwest corner of the farm, approximately 1 mile; thence, proceeding southwest along the west double fence of the T. J. Yancey San Rafael Farm to the north single fence of the Wm. McKendrick & Sons Santa Roca Farm, approximately five-eighths mile; thence, continuing southwest along the Wm. McKendrick & Sons Santa Roca Farm's double fence to the southwest corner of the farm, approximately five-eighths mile; thence, following the continuation of the same double fence paralleling the Rio Grande River in a southerly direction to where it joins the northwest corner of the H. B. Zachary Ranch double fence, approximately 5 miles; thence, following the meanderings of the H. B. Zachary west double fence in a southeasterly direction to a corner, approximately 4½ miles; thence, following the same fence in an easterly direction to a corner, approximately three-eighths mile; thence, following the

See footnotes at end of document.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11429; Amdt. No. 775]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective October 14, 1971.

Bismarck, N. Dak.—Bismarck Municipal Airport; VOR-A, Amdt. 13; Revised.
State College, Pa.—State College Air Depot; VOR-A, Amdt. 3; Revised.
State College, Pa.—University Park Airport; VOR-A, Amdt. 3; Revised.
Manchester, N.H.—Grenier Field/Manchester Municipal Airport; VOR/DME Runway 17, Amdt. 5; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective October 21, 1971.

Ardmore, Okla.—Ardmore Municipal Airport; VOR Runway 4, Amdt. 11; Revised.
Ardmore, Okla.—Downtown Ardmore Airport; VOR-A, Amdt. 5; Revised.
Bartlesville, Okla.—Frank Phillips Airport; VOR Runway 17, Amdt. 5; Revised.
Bartlesville, Okla.—Frank Phillips Airport; VOR/DME Runway 35, Original; Established.
Billings, Mont.—Logan Field; VOR/DME Runway 27, Amdt. 9; Revised.
Billings, Mont.—Logan Field; VOR Runway 9, Amdt. 12; Revised.
Council Bluffs, Iowa.—Council Bluffs Municipal Airport; VOR-A, Amdt. 1; Revised.
Detroit, Mich.—Willow Run Airport; VOR Runway 5R, Amdt. 2; Revised.
Eufaula, Ala.—Weedon Field; VOR Runway 18, Amdt. 2; Revised.
La Grange, Ga.—Callaway Airport; VOR Runway 13, Amdt. 8; Revised.
Lambertville, Mich.—Wagon Wheel Airport; VOR-A, Amdt. 1; Revised.
Lapeer, Mich.—Dupont-Lapeer Airport; VOR-A, Amdt. 2; Revised.
Livingston, Mont.—Mission Field; VOR-A, Amdt. 1; Revised.
Red Bank, N.J.—Red Bank Airport; VOR Runway 9, Amdt. 8; Canceled.
South Bend, Ind.—St. Joseph County Airport; VOR Runway 18, Amdt. 1; Revised.

3. Section 97.25 is amended by establishing, revising or canceling the following LOC-LDA SIAP's, effective October 21, 1971.

Billings, Mont.—Logan Field; LOC (BC) Runway 27, Amdt. 1; Revised.
Columbus, Miss.—Golden Triangle Regional Airport; LOC Runway 18, Original; Established.
Fort Wayne, Ind.—Municipal (Baer Field) Airport; LOC Runway 4, Amdt. 2; Revised.
Hot Springs, Va.—Ingalls Field; LOC Runway 24, Amdt. 2; Revised.
Memphis, Tenn.—Memphis International Airport; LOC (BC) Runway 17L, Amdt. 4; Revised.
Oklahoma City, Okla.—Will Rogers World Airport; LOC (BC) Runway 17L, Amdt. 1; Revised.
South Bend, Ind.—St. Joseph County Airport; LOC (BC) Runway 9, Amdt. 7; Revised.

4. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAP's, effective October 21, 1971.

Ardmore, Okla.—Ardmore Municipal Airport; NDB Runway 8, Amdt. 10; Revised.
Bellare, Mich.—Bellare-Antrim County Airport; NDB Runway 2, Amdt. 3; Revised.
Billings, Mont.—Logan Field; NDB Runway 9, Amdt. 13; Revised.
Bismarck, N. Dak.—Bismarck Municipal Airport; NDB Runway 31, Amdt. 23; Revised.
Fitzgerald, Ga.—Fitzgerald Municipal Airport; NDB Runway 1, Original; Established.
Fargo, N. Dak.—Hector Airport; NDB Runway 35, Amdt. 20; Revised.
Guymon, Okla.—Guymon Municipal Airport; NDB Runway 18, Amdt. 1; Revised.
Hot Springs, Va.—Ingalls Field; NDB Runway 24, Amdt. 2; Revised.
Knoxville, Iowa.—Knoxville Municipal Airport; NDB Runway 15, Amdt. 1; Revised.
Raton, N. Mex.—Crews Field; NDB Runway 2, Original; Canceled.
South Bend, Ind.—St. Joseph County Airport; NDB Runway 27, Amdt. 10; Revised.
Sylvester, Ga.—Sylvester Airport; NDB Runway 1, Amdt. 1; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 14, 1971.

same fence in a southerly direction to a corner, approximately three-eighths mile; thence, following the H. B. Zachary Ranch south double fence in an easterly direction to where it intersects U.S. Highway 83 at the Webb-Zapata County line, approximately 3½ miles.

(h) That portion of Cameron County lying south of the following described line:

Beginning at the Hidalgo-Cameron County line on U.S. Highway 281 and following this highway in an easterly direction to the old U.S. Highway 281 at the San Pedro Community, approximately 19.7 miles; thence, following old U.S. Highway 281 in a southeasterly direction through the San Pedro Community to where it joins the present U.S. Highway 281, approximately 1.9 miles; thence, following U.S. Highway 281 in an easterly direction to a point in Brownsville, Tex., at which it becomes Boca Chica Boulevard, approximately 5.8 miles; thence, following Boca Chica Boulevard in an easterly direction to a point at which it becomes Boca Chica Road, approximately 5.4 miles; thence, following Boca Chica Road in an easterly direction for a distance of approximately 3.9 miles, at which point it intersects a drainage ditch; thence, following the drainage ditch in a northerly direction to where it intersects the Brownsville ship channel, approximately 3 miles; thence, following the Brownsville ship channel in a northeasterly direction to the Gulf of Mexico, a distance of approximately 17 miles.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (10-1-71).

The amendments exclude certain portions of Cameron, Maverick, Webb, and Val Verde Counties in Texas from the areas quarantined because of splenic or tick fever. Therefore, the regulations pertaining to the interstate movement of cattle and certain materials from the quarantined areas as contained in 9 CFR Part 72 will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 72.5.

The amendments relieve certain restrictions presently imposed and should be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of September 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc. 71-14433 Filed 9-30-71; 8:45 am]

¹ A vega is a flat lowland area.

² A trap is an area in which animals may be trapped.

Manchester, N.H.—Grenier Field/Manchester Municipal Airport; ILS Runway 35, Amdt. 5; Revised.

6. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 21, 1971.

Billings, Mont.—Logan Field; ILS Runway 9, Amdt. 16; Revised.

Bismarck, N. Dak.—Bismarck Municipal Airport; ILS Runway 31, Amdt. 23; Revised.

Detroit, Mich.—Willow Run Airport; ILS Runway 5R, Amdt. 1; Revised.

Fargo, N. Dak.—Hector Airport; ILS Runway 35, Amdt. 21; Revised.

Fort Worth, Tex.—Greater Southwest International Dallas-Fort Worth Field; ILS Runway 13, Amdt. 16; Revised.

South Bend, Ind.—St. Joseph County Airport; ILS Runway 27, Amdt. 24; Revised.

7. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective October 21, 1971.

Oklahoma City, Okla.—Will Rogers World Airport; Radar-1, Amdt. 9; Revised.

South Bend, Ind.—St. Joseph County Airport; Radar-1, Original; Established.

Toledo, Ohio—Toledo Express Airport; Radar-1, Amdt. 8; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c), and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on September 24, 1971.

WILLIAM G. SHREVE, JR.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 71-14357 Filed 9-30-71; 8:45 am]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965—)

Qualifications of Physical Therapists

On May 15, 1971, there was published in the FEDERAL REGISTER (36 F.R. 8960) a notice of proposed rule making with proposed amendments to Subparts J, K, L, and Q of Regulations No. 5 which proposed to incorporate alternative requirements for qualifying as a physical therapist under Medicare.

Interested parties were given the opportunity to submit within 30 days data, views, or arguments with regard to the proposed amendments.

Comments were received from several persons, including representatives of national organizations concerned with the rendition of physical therapy services and

physical therapists not qualified under current regulations. These comments presented divergent views reflecting the concerns of the particular parties. Some advocated retention of the regulations in their present form and opposed any relaxation of the requirements. Others objected to the proposed amendment on the ground that the conditions of qualification therein are more stringent than the requirements of laws of certain States under which some physical therapists are licensed. The points of view expressed by all interested parties have been carefully considered in the formulation of the final regulations.

As now promulgated, the regulations strike a balance between overemphasis upon educational attainments as the primary tests of qualification and the non-uniform standard of State licensure alone. Moreover, the formulation of these amendments to the regulations was undertaken pursuant to the expectation of the Senate Finance Committee as expressed in its report on the Social Security Amendments of 1967. That report directed the Secretary to the extent feasible, to explore, develop, and apply appropriate means of determining the proficiency of health personnel disqualified under present Medicare regulations. To carry out this directive, an expert review panel was established to consider the problem, to meet with representatives of interested organizations, and to advise the Community Health Service, Public Health Service, who were responsible for the study. The panel consulted with representatives of State and national associations whose membership is comprised of most of the physical therapists in this country. The panel concluded that because of the wide variations in the educational background of physical therapists who were unable to meet the Medicare standards of qualification then in effect, it could not recommend that State licensure alone be accepted as an adequate criterion of competence for Medicare purposes. The panel recommended, however, that licensed physical therapists who were unable to meet the then-existing requirements for participation in the Medicare program be permitted to qualify upon achieving a satisfactory grade on an examination conducted by or under the sponsorship of the U.S. Public Health Service, which would evaluate the skills and ability of such physical therapists.

In addition the Social Security Administration believed that further consideration should also be given to those physical therapists whose experience has been concentrated in health-oriented settings for such extended periods of time as could be considered sufficient to constitute a reliable and objective measure providing reasonable assurance that they had attained proficiency at an adequate level of quality. Accordingly, an additional alternative for qualification is contained in the proposed regulations, based on State licensure and long experience in the treatment of illness or injury through the practice of physical therapy. The Health Insurance Benefits

Advisory Council approved both alternative qualification requirements.

These alternative requirements appear to be necessary in order to alleviate the shortages of physical therapists. Under the alternative requirements we are reasonably assured that minimum standards of competence will be maintained, and, most importantly, that these requirements will help relieve the health manpower shortages.

It is estimated that 3,500 physical therapists will qualify under the alternative requirements as proposed. Further, a physical therapist who qualified under the amendments as previously published will not have to retake the examination, or to have his 15 years' experience re-evaluated, in order to be considered a qualified physical therapist under Medicare.

After due consideration of all comments received, the proposed amendments are hereby adopted without change and are set forth below.

(Secs. 1102, 1861, 1863, 1864, and 1871; 49 Stat. 647, as amended; 79 Stat. 314; 42 U.S.C. 1302, 1395, et seq.)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (10-1-71).

Dated: August 31, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: September 25, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.

Regulations No. 5 of the Social Security Administration, as amended (20 CFR Part 405), are further amended as follows:

1. Paragraph (d)(3) of § 405.1031 is revised to read as follows:

§ 405.1031 Condition of participation—
complementary departments.

* * * * *
(d) *Standard; rehabilitation, physical therapy, and occupational therapy department.* * * *

(3) If physical therapy services are offered, the services are given by or under the supervision of a qualified physical therapist. A qualified physical therapist is one who:

(i) Has graduated from a physical therapy curriculum approved by—

(a) The American Physical Therapy Association; or

(b) The Council on Medical Education and Hospitals of the American Medical Association; or

(c) The Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association; or

(ii) Prior to January 1, 1966—

(a) Has been admitted to membership by the American Physical Therapy Association; or

(b) Has been admitted to registration by the American Registry of Physical Therapists; or

(c) Has graduated from a physical therapy curriculum in a 4-year college or university approved by a State department of education, is licensed or registered as a physical therapist, and where appropriate, has passed a State examination for licensure as a physical therapist; or

(iii) If currently licensed or registered to practice physical therapy pursuant to State law:

(a) Was licensed or registered prior to January 1, 1970, and has achieved a satisfactory grade through the examination conducted by or under the sponsorship of the Public Health Service; or

(b) Was licensed or registered prior to January 1, 1966, and prior to January 1, 1970, had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which he rendered services upon the order of and under the direction of attending and referring physicians; or

(iv) If trained outside the United States—

(a) Has graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy; and

(b) Is a member of a member organization of the World Confederation for Physical Therapy; and

(c) Has completed 1-year's experience under the supervision of an active member of the American Physical Therapy Association; and

(d) Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

2. Paragraph (c)(1) of § 405.1126 is revised to read as follows:

§ 405.1126 Condition of participation—restorative services.

(c) *Standard; therapy services.* * * *

(1) Physical therapy is given or supervised by a therapist who meets one of the following requirements:

(i) He has graduated from a physical therapy curriculum approved by—

(a) The American Physical Therapy Association; or

(b) The Council on Medical Education and Hospitals of the American Medical Association; or

(c) The Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association; or

(ii) Prior to January 1, 1966—

(a) Has been admitted to membership by the American Physical Therapy Association; or

(b) Has been admitted to registration by the American Registry of Physical Therapists; or

(c) Has graduated from a physical therapy curriculum in a 4-year college or university approved by a State department of education, is licensed or registered as a physical therapist, and where appropriate, has passed a State examina-

tion for licensure as a physical therapist; or

(iii) If he is currently licensed or registered to practice physical therapy pursuant to State law, he:

(a) Was licensed or registered prior to January 1, 1970, and has achieved a satisfactory grade through the examination conducted by or under the sponsorship of the Public Health Service; or

(b) Was licensed or registered prior to January 1, 1966, and prior to January 1, 1970, had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which he rendered services upon the order of and under the direction of attending and referring physicians; or

(iv) If trained outside the United States—

(a) Has graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy; and

(b) Is a member of a member organization of the World Confederation for Physical Therapy; and

(c) Has completed 1 year's experience under the supervision of an active member of the American Physical Therapy Association; and

(d) Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

3. Paragraph (b) of § 405.1229 is revised to read as follows:

§ 405.1229 Condition of participation—physical therapy.

(b) *Physical therapist—qualifications.* A physical therapist:

(1) Has graduated from a physical therapy curriculum approved by—

(i) The American Physical Therapy Association; or

(ii) The Council on Medical Education and Hospitals of the American Medical Association; or

(iii) The Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association; or

(2) Prior to January 1, 1966—

(i) Has been admitted to membership by the American Physical Therapy Association; or

(ii) Has been admitted to registration by the American Registry of Physical Therapists; or

(iii) Has graduated from a physical therapy curriculum in a 4-year college or university approved by a State department of education, is licensed or registered as a physical therapist, and where appropriate, has passed a State examination for licensure as a physical therapist; or

(3) If currently licensed or registered to practice physical therapy pursuant to State law:

(i) Was licensed or registered prior to January 1, 1970, and has achieved a

satisfactory grade through the examination conducted by or under the sponsorship of the Public Health Service; or

(ii) Was licensed or registered prior to January 1, 1966, and prior to January 1, 1970, had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which he rendered services upon the order of and under the direction of attending and referring physicians; or

(4) If trained outside the United States—

(i) Has graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy; and

(ii) Is a member of a member organization of the World Confederation for Physical Therapy; and

(iii) Has completed 1 year's experience under the supervision of an active member of the American Physical Therapy Association; and

(iv) Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

4. Paragraph (e) of § 405.1720 is revised to read as follows:

§ 405.1720 Condition of participation—physical therapy services.

(e) *Standard; physical therapists.* Physical therapy is given or supervised by a therapist who meets one of the following requirements:

(1) He has graduated from a physical therapy curriculum approved by:

(i) The American Physical Therapy Association; or

(ii) The Council on Medical Education and Hospitals of the American Medical Association; or

(iii) The Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association; or

(2) Prior to January 1, 1966:

(i) Has been admitted to membership by the American Physical Therapy Association; or

(ii) Has been admitted to registration by the American Registry of Physical Therapists; or

(iii) Has graduated from a physical therapy curriculum in a 4-year college or university approved by a State department of education, is licensed or registered as a physical therapist, and where appropriate, has passed a State examination for licensure as a physical therapist; or

(3) If he is currently licensed or registered to practice physical therapy pursuant to State law, he:

(i) Was licensed or registered prior to January 1, 1970, and has achieved a satisfactory grade through the examination conducted by or under the sponsorship of the Public Health Service; or

(ii) Was licensed or registered prior to January 1, 1966, and prior to January 1,

1970, had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which he rendered services upon the order of and under the direction of attending and referring physicians; or (4) If trained outside the United States:

(i) Has graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy; and

(ii) Is a member of a member organization of the World Confederation of Physical Therapy; and

(iii) Has completed 1 year's experience under the supervision of an active member of the American Physical Therapy Association; and

(iv) Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

[FR Doc.71-14429 Filed 9-30-71;8:47 am]

Title 21—FOOD AND DRUGS

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE-CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Dinitro-o-Cyclohexylphenol and Its Dicyclohexylamine Salt

A notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of June 29, 1971 (36 F.R. 12240), proposing to revoke the residue tolerances for the subject pesticides. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (e), (m), 68 Stat. 514, 517; 21 U.S.C. 346a (e), (m)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended by revoking § 420.143 *Dicyclohexylamine salt of dinitro-o-cyclohexylphenol; tolerances for residues* and § 420.155 *Dinitro-o-cyclohexylphenol; tolerance for residues*.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and

the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10-1-71).

(Sec. 408 (e), (m), 68 Stat. 514, 517; 21 U.S.C. 346a (e), (m))

Dated: September 24, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator,
for Pesticides Programs.

[FR Doc.71-14403 Filed 9-30-71;8:47 am]

Title 25—INDIANS

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

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Qualifications for Enrollment and the Deadline for Filing Applications

SEPTEMBER 23, 1971.

This notice is published in the exercise of rule making authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938). The authority to issue regulations on Indian affairs is vested in the Secretary of the Interior by sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301, 25 U.S.C. 2 and 9).

Subchapter F, Chapter I, Title 25 of the Code of Federal Regulations is amended by the revision of § 41.3. The revision of § 41.3 is made incident to the preparation of rolls of persons entitled to share in the funds appropriated to pay a judgment in favor of the Snohomish, Upper Skagit, Snoqualmie, and Skykomish Tribes as authorized by the Act of June 23, 1971 (85 Stat. 83).

Since this revision imposes a deadline for filing enrollment applications, advance notice and public procedure thereon would curtail the filing period and are deemed contrary to the public interest. Therefore, advance notice and public procedure are dispensed with under the exception provided in subsection (b) (B) of 5 U.S.C. 553 (1970).

Since this revision imposes a deadline for filing enrollment applications, the 30-day deferred effective date would shorten the amount of time applicants could apply and may result in some eligible Indians not receiving benefits. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d) (3) of 5 U.S.C. 553 (1970). Accordingly, this revision will become effective upon the date of publication in the FEDERAL REGISTER (10-1-71).

Section 41.3 is amended by adding a new paragraph designated (c) to establish requirements for enrollment and a

deadline for filing applications. As amended, § 41.3 reads as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

(c) Snohomish, Upper Skagit, Snoqualmie, and Skykomish Tribes of Indians:

(1) All persons who meet the following requirements shall be entitled to be enrolled on the separate rolls of those tribes to share in the distribution of judgment funds awarded the Snohomish, Upper Skagit, Snoqualmie, and Skykomish Tribes in Indian Claims Commission dockets 92, 93, and 125:

(i) Who were born on or prior to and living on June 23, 1971;

(ii) Who are lineal descendants of members of the Snohomish Tribe, of the Upper Skagit Tribe, including the allied Sulattla-Sauk Band, and of the Snoqualmie, and Skykomish Tribes, as they were constituted in 1855; *Provided*, That no person shall be enrolled as a descendant of the Snohomish Tribe if he has shared or is eligible as of the date his eligibility for Snohomish is determined to share in a per capita distribution against the United States recovered by any other tribe.

(2) Applications for enrollment must be filed with the Superintendent, Western Washington Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, WA 98201, and must be postmarked on or before midnight on April 23, 1972.

JOHN O. CROW,
Acting Commissioner.

[FR Doc.71-14408 Filed 9-30-71;8:47 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7137]

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

Amortization of Certain Coal Mine Safety Equipment; Correction

In F.R. Doc. 71-11550 appearing at page 14732 in the issue of Wednesday, August 11, 1971, the letter "(a)" appearing in the second line of subparagraph (2) in § 1.187-2(a) should read "(c)".

JAMES F. DRING,
Director, Legislation and
Regulations Division.

[FR Doc.71-14450 Filed 9-30-71;8:49 am]

[T.D. 7144]

PART 147—TEMPORARY REGULATIONS UNDER THE INTEREST EQUALIZATION TAX ACT

Election To Subject Certain Debt Obligations to Tax

In order to prescribe regulations simplifying existing procedures for certain

domestic corporations and partnerships to elect to have certain debt obligations, having a maturity of less than 1 year, subject to the Interest Equalization Tax under subsection (c) of section 4912, as amended by the Interest Equalization Tax Extension Act of 1971, § 147.10-1 of the Temporary Regulations under the Interest Equalization Tax Act (26 CFR 147) is amended as follows:

Paragraph (b) of § 147.10-1 is amended by revising subparagraph (1) and by adding a new subparagraph (4) and paragraph (c) of § 147.10-1 is amended by revising subparagraphs (2) and (3) and by adding a new subparagraph (4). The revised and added provisions read as follows:

§ 147.10-1 Election to treat certain debt obligations as subject to tax.

(b) *Definitions*—(1) *Issue*. For purposes of this section, debt obligations (including a single instrument) will be treated as constituting an issue if they comprise a separately identifiable class or series of bonds, debentures, or other debt obligations. For purposes of this section, debt obligations shall constitute a separately identifiable class or series if each instrument evidencing such obligations contains a clear, uniform designation of the class or series which distinguishes such obligations from all other debt obligations.

(4) *Short-term debt obligations*. For purposes of this section, short-term debt obligations are debt obligations having a maturity when issued of less than 1 year.

(c) *Time and manner of making election*. * * *

(2) *Manner of election*. An election under this section shall be made by filing a statement of election containing the information required in subparagraph (3) of this paragraph together with a sample of the instruments evidencing the debt obligations to be subject to the election (with an indication or endorsement of taxability as provided in paragraph (d) of this section) with the Commissioner of Internal Revenue, Attention: CP:A:O, Washington, D.C. 20224. (See, however, subparagraph (4) of this paragraph for special rules with respect to the statement of election and quarterly information reports for short-term debt obligations.) The statement shall indicate that a section 4912 (c) election is being made, and shall be signed by an individual authorized to sign Federal income tax returns of the electing person. The election shall be deemed to be made at the time it is filed with the Commissioner and shall be effective with respect to debt obligations which are part of a new or original issue (other than an issue described in paragraph (b) (3) of this section) as of the date on which interest begins to accrue on the debt obligations for which such election is being made, but in no event shall such effective date be later than the date on which such debt obligations are issued. The effective date with re-

spect to debt obligations for which an election is being made shall be, for debt obligations described in paragraph (a) (2) of this section, the date on which such election is filed, and for debt obligations specified in paragraph (b) (3) of this section, the date on which such debt obligations are assumed.

(3) *Information to be furnished*. The statement of election shall contain the following information:

(i) The name, address, employer identification number, and principal place of business of the corporation or partnership making the election;

(ii) The total face amount of the class or series of debt obligations which is to be subject to the election, as well as the date of maturity of such debt obligations, and their date or dates of issuance, issue price, interest rate, original issue discount (if any), designation by which separately identifiable, and a brief description of such debt obligations including whether they are convertible into or exchangeable for stock, and, if so, the type of stock into which or for which the debt obligations can be converted or exchanged and the earliest date on which such conversion or exchange privilege may be exercised;

(iii) A statement that all instruments evidencing the debt obligations subject to the election have an indication or endorsement of taxability which meets the requirements of paragraph (d) of this section.

In the case of obligations described in paragraph (a) (2) and (b) (3) of this section, the foregoing information (if applicable) shall be provided with respect to the debt obligations subject to an election both as of the time of their initial issuance and at the time the election is made.

(4) *Special rules for short-term debt obligations*. An election under this section may be made with respect to a class or series of short-term debt obligations to be issued at times, in face amounts, with maturity dates, interest rates, and original issue discount (if any) to be determined by the issuer after the effective date of his election. Such election shall be effective for all of the short-term debt obligations of such class or series which are issued within 12 months of the effective date of such election. The statement of election with respect to such short-term debt obligations shall contain the information required to be furnished under subparagraph (3) of this paragraph, except that such statement need not list with respect to such debt obligations the total face amount of the class or series of such debt obligations which is to be subject to the election, their date or dates of maturity, their date or dates of issuance, issue price or prices, interest rate or rates, or original issue discount (if any). The issuer shall specify in his statement of election the maximum total face amount of the class or series of short-term debt obligations subject to the election which he anticipates will be outstanding at any one time. In addition to the statement of election required under this section, there shall be filed, with respect to each class or series of

short-term debt obligations, an information report for each calendar quarter in which short-term debt obligations may be issued pursuant to the election under this section, setting forth the following information:

(i) A reference to the election in connection with which the information report is being filed, including the name, address, employer identification number, and principal place of business of the corporation or partnership making the election, the effective date of the election, and the designation by which such particular class or series of short-term debt obligations is separately identifiable;

(ii) The maximum total face amount of the class or series of short-term debt obligations subject to the election which the issuer anticipates (as of the time the report is filed) will be outstanding at any one time;

(iii) The total face amount of the short-term debt obligations of such class or series outstanding on the last day of the quarter; and

(iv) The face amount of each of the short-term debt obligations of such class or series issued during the preceding calendar quarter, as well as their date or dates of maturity, date or dates of issuance, issue price or prices, interest rate or rates, and original issue discount (if any).

The quarterly information report shall be filed with the Commissioner of Internal Revenue, Attention: CP:A:O, Washington, D.C. 20224, on or before the last day of the month following the close of each calendar quarter for which a report is required.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: September 28, 1971.

EDWIN S. COHEN,
Assistant Secretary
of the Treasury.

[FR Doc. 71-14449 Filed 9-30-71; 8:40 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration PART 21—VOCATIONAL REHABILITATION AND EDUCATION Subpart A—Vocational Rehabilitation Under 38 U.S.C. Ch. 31

SUBSISTENCE ALLOWANCE

This amendment specifies that the prohibition of payment of additional vo-

ational rehabilitation subsistence allowance for more than two dependents is applicable only to those veterans eligible to receive additional disability compensation because of dependents.

Section 21.133 is revised to read as follows:

§ 21.133 Rates.

Subsistence allowance is payable for periods commencing on and after February 1, 1970, at the following monthly rates:

Type of training	Monthly rate of subsistence allowance			
	No dependent	One dependent	Two dependents	For each additional dependent ¹
Institutional:				
Full-time	\$135	\$181	\$210	\$3
¾ time	93	133	159	None
½ time	67	91	102	None
Institutional on-farm (IOF), apprentice or other on-job (OJT) ² (full time only)	118	163	181	0
Combination (institutional and OJT) (Full time only):				
Institutional ½ time or more	135	181	210	0
Institutional less than ½ time	118	163	181	0
Cooperative (Full time only):				
Institutional full time	135	181	210	0
Business/industry full time	118	153	181	0

¹ \$6 will be added for each dependent over 2, except for the veteran receiving additional compensation because of dependents under 38 U.S.C. 315 or 335 (38 U.S.C. 1504(b)).

² For on-job training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.

(72 Stat. 1114; 38 U.S.C. 210)

This VA regulation effective the date of approval.

Approved: September 27, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc. 71-14435 Filed 9-30-71; 8:48 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER E—LOAD LINES

[CGFR 71-99]

PART 45—MERCHANT VESSELS WHEN ENGAGED IN A VOYAGE ON THE GREAT LAKES

Winter Freeboard

This amendment reduces the required winter freeboard in the load line regulations for steamers over 440 feet in length on a Great Lakes voyage.

Interested persons were afforded an opportunity to participate in the making of this rule. This amendment was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-82) on August 18, 1971 (36 F.R. 15761).

While there was favorable response to the proposed lowering of winter freeboards, two persons submitting comments recommended using the same factor for winter freeboards that is presently used for intermediate freeboards. One of the comments pointed out that the difference between the intermediate and winter freeboard under the proposal for a 550-foot vessel with a summer draft of 25 feet would be only 1¼ inches. Another comment made similar observa-

tions. The Coast Guard however feels compelled to adopt its proposed rule because of an understanding reached by the Working Group of the United States/Canadian Joint Technical Committee for Great Lakes Load Lines.

The proposal is, however, modified to allow the winter load line to be marked on the vessel so that it extends from the vertical line toward the diamond. This change is made so that the intermediate and winter load line marks may be distinguished. The Coast Guard finds that notice and public proceedings on this change are impractical and contrary to the public interest. The basis for this determination is the need to have the regulation in effect before the Great Lakes' winter season begins on November 1.

The Coast Guard is considering establishing only two seasonal load lines for the larger vessels on the Great Lakes. The experience gained from this rule will be used in that determination.

Accordingly, Part 45 of Title 46, Code of Federal Regulations is amended as follows:

1. By revising the heading and paragraph (a) of § 45.15-100 to read as follows:

§ 45.15-100 Reduced basic minimum freeboards for steamers on Great Lakes voyages.

(a) A reduced freeboard may be computed for each steamer over 440 feet in length on a Great Lakes voyage for the summer, midsummer and intermediate season using the lesser tabular values prescribed by Table 45.15-100(a) and for the winter season, using a factor of 0.50 in the formula prescribed by § 45.15-95 if the vessel complies with—

(1) The conditions of assignment prescribed by Subpart 45.10; and

(2) The additional requirements prescribed by paragraph (b) of this section.

2. By adding to paragraph (a) of § 45.05-15 the following:

§ 45.05-15 Lines to be used in connection with the diamond.

(a) * * * When the separation between the intermediate and winter load lines for steamers over 400 feet in length is insufficient to allow two separate marks to be clearly drawn and distinguished, the winter load line may extend from the vertical line toward the diamond.

(Sec. 2, 49 Stat. 833, as amended, sec. 6(b) (1), 80 Stat. 937; 46 U.S.C. 823, 49 U.S.C. 1655(b) (1); 49 CFR 1.46(b))

Effective date. This amendment is effective on October 31, 1971.

Dated: September 24, 1971.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 71-14465 Filed 9-30-71; 8:50 am]

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER J—MISCELLANEOUS

[General Order 103, Amdt. 2]

PART 381—CARGO PREFERENCE—U.S.-FLAG VESSELS

Fix American-Flag Tonnage First

In F.R. Doc. 71-3716 appearing in the FEDERAL REGISTER, issue of March 17, 1971 (36 F.R. 5052), notice was given that, pursuant to section 27 of the Merchant Marine Act of 1970, Public Law 91-469, the Assistant Secretary of Commerce for Maritime Affairs had under consideration the promulgation of regulations to be followed by all departments and agencies having responsibility under the Cargo Preference Act of 1954, section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241(b)), in the administration of their programs with respect to the Act, to insure a fair and reasonable participation by U.S.-flag commercial vessels in full ship loads of cargoes subject to the Act.

Interested persons were given an opportunity to participate in the proposed rule making through the submission of comments. Pursuant to the notice, a number of comments have been received from Federal agencies, steamship lines, and other interested persons, and due consideration has been given to all relevant material presented.

A majority of the comments expressed agreement with the purpose of the proposed regulation to assure a fair and reasonable participation by U.S.-flag vessels in full shiploads of preference cargoes. Some suggested that it was not clear whether the proposed rule operated separately for cargoes shipped under each purchase authorization, under each country agreement, or for all cargoes shipped under title I of Public Law 480 during the entire year. Others pointed out that in some cases there were valid reasons for fixing a foreign-flag vessel

first. Some commented that the words "fixed" and "fixture" were insufficient to make it clear that the rule applied only to full shiploads.

In view of the comments received, the proposed regulation has been revised to make it clear that it applies only to full shiploads of preference cargoes computed by purchase authorization or other quantitative unit satisfactory to the agency involved and the Maritime Administration. Provision has also been made for exceptions to be made to the rule where the agency involved determines with the concurrence of the Maritime Administration that (a) U.S.-flag vessels are not available at fair and reasonable rates for U.S.-flag commercial vessels, or (b) that there is a substantially valid reason for fixing foreign-flag vessels first.

In consideration of the foregoing, Part 381, Title 46, Chapter II, Code of Federal Regulations, is hereby amended by adding a new section reading as follows:

§ 381.5 Fix American-flag tonnage first.

Each department or agency having responsibility under the Cargo Preference Act of 1954 shall cause each full shipload of cargo subject to said act to be fixed on U.S.-flag vessels prior to any fixture on foreign-flag vessels for at least that portion of all preference cargoes required by that Act to be shipped on U.S.-flag vessels, computed by purchase authorization or other quantitative unit satisfactory to the agency involved and the Maritime Administration, except where such department or agency determines, with the concurrence of the Maritime Administration, that (a) U.S.-flag vessels are not available at fair and reasonable rates for U.S.-flag commercial vessels, or (b) that there is a substantially valid reason for fixing foreign-flag vessels first.

Effective date. These regulations shall become effective as of November 1, 1971. (Sec. 204, 49 Stat. 1987, as amended, 46 U.S.C. 1114)

Dated: September 28, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Administration.

[FR Doc.71-14475 Filed 9-30-71;8:50 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 69-7; Notice 12]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection for Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses

The purpose of this notice is to respond to petitions filed pursuant to

§ 553.35 of Title 49, Code of Federal Regulations, requesting reconsideration of Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, 49 CFR 571.21, published on March 10, 1971 (36 F.R. 4600).

The petitions covered by this notice deal with the passive restraint requirements, and with the restraint options available after August 15, 1973. Petitions relating to seat belts and seat belt warning systems were answered in a notice published in the FEDERAL REGISTER on July 8, 1971 (36 F.R. 12858). Each request contained in the petitions has been evaluated. Particular requests relative to the March 10, 1971, rule not expressly mentioned in this notice or in the notice of July 8 have been denied.

To avoid possible confusion as to the number of test devices to be used in a test, the NHTSA is amending S5.1 at the request of American Motors and General Motors to indicate more clearly that test devices are to be placed at all seating positions unless a lesser number is prescribed in S4.

Several petitioners sought amendment of the readiness indicator requirement in S4.5.2 to limit the components of a deployable system that must be monitored. In particular, it was stated that the integrity of a pressure vessel could be diminished by a pressure gauge, and that the reliability of electrically activated explosive release devices would be impaired if the activating wire had to be monitored. To permit manufacturers to avoid designs that are prone to deterioration, the requirement has been amended by omitting specific reference to compressed gases and electrical circuits.

Several petitions requested changes with respect to the weight at which a multipurpose passenger vehicle, truck, or bus is to be tested. It was stated that the half-loaded weight specified in the standard was unrepresentative of the weights of vehicles involved in crashes, and that it placed an unreasonably severe strain on the vehicle. On consideration of the data and arguments presented, it has been determined that a reduction in the loading of these vehicles is appropriate. The required vehicle weight is accordingly reduced to 300 pounds plus the weight of the necessary anthropomorphic test devices. It should be noted that instrumentation is to be included as part of the 300 pounds.

With regard to the placement of test devices in the vehicle, it was pointed out that the specified position of the driver's right foot often produced an unnaturally awkward result and that the positioning might be achieved in some cases only by sacrificing some portion of underdash padding. In response to these points, the positioning requirement is amended to permit more natural placement, with the foot in contact with the undepressed accelerator pedal.

The petitions included several objections to the requirements for rollover testing. It was argued that the test did not produce repeatable results with respect to vehicle behavior. The NHTSA has given serious consideration to these

arguments, and has conducted a series of vehicle tests according to the procedures of the standard. These tests have demonstrated a high degree of repeatability in vehicle behavior. Occupant ejection in rollover accidents, and the retention of occupants in rollovers is a major element in effective crash protection. The petitions to delete the rollover test from the standard are therefore denied.

Some petitions objected to the requirement for barrier tests at "any angle up to 30° in either direction from the perpendicular." The NHTSA is aware that such an all-angles test may be more demanding than a test that arbitrarily selects two angles, such as 15° and 30°. Manufacturers are free, however, to limit their testing to the "worst case." Since accidents occur at all angles, it is considered important that vehicles be capable of meeting the protection requirements at any angle within the prescribed limits.

The lateral moving barrier test was also objected to by several petitioners, particularly by manufacturers of smaller vehicles who consider the 4,000-pound weight of the barrier to be excessive. The lateral moving barrier test is included in the standard because of the disproportionately high number of serious injuries suffered in side impacts. The weight of the barrier was chosen to represent the average weight of domestic passenger cars, the vehicles most likely to strike the side of a vehicle, regardless of the impacted vehicle's size. The requirement is retained.

The use of the Severity Index of 1000 as the criterion for head injury was objected to as too stringent, and a more lenient index requested. Considering the present state of the art in head injury measurement, it has been determined that a Severity Index of 1000 is the most acceptable criterion at this time, and it has therefore been retained. In a related objection, Chrysler stated that the 1000-Hz channel class requirement for accelerometers in the head was too high. In the judgment of the NHTSA, however, the 1000-Hz channel class specification as incorporated in SAE J211 represents an acceptable level of instrument sensitivity. The requirement has therefore been retained.

In the context of the petitions regarding the rollover requirements, it was suggested that the requirement of S6.1 that all portions of the test device be contained within the passenger compartment during the test was unnecessarily stringent. In retaining this requirement the NHTSA intends to require a substantial degree of passenger compartment integrity in all types of accidents. The test condition that specifies windows to be in the up position is retained to restrict random excursions of test devices, and to provide for consistency in the evaluation of test results.

General Motors noted in its petition that there are a large number of State and local laws concerning the shipment, storage, and use of pressurized cylinders and explosive devices that might be used in air bag systems. Many of these laws are at variance with the regulations of

the Department of Transportation's Hazardous Materials Regulations Board governing these materials (found in Chapter 1, Subtitle B, of Title 49, Code of Federal Regulations). If these State and local laws were to be applied to equipment that is part of a large proportion of the new passenger cars in this country, the distribution, sale, use, and maintenance of those vehicles could be seriously hindered. General Motors suggested that the Federal regulations governing these materials be incorporated into the requirements of Standard No. 208, thus preempting all State and local requirements (i.e., requiring them to be identical) under section 103(d) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392(d). The NHTSA recognizes this problem, and is considering various methods of solving it, in consultation with other concerned agencies. No regulatory action to that end is taken in this notice, but some such action is anticipated in the near future.

Several petitioners noted that the requirements for anthropomorphic test devices specified in the standard, mainly those set forth in SAE Recommended Practice J963, do not completely define all the characteristics of the dummies that may be relevant to their (and the vehicle's) performance in a crash test. The NHTSA considers the comment valid. It would actually be difficult, if not impossible, to describe the test dummy in performance terms with such specificity that every dummy that could be built to the specifications would perform identically under similar conditions. Of course, since the dummy is merely a test instrument and not an item of regulated equipment, it is not necessary to describe it in performance terms; its design could legally be "frozen" by detailed, blueprint-type drawings and complete equipment specifications. Such an action does not, however, appear to be desirable at this time. Considerable development work is in process under various auspices to refine the dynamic characteristics of anthropomorphic devices, to determine which designs are most practicable, offer the most useful results, and best simulate the critical characteristics of the human body. The NHTSA is monitoring this work (and sponsoring some of it), and intends to propose amendments of the standard in accordance with it to add more detailed performance and descriptive specifications for the test dummies, although no changes are being made in that respect by this notice.

In the meantime, it should be understood that the NHTSA does not intend that a manufacturer's status with respect to compliance will be jeopardized by possible variances in test dummies permitted by the present set of specifications. In the agency's judgment, a test dummy that conforms to the specifications incorporated by the standard is an adequate test tool for determining the basic safety characteristics of a vehicle. If the NHTSA concludes after investigation that a manufacturer's tests are properly conducted, with dummies meeting the

specifications, and show compliance with the standard, and that differences in results from tests conducted by the agency are due to differences in the test dummies used by each, the agency tests will not be considered to be the basis for a finding of noncompliance.

A number of the petitioners sought a delay in the effective dates of the standard, particularly the August 15, 1973, date which passenger cars are required to provide at least head-on protection for front-seat occupants by means that require no occupant action. Several vehicle manufacturers argued that further time is needed to prepare for the introduction of passive restraint systems in all passenger car lines. They pointed out that much of their effort during the past year has been spent refining and testing the design of these systems in order to ensure satisfactory performance under the most adverse conditions that may be encountered by vehicles in use. Mandatory introduction of passive restraints in all passenger cars by the August 15, 1973, date, it was argued, would impose severe financial hardships, because of the difficulties that would be encountered in obtaining tools, setting up production lines, and working out the inevitable production and quality-control problems for all their vehicles simultaneously, contrary to the normal practice in the industry.

It has been determined that these petitions have some merit. Materials submitted to the docket concerning the state of passive restraint development indicate that systems now available will meet the requirements of Standard 208 for passive frontal crash protection, and perform satisfactorily in other respects. It does not now appear, however, that tooling and production leadtimes will permit manufacturers to make large-scale introductions of passive systems before the fall of 1973. This agency is aware of the extreme dislocations, and the attendant financial hardships, that would be caused by requiring the world industry (to the extent of the vehicles sold in this country) to introduce major new systems in substantially all their passenger cars at the same time.

For these reasons, it has been determined that manufacturers should be allowed additional time to introduce passive protection systems. To that end, a notice of proposed rulemaking is published in this issue of the FEDERAL REGISTER that would allow manufacturers of passenger cars the option of installing seat belt systems with ignition interlocks for the period up to August 15, 1975. It is expected that this added leadtime will enable manufacturers to institute an orderly, phased introduction of passive systems into their vehicles, installing such systems in their various car lines, to the extent feasible, in advance of that date.

The July 8 notice indicated that the standard would be republished in its entirety upon publication of today's action. This has not been done, because of the limited number of amendments made by this notice.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, in § 571.21 of Title 49, Code of Federal Regulations is amended as follows:

1. S4.5.2 is amended to read as follows:

S4.5.2 *Readiness indicator.* An occupant protection system that deploys in the event of a crash shall have a monitoring system with a readiness indicator. The indicator shall monitor its own readiness and shall be clearly visible from the driver's designated seating position. A list of the elements of the system being monitored by the indicator shall be included with the information furnished in accordance with S4.5.1 but need not be included on the label.

2. S5.1 is amended to read as follows:

S5.1 *Frontal barrier crash.* When the vehicle, traveling longitudinally forward at any speed up to and including 30 m.p.h., impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30° in either direction from the perpendicular to the line of travel of the vehicle, under the applicable conditions of S8, with anthropomorphic test devices at each designated seating position except as otherwise prescribed in S4, it shall meet the injury criteria of S6.

3. S8.1.1(b) is amended to read as follows:

S8.1.1(b) *Multipurpose passenger vehicles, trucks, and buses.* A multipurpose passenger vehicle, truck, or bus is loaded to its unloaded vehicle weight plus 300 pounds or its rated cargo and luggage capacity weight, whichever is less, secured in the load carrying area and distributed as nearly as possible in proportion to its gross axle weight ratings, plus the weight of the necessary anthropomorphic test devices.

4. S8.1.13 is amended to read as follows:

S8.1.13 The hands of the test device in the driver's designated seating position are on the steering wheel rim at the horizontal centerline. The right foot rests on the undepressed accelerator pedal, with the heel in contact with the point where the centerline of the upper surface of the undepressed accelerator pedal intersects the upper surface of the floor covering. The left leg is placed as in S8.1.14.

Effective dates: January 1, 1972, with additional requirements effective at later dates, as indicated in the text of the rule published March 10, 1971 (36 F.R. 4600). (Secs. 103, 103, 112, 114, 119, National Traffic and Motor Vehicle Safety Act, U.S.C. 1392, 1397, 1401, 1403, 1407, delegation of authority at 49 CFR 1.51)

Issued on September 29, 1971.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.71-14487 Filed 9-30-71;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Percentage Depletion; Gross Income From Property in Case of Minerals Other Than Oil and Gas

On July 26, 1968, Treasury Decision 6965 amending the Income Tax Regulations under sections 611 and 613 was published in the FEDERAL REGISTER (33 F.R. 10692). Also, on July 26, 1968, proposed amendments to the regulations under sections 482 and 613 were published in the FEDERAL REGISTER (33 F.R. 10700). Certain portions of these proposed amendments were withdrawn and revisions were proposed in a notice of proposed rule making published on October 2, 1968 (33 F.R. 14707). A discussion draft was published on March 27, 1969 (34 F.R. 5728), containing further revisions of the proposed amendments and of the amendments promulgated in Treasury Decision 6965.

After consideration of all such relevant matter as was presented by interested parties concerning the various provisions in question, and after evaluation and review of the significant changes in position represented by the various documents described above, notice is hereby given that the proposed regulations referred to above are withdrawn. Further, notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate.

Prior to the final adoption of the regulations set forth below, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224; by November 30, 1971. In preparing and submitting such comments, it will not be necessary to repeat previous comments that have been submitted on the same or similar provisions that were contained in the publications referred to above because all previous comments that have been made will be considered in the formulation of the final form of these provisions. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner

by November 30, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 611(a) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 207, 917; 26 U.S.C. 611(a), 7805).

[SEAL]

WILLIAM H. LOEB,
Acting Commissioner
of Internal Revenue.

The following regulations are hereby prescribed to amend the sections indicated herein of the Income Tax Regulations under sections 381, 482, 611, 613, and 614 of the Internal Revenue Code of 1954. Except as otherwise provided, such regulations are applicable for taxable years beginning after December 31, 1953, and ending after August 16, 1954. With respect to taxable years beginning after December 31, 1960, the regulations prescribed herein give effect to certain of the amendments made by section 302(b) of the Public Debt and Tax Rate Extension Act of 1960 (Public Law 86-564, 74 Stat. 291). With respect to taxable years beginning after October 9, 1969, in the case of minerals extracted from a saline perennial lake, and with respect to taxable years beginning after December 30, 1969, in the case of oil shale, the regulations prescribed herein give effect to certain of the amendments made by sections 501 and 502 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 629, 630).

PARAGRAPH 1. Section 1.381(c)(18)-1 is amended by revising paragraph (a) thereof to read as follows:

§ 1.381(c)(18)-1 Depletion on extraction of ores or minerals from the waste or residue of prior mining.

(a) *Carryover requirement.* Section 381(c)(18) provides that the acquiring corporation in a transaction described in section 381(a) shall be considered as though it were the distributor or transferor corporation after the date of distribution or transfer for the purpose of determining the applicability of section 613(c)(3) (relating to extraction of ores or minerals from the ground). Thus, an acquiring corporation which has acquired the waste or residue of prior mining from a distributor or transferor corporation in a transaction described in section 381(a) shall be entitled, after the date of distribution or transfer, to an allowance for depletion under section 611 in respect of ores or minerals extracted from such waste or residue if the distributor or transferor corporation would have been entitled to such an allowance for depletion in the absence of the distribution or transfer. See paragraph (f) of § 1.613-4 to determine whether a distributor or transferor corporation is entitled to an allowance for depletion with

respect to the waste or residue of prior mining.

PAR. 2. Section 1.482-2 is amended by revising subdivision (ii) of paragraph (e) (1) thereof, and by adding a new subdivision (v) to paragraph (e) (1). These amended and added provisions read as follows:

§ 1.482-2 Determination of taxable income in specific situations.

(e) *Sales of tangible property*—(1) *In general.* * * *

(ii) Subparagraphs (2), (3), and (4) of this paragraph describe three methods of determining an arm's-length price and the standards for applying each method. They are, respectively, the comparable uncontrolled price method, the resale price method, and the cost-plus method. In addition, a special rule is provided in subdivision (v) of this subparagraph for use (notwithstanding any other provision of this subdivision) in determining an arm's-length price for an ore or mineral. If there are comparable uncontrolled sales as defined in subparagraph (2) of this paragraph, the comparable uncontrolled price method must be utilized because it is the method likely to result in the most accurate estimate of an arm's-length price (for the reason that it is based upon the price actually paid by unrelated parties for the same or similar products). If there are no comparable uncontrolled sales, then the resale price method must be utilized if the standards for its application are met because it is the method likely to result in the next most accurate estimate in such instances (for the reason that, in such instances, the arm's-length price determined under such method is based more directly upon actual arm's-length transactions than is the cost-plus method). A typical situation where the resale price method may be required is where a manufacturer sells products to a related distributor which, without further processing, resells the products in uncontrolled transactions. If all the standards for the mandatory application of the resale price method are not satisfied, then, as provided in subparagraph (3) (iii) of this paragraph, either that method or the cost-plus method may be used, depending upon which method is more feasible and is likely to result in a more accurate estimate of an arm's-length price. A typical situation where the cost-plus method may be appropriate is where a manufacturer sells products to a related entity which performs substantial manufacturing, assembly, or other processing of the product or adds significant value by reason of its utilization of its intangible property prior to resale in uncontrolled transactions.

(v) The price for a mineral product which is sold at the stage at which mining or extraction ends shall be determined under the provisions of §§ 1.613-3 and 1.613-4.

PAR. 3. Section 1.611-2 is amended by revising paragraph (g) (4) thereof to read as follows:

§ 1.611-2 Rules applicable to mines, oil and gas wells, and other natural deposits.

(g) Statement to be attached to return when valuation, depletion, or depreciation of mineral property or improvements are claimed. * * *

(4) For rules relating to an additional statement to be attached to the return when the depletion deduction is computed upon a percentage of gross income from the property, see § 1.613-6.

PAR. 4. Section 1.613-3 is amended to read as follows:

§ 1.613-3 Gross income from the property in the case of oil and gas wells. [Reserved]

§§ 1.613-5, 1.613-6, 1.613-7 [Redesignated]

PAR. 5. Sections 1.613-4, 1.613-5, and 1.613-6 are redesignated as §§ 1.613-5, 1.613-6, and 1.613-7, respectively.

PAR. 6. The following new section is added immediately after § 1.613-3:

§ 1.613-4 Gross income from the property in the case of minerals other than oil and gas.

(a) *In general.* The term "gross income from the property," as used in section 613(c) (1), means, in the case of a mineral property other than an oil or gas property, gross income from mining. "Gross income from mining" is that amount of income which is attributable to the extraction of the ores or minerals from the ground and the application of mining processes, including mining transportation. For the purpose of this section, "ordinary treatment processes" (applicable to the taxable years beginning before January 1, 1961) and "treatment processes considered as mining" (applicable to the taxable years beginning after December 31, 1960) will be referred to as "mining processes." Processes, including packaging and transportation, which do not qualify as mining will be referred to as "nonmining processes." Also for the purpose of this section, transportation which qualifies as "mining" will be referred to as "mining transportation" and transportation which does not qualify as "mining" will be referred to as "nonmining transportation." See paragraph (f) of this section for the definition of the term "mining" and paragraph (g) of this section for rules relating to nonmining processes.

(b) *Sales prior to the application of nonmining processes including nonmining transportation.* (1) Subject to the adjustments required by paragraph (e) (1) of this section, gross income from mining means (except as provided in sub-

paragraph (2) of this paragraph) the actual amount for which the ore or mineral is sold if the taxpayer sells the ore or mineral.—

(i) As it emerges from the mine, prior to the application of any process other than a mining process or any transportation, or

(ii) After application of only mining processes, including mining transportation, and before any nonmining transportation.

If the taxpayer sells his ore or mineral in more than one form, and if only mining processes are applied to the ore or mineral, gross income from mining is the actual amount for which the various forms of the ore or mineral are sold, after any adjustments required by paragraph (e) (1) of this section. For example, if, at his mine or quarry, a taxpayer sells several sizes of crushed gypsum and also sells gypsum fines produced as an incidental byproduct of his crushing operations, without applying any nonmining processes, gross income from mining will ordinarily be the total amount for which such crushed gypsum and fines are actually sold. See paragraphs (f) and (g) of this section for provisions defining mining and nonmining processes for various minerals.

(2) In the case of sales between members of a controlled group, as to which the district director has exercised his authority under section 482 and the regulations thereunder, and has determined the appropriate price with respect to specific sales transactions, that price shall be deemed, for those transactions, to be the actual amount for which the ore or mineral is sold. In the case of all other sales between members of a controlled group, the prices for such sales shall be determined, if possible, by use of the representative market or field price method, as described in paragraph (c) of this section; otherwise such prices shall be determined by the appropriate pricing method as provided in paragraph (d) (1) of this section. For the definitions of the terms "controlled" and "group", see paragraph (j) (1) and (2) of this section.

(c) *Cases where a representative market or field price for the taxpayer's ore or mineral can be ascertained.*—(1) *General rule.* If the taxpayer processes the ore or mineral before sale by the application of nonmining processes (including nonmining transportation), or uses it in his operations, gross income from mining shall be computed by use of the representative market or field price of an ore or mineral of like kind and grade as the taxpayer's ore or mineral after the application of the mining processes actually applied (if any), including mining transportation (if any), and before any nonmining transportation, subject to any adjustments required by paragraph (e) (1) of this section. See paragraph (e) (2) (1) of this section for certain other situations in which this paragraph shall apply. The objective in computing gross income from mining by the representative market or field price method is to ascertain, on the basis of an analysis of actual competitive sales by the taxpayer

or others, the dollar figure or amount which most nearly represents the approximate price at which the taxpayer, in light of market conditions, could have sold his ores or minerals if, prior to the application of nonmining processes, the taxpayer had sold the quantities and types of ores and minerals to which he applied nonmining processes. If it is possible to determine a market or field price under the provisions of this paragraph, and if that price is determined to be representative, the taxpayer's gross income from mining shall be determined on the basis of that price and not under the provisions of paragraph (d) of this section. The taxpayer's own actual sales prices for ores or minerals of like kind and grade shall be taken into account when establishing market or field prices, provided that those sales are determined to be representative.

(2) *Criteria for determining whether an ore or mineral is of like kind and grade as the taxpayer's ore or mineral.* An ore or mineral will be considered to be of like kind and grade as the taxpayer's ore or mineral if, in common commercial practice, it is sufficiently similar in chemical, mineralogical, or physical characteristics to the taxpayer's ore or mineral that it is used, or is commercially suitable for use, for essentially the same purposes as the uses to which the taxpayer's ore or mineral is put. Whether an ore or mineral is of like kind and grade as the taxpayer's ore or mineral will generally be determined by reference to industrial or commercial specifications and by consideration of chemical and physical data relating to the minerals and deposits in question. The fact that the taxpayer applies slightly different size reduction processes, or the fact that the taxpayer uses slightly different beneficiation processes, or the fact that the taxpayer sells his ore or mineral for different purposes, will not, in itself, prevent another person's ore or mineral from being considered to be of like kind and grade as the taxpayer's ore or mineral. On the other hand, the fact that the taxpayer's ore or mineral is suitable for the same general commercial use as another person's ore or mineral will not cause the two ores or minerals to be considered to be of like kind and grade if the desirable natural constituents of the two ores or minerals are markedly different substances. For example, anthracite coal will not be considered to be of like kind as bituminous coal merely because both types of coal can be used as fuel. Similarly, bituminous coal which does not possess coking qualities will not be considered to be of like grade as bituminous coking coal. However, in the case of a taxpayer who mines and uses his bituminous coal in the production of coke, all bituminous coals in the same marketing area will be considered to be of like kind, and all such bituminous coals having the same or similar coking quality suitable for commercial use by coke producers will be considered to be of like grade as the coal mined and used by the taxpayer.

Fine distinctions between various grades of minerals are to be avoided unless those

distinctions are clearly shown to have genuine commercial significance.

(3) *Factors to be considered in determining the representative market or field price for the taxpayer's ore or mineral.* In determining the representative market or field price for the taxpayer's ore or mineral, consideration shall be given only to prices of ores or minerals of like kind and grade as the taxpayer's ore or mineral and with which, under commercially accepted standards, the taxpayer's ore or mineral would be considered to be in competition if it were sold under the conditions described in paragraph (b) (1) of this section. A weighted average of the competitive selling prices of ores or minerals of like kind and grade as the taxpayer's, benefited only by mining processes, if any, in the relevant markets, although not determinative of the representative market or field price, is an important factor in the determination of that price. The taxpayer's own competitive sales prices for minerals which have been subjected only to mining processes shall be taken into account in computing such a weighted average. For purposes of the preceding sentence, if the district director has exercised his authority under section 482 and the regulations thereunder and has determined the appropriate price with respect to specific sales transactions by the taxpayer, that price shall be deemed to be a competitive sales price for those transactions. Sales or purchases, including the taxpayer's, of ores or minerals of like kind and grade as the taxpayer's, will be taken into consideration in determining the representative market or field price for the taxpayer's ore or mineral only if those sales or purchases are the result of competitive transactions. The identity of the taxpayer's relevant markets (including their accessibility to the taxpayer), and the representative market or field price within those markets, are necessarily factual determinations to be made on the basis of the facts and circumstances of each individual case. For the purpose of determining the representative market or field price for the taxpayer's ore or mineral, exceptional, insignificant, unusual, tie-in, or accommodation sales shall be disregarded. Except as provided above, representative market or field prices shall not be determined by reference to prices established between members of a controlled group. See paragraph (j) of this section for the definitions of the terms "controlled" and "group".

(4) *Information to be furnished by a taxpayer computing gross income from mining by use of a representative market or field price.* A taxpayer who computes his gross income from mining pursuant to the provisions of this paragraph shall attach to his return a summary statement indicating the prices used by him in computing gross income from mining under this paragraph and the source of his information as to those prices, and the relevant supporting data shall be assembled, segregated, and made readily available at the taxpayer's principal place of business until the expiration of the pertinent period of limitations.

(5) *Limitation on gross income from mining computed under the provisions of this paragraph.* It shall be presumed that a price is not a representative market or field price for the taxpayer's ore or mineral if the sum of such price plus the total of all costs of the nonmining processes (including nonmining transportation) which the taxpayer applies to his ore or mineral regularly exceeds the taxpayer's actual sales price of his first marketable product or group of products. See paragraph (d) (4) (iv) of this section for the definition of the term "first marketable product or group of products". For example, if on a regular basis the total of all costs of nonmining processes applied by the taxpayer to coal for the purposes of making coke is \$12 per ton, and if the taxpayer's actual sale price for such coke is \$18 per ton, a price of \$7 per ton would not be a representative market or field price for the taxpayer's coal. In order to rebut the presumption set forth in the first sentence of this subparagraph, it must be established that the loss on nonmining operations is directly attributable to unusual, peculiar, and nonrecurring factors rather than to the use of a market or field price which is not representative. For example, the first sentence of this subparagraph shall not apply if the taxpayer establishes in an appropriate case that the loss on nonmining operations is directly attributable to an event such as a fire, flood, explosion, earthquake, or strike.

(d) *Cases where a representative market or field price cannot be ascertained—*

(1) *General rule.* (i) If it is impossible to determine a representative market or field price as described in paragraph (c) of this section then, except as provided in subdivision (ii) of this subparagraph, gross income from mining shall be computed by use of the proportionate profits method as set forth in subparagraph (4) of this paragraph.

(ii) (a) If the taxpayer has established to the satisfaction of the Commissioner, with respect to a taxable year beginning before the publication of this subdivision (ii) in the FEDERAL REGISTER as a Treasury decision, that a method of computation other than the computation of profits proportionate to costs clearly reflects gross income from mining, then such other method shall continue to be used until the first taxable year with respect to which the Commissioner determines another method to be appropriate.

(b) If, for taxable years beginning after the publication of this subdivision (ii) in the FEDERAL REGISTER as a Treasury decision, circumstances exist which make the continued use of the taxpayer's established method under (a) of this subdivision (if any) and use of the proportionate profits method inappropriate, consideration will be given to approval of the use of an alternative method of computation. The objective in computing gross income from mining by means of an alternative method is to provide for those infrequent instances in which a representative market or field price is not available and in which the proportionate profits method and the taxpayer's previ-

ously established method consistently fail to reflect clearly the gross income from mining, in the light of all the facts and circumstances.

(c) The use of an alternative method shall be acceptable only if it is established that, under the particular facts and circumstances, the proportionate profits method and the taxpayer's previously established method consistently fail to reflect clearly the gross income from mining, and the proposed alternative method consistently does reflect clearly the gross income from mining. When determining whether a method of computation clearly reflects gross income from mining, it is relevant to compare the gross income from mining produced by such method with the gross income from mining, on an equivalent amount of production, which results from the computation methods used by competitors. When determining the acceptability of proposed alternative methods, primary consideration will be given to computation methods based upon representative charges for ores, minerals, products, or services. See paragraph (c) of this section for principles determining the representative character of a charge.

(d) Application for permission to compute gross income from mining by use of an alternative method shall be made by submitting a request to the Commissioner of Internal Revenue, Attention: Assistant Commissioner (Technical), Washington, D.C. 20224.

(e) Among the alternative methods of computation to which consideration for approval will be given, provided that the requirements of this subdivision (ii) are met, are the methods listed in subparagraphs (5) through (8) of this paragraph. The order in which these methods are listed is not significant, and the listing of these methods does not preclude a request to make use of a method which is not listed.

(iii) Approval and continued use of any method of computation under this paragraph depends upon all the facts and circumstances in each case, and shall be subject to such terms and conditions as may be necessary in the opinion of the Commissioner to reflect clearly the gross income from mining. Accordingly, the use of such a method for any taxable year shall be subject to review and change.

(2) *Costs to be used in computing gross income from mining by use of methods based on the taxpayer's costs.* In determining the taxpayer's gross income from mining by use of methods based on the taxpayer's costs, only costs actually paid or incurred shall be taken into consideration. In general, if the taxpayer has consistently employed a reasonable method of determining the costs of the various individual phases of his mining and nonmining processes (such as extraction, loading for shipment, calclining, packaging, etc.), such method shall not be disturbed. The amount of any particular item to be taken into account shall, for taxable years beginning after November 30, 1968, be the amount used in determining the taxpayer's income for

tax purposes. For example, the depreciation lives, methods, and records used for tax purposes, if different from those used for book purposes, shall be the basis for determining the amount of depreciation to be used. However, a taxpayer may continue to use a reasonable method for determining those costs on the basis of the amounts computed for cost control or similar financial or accounting books and records if that method has been used consistently and is applied to the determination of all those costs.

(3) *Treatment of particular items in computing gross income from the mining by use of methods based on the taxpayer's costs.* (i) Except as specifically provided elsewhere in this section, when determining gross income from mining by use of methods based on the taxpayer's costs, the costs attributable to mining transportation shall be treated as mining costs, and the costs attributable to nonmining transportation shall be treated as nonmining costs. Accordingly, except as specifically provided elsewhere in this section, all profits attributable to mining transportation shall be treated as mining profits, and all profit attributable to nonmining transportation shall be treated as nonmining profits. For this purpose, mining transportation means so much of the transportation of ores or minerals (whether or not by common carrier) from the point of extraction from the ground to plants or mills in which other mining processes are applied thereto as is not in excess of 50 miles or, if the taxpayer files an application pursuant to paragraph (h) of this section and the Commissioner finds that both the physical and other requirements are such that the ores or minerals must be transported a greater distance to such plants or mills, the transportation over the greater distance. Further, for this purpose, nonmining transportation includes the transportation (whether or not by common carrier) of ores, minerals, or the products produced therefrom, from the point of extraction from the ground to nonmining facilities, or from a mining facility to a nonmining facility, or from one nonmining facility to another, or from a nonmining facility to the customers who purchase the taxpayer's first marketable product or group of products. See paragraph (e) (2) of this section for provisions relating to purchased transportation to the customer and paragraph (g) (3) of this section for provisions relating to transportation the primary purpose of which is marketing or distribution. In the absence of other methods which clearly reflect the costs of the various phases of transportation, the cost attributable to nonmining transportation shall be an amount which is in the same ratio to the costs incurred for the total transportation as the distance of the nonmining transportation is to the distance of the total transportation. As an example, where the plants or mills in which mining processes are applied to ores or minerals are in excess of 50 miles from the point of extraction from the ground (or in excess of a greater distance approved by the Commissioner),

the costs incurred for transportation to those plants or mills in excess of 50 miles (or of that greater distance) shall be treated as nonmining costs in determining gross income from mining. Accordingly, all profits attributable to that excess transportation are treated as nonmining profits. However, except in the case of transportation performed in conveyances owned or leased by the taxpayer, the preceding sentence shall apply only to taxable years beginning after November 30, 1968.

(ii) In determining gross income from mining by use of methods based on the taxpayer's costs, a process shall not be considered as a mining process to the extent it is applied to ores, minerals, or other materials with respect to which the taxpayer is not entitled to a deduction for depletion under section 611. The costs of such nondepletable ores, minerals, or materials; the costs of the processes (including blending, size reduction, etc.) applied thereto; and the transportation costs thereof, if any, shall be considered as nonmining costs in determining gross income from mining. If a mining process is applied to an admixture of depletable and nondepletable material, the cost of the process and the cost of transportation, if any, attributable to the nondepletable material shall be considered as nonmining costs in determining gross income from mining. Accordingly, all profits attributable thereto are treated as nonmining profits. In the absence of other methods which clearly reflect the cost attributable to the processing and transportation, if any, of the nondepletable admixed material, that cost shall be deemed to be that proportion of the costs which the tonnage of nondepletable material bears to the total tonnage of both depletable and nondepletable material.

(iii) In determining gross income from mining by use of methods based on the taxpayer's costs—

(a) The costs attributable to containers, bags, packages, pallets, and similar items as well as the costs of materials and labor attributable to bagging, packaging, palletizing, or similar operations shall be considered as nonmining costs.

(b) The cost attributable to the bulk loading of manufactured products shall be considered as nonmining costs.

(c) The costs attributable to the operation of warehouses or distribution terminals for manufactured products shall be considered as nonmining costs.

Accordingly, all profits attributable thereto are treated as nonmining profits.

(iv) In computing gross income from mining by the use of methods based on the taxpayer's costs, the principles set forth in paragraph (c) of § 1.613-5 shall apply when determining whether selling expenses and trade association dues are to be treated, in whole or in part, as mining costs or as nonmining costs. To the extent that selling expenses and trade association dues are treated as nonmining costs, all profits attributable thereto are treated as nonmining profits.

(v) See paragraph (e) (1) of this section for provisions excluding certain allowances from the taxpayer's gross sales and costs of his first marketable product or group of products.

(4) *Proportionate profits method.* (i) The objective of the "proportionate profits method" of computation is to ascertain gross income from mining by applying the principle that each dollar of the total costs paid or incurred to produce, sell, and transport the first marketable product or group of products (as defined in subdivision (iv) of this subparagraph) earns the same percentage of profit. Accordingly, in the proportionate profits method no ranking of costs is permissible which results in excluding or minimizing the effect of any costs incurred to produce, sell, and transport the first marketable product or group of products. For purposes of this subparagraph, members of a controlled group shall be treated as divisions of a single taxpayer. See paragraph (j) of this section for the definitions of the terms "controlled" and "group".

(ii) The proportionate profits method of computation is applied by multiplying the taxpayer's gross sales (actual or constructive) of his first marketable product or group of products (after making the adjustments required by paragraph (e) of this section) by a fraction whose numerator is the sum of all the costs allocable to those mining processes which are applied to produce, sell, and transport the first marketable product or group of products, and whose denominator is the total of all the mining and nonmining costs paid or incurred to produce, sell, and transport the first marketable product or group of products (after making the adjustments required by this paragraph and paragraph (e) of this section). The method as described herein is merely a restatement of the method formerly set forth in the second sentence of Regulations 118, section 39.23(m)-1 (e) (3) (1939 Code). The proportionate profits method of computation may be illustrated by the following equation:

$$\frac{\text{Total Costs}}{\text{Mining Costs}} \times \text{Gross Sales} = \text{Gross Income from Mining.}$$

(iii) Those costs which are paid or incurred by the taxpayer to produce, sell, and transport the first marketable product or group of products, and which are not directly identifiable with either a particular mining process or a particular nonmining process shall, in the absence of a specific provision of this section providing an apportionment method, be apportioned to mining and to nonmining by use of a method which is reasonable under the circumstances. One method which may be reasonable in a particular case is an allocation based on the proportion that the direct costs of mining processes and the direct costs of nonmining processes bear to each other. For example, the salary of a corporate officer engaged in overseeing all of the taxpayer's processes is an expense which may reasonably be apportioned on the basis

of the ratio between the direct costs of mining and nonmining processes. On the other hand, an expense such as workmen's compensation premiums would normally be apportioned on the basis of direct labor costs. For the rule relating to selling expenses, see paragraph (c) (4) of § 1.613-5.

(iv) As used in this section, the term "first marketable product or group of products" means the product (or group of essentially the same products) produced by the taxpayer as a result of the application of nonmining processes, in the form or condition in which such product or products are first marketed in significant quantities by the taxpayer or by others in the taxpayer's marketing area. For this purpose, bulk and packaged products are considered to be essentially the same product. The first marketable product or group of products does not include any product which results from additional manufacturing or other nonmining processes applied to the product or products first marketed in significant quantities by the taxpayer or others in the taxpayer's marketing area. For example, if a cement manufacturer sells his own finished cement in bulk and bags and also sells concrete blocks or dry ready-mix aggregates containing additives, the finished cement, in bulk and bags, constitutes the first marketable product or group of products produced by him. Similarly, if an integrated iron ore and steel producer sells both pig iron in various sizes and rolled sheet iron or shapes, his first marketable product is the pig iron in its various sizes. Further, if an integrated clay and brick producer sells both unglazed bricks and tiles of various shapes and sizes and additionally manufactured bricks and tiles which are specially glazed, the unglazed products, both packaged and unpackaged, constitute his first marketable product or group of products.

(v) (a) As used in this subdivision, the term "gross sales (actual or constructive)" means the total of the taxpayer's actual competitive sales to others of the first marketable product or group of products, plus the taxpayer's constructive sales of the first marketable product or group of products used or retained for use in his own subsequent operations, subject to the adjustments required by paragraph (e) of this section. See (b) of this subdivision in the case of actual sales between members of controlled groups and in the case of constructive sales. A "constructive sale" occurs when a miner-manufacturer is deemed, for percentage depletion purposes, to be selling the first marketable product or group of products to himself.

(b) In the case of sales between members of a controlled group as to which the district director has exercised his authority under section 482 and the regulations thereunder and has determined the appropriate price with respect to specific sales transactions, that price shall be deemed, for those transactions, to be the actual amount for which the first marketable product or group of

products is sold for purposes of this subdivision (v). In the case of all other sales between members of a controlled group, and in the case of constructive sales, the prices for such sales shall be determined by use of the principles set forth in paragraph (c) of this section, subject to the adjustments required by paragraph (e) of this section. In the case of constructive sales, see paragraph (c) (4) of this section for rules relating to information to be furnished by the taxpayer.

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

Example.—(a) Facts. A is engaged in the mining of a mineral to which section 613 applies and in the application thereto of nonmining processes. During 1968, A incurred extraction costs of \$35,000; other mining costs of \$56,000; \$150,000 for manufacturing costs; \$46,000 for other nonmining processes; and \$14,000 for the company president's salary and similar costs resulting from both nonmining and mining processes. During that year, A produced and sold 70,000 tons of his first marketable product for an actual gross sales price of \$420,000, after the adjustments required by paragraph (e) of this section. A representative market or field price for A's mineral before the application of nonmining processes cannot be established.

(b) *Computation.* (1) The computation of A's gross income from mining by use of the proportionate profits method involves two steps. The first step is to apportion A's costs to mining and to nonmining. A apportions the company president's salary and similar costs to mining and to nonmining in the manner described in the second and third sentences of subdivision (iii) of this subparagraph, and apportions his remaining costs as follows:

Cost	Mining	Non-mining	Total
Extraction.....	\$35,000		\$35,000
Other mining processes.....	26,000		61,000
Manufacturing.....		\$150,000	150,000
Other nonmining processes.....		46,000	46,000
Subtotal.....	91,000	196,000	287,000
President's salary and similar costs.....	4,439	9,561	14,000
Total costs.....	95,439	205,561	301,000

(2) The second step is to apply the proportionate profits fraction so as to compute A's gross income from mining. To do this, A first computes his gross sales of his first marketable group of products, in this case \$420,000. A multiplies his actual gross sales of \$420,000 by the proportionate profits fraction, whose numerator consists of his total mining costs (\$95,439) and whose denominator consists of his total costs (\$301,000). Thus, A's gross income from mining is \$133,170 (i.e., 95,439/301,000ths of A's actual gross sales of \$420,000).

(5) *Method using prices of mineral of different grade.* Under the "different grade method" the taxpayer uses representative market or field prices for an ore or mineral which is of like kind but which is not of like grade as his ore or mineral, with appropriate adjustments for differences in mineral content. This method may be used only if such adjustments are readily ascertainable. For example, it may be appropriate in a particular case to establish the representative market or field price for an

ore having 50 percent X mineral content by reference to the representative market or field price for the same kind of ore having 60 percent X mineral content, with an appropriate adjustment for the differences in the valuable mineral content of the two ores, any differences in processing costs attributable to impurities, and any other relevant factors.

(6) *Representative schedule method.* The "representative schedule method" is a pricing formula which uses representative finished product prices, penalties, charges and adjustments, established in arms-length transactions between unrelated parties, to determine the market or field price for a crude mineral product. The representative character of a price, penalty, charge, or adjustment shall be determined by applying the principles set forth in paragraph (c) of this section. The representative schedule method is principally intended for use in those industries in which such a schedule-type pricing method is in general use to determine the price paid to unintegrated mineral producers for their crude mineral product. For example, if unintegrated producers of copper concentrate in a particular field or market customarily sell their product at prices which are determined in accordance with a schedule-type pricing formula, consideration will be given to the determination of concentrate prices for integrated copper producers in accordance with the same pricing formula. The representative schedule method shall not be used if it is impossible to determine one or more of the elements in the representative schedule formula by reference to prices, penalties, charges, or adjustments established in representative transactions between unrelated parties. See paragraph (c) of this section for principles determining the representative character of a charge.

(7) *Method using prices outside the taxpayer's market.* Under the "other market method" the taxpayer uses representative market or field prices established outside his markets, provided that conditions there are substantially the same as in his markets. For example, it may be appropriate in a particular case to establish the representative market or field price for pellets containing 60 percent iron which are produced and used in Utah by reference to the representative market or field price for pellets containing 60 percent iron which are produced and sold in Wyoming, provided that conditions in the two marketing areas are shown to be substantially the same.

(8) *Rate of return on investment method.* [Reserved]

(e) *Reductions of sales price in computing gross income from mining.—*(1) *Discounts.* If a taxpayer computes gross income from mining under the provisions of paragraph (b) (1) of this section, trade discounts and, for taxable years beginning after November 30, 1968, cash discounts actually allowed by the taxpayer shall be subtracted from the sale price of the taxpayer's ore or mineral. If a taxpayer computes gross income from

mining under the provisions of paragraph (c) of this section, any such discounts actually allowed (if not otherwise taken into account) by the person or persons making the sales on the basis of which the representative market or field price for the taxpayer's ore or mineral is to be determined shall be subtracted from the sale price in computing such representative market or field price. If a taxpayer computes gross income from mining under the provisions of paragraph (d) of this section, such discounts actually allowed (if not otherwise taken into account) shall be subtracted from the gross sales (actual or constructive), and shall not be considered a cost, of the first marketable product or group of products. The provisions of this subparagraph shall apply to arrangements which have the same effect as trade or cash discounts, regardless of the form of the arrangements.

(2) *Purchased transportation to the customer.* (i) A taxpayer who computes gross income from mining under the provisions of paragraph (c) of this section and who sells his ore or mineral after the application of only mining processes but after nonmining transportation shall use as the representative market or field price his delivered price (if otherwise representative) reduced by costs paid or incurred by him for purchased transportation to the customer as defined in subdivision (iii) of this subparagraph. If the transportation by the taxpayer is not purchased transportation to the customer, or if the taxpayer does not sell the ore or mineral until after the application of nonmining processes, and if other producers in the taxpayer's marketing area sell significant quantities of an ore or mineral of like kind and grade after the application of only mining processes but after purchased transportation to the customer, the representative delivered price at which the ore or mineral is sold by those other producers reduced by representative costs of purchased transportation to the customer paid or incurred by those producers shall be used by the taxpayer as the representative market or field price for his ore or mineral in applying paragraph (c) of this section. Furthermore, appropriate adjustments shall be made to take into account differences in mode of transportation and distance. When applying this subdivision, the representative market or field price so computed shall not exceed the taxpayer's delivered price less his actual costs of transportation to the customer. For purposes of this subdivision, any delivered price shall be adjusted as provided in subparagraph (1) of this paragraph.

(ii) If a taxpayer computes gross income from mining under the provisions of paragraph (d) of this section, the cost of purchased transportation to the customer (as defined in subdivision (iii) of this subparagraph) shall be excluded from the gross sales of his first marketable product or group of products (after any adjustments required by subparagraph (1) of this paragraph), and from the denominator of the proportionate

profits fraction, so as not to attribute profits to the cost of that transportation. Similar transportation cost adjustments may be made, if appropriate, in the case of other methods of computation which are based on the taxpayer's costs. For the treatment of costs and profits attributable to transportation which is not purchased transportation to the customer as defined in subdivision (iii) of this subparagraph, see paragraph (d) (3) (i) of this section.

(iii) For purposes of this section, the term "purchased transportation to the customer" means, in general, nonmining transportation from the taxpayer's mine or plant to the customer—

(a) Which is not performed in conveyances owned or leased directly or indirectly, in whole or in part, by the taxpayer,

(b) Which is performed solely to deliver the taxpayer's minerals or mineral products to the customer, rather than to transport such minerals or products for packaging or other additional processing by the taxpayer (other than incidental storage or handling), and

(c) With respect to which the taxpayer ordinarily does not earn any profit.

For purposes of the preceding sentence, transportation which is performed by a person controlling or controlled by the taxpayer (within the meaning of paragraph (j) (1) of this section) shall be deemed to have been performed in conveyances owned or leased by the taxpayer unless it is established by the taxpayer that the price charged by the controlling or controlled person for such transportation constitutes an arm's-length charge (under the standard described in paragraph (b) (1) of § 1.482-1). The term "purchased transportation to the customer" includes transportation to a warehouse, terminal, or distribution facility owned or operated by the taxpayer, provided that such transportation is performed under the conditions described in the first sentence of this subdivision. A taxpayer will not be deemed ordinarily to earn a profit on transportation merely because charges for the transportation are included in the stated selling price, rather than being separately stated or segregated from other billing. A taxpayer will not be deemed ordinarily to earn a profit on transportation if the rates for the transportation constitute an arm's-length charge ordinarily paid by shippers of the same product in similar circumstances. If a taxpayer computes gross income from mining under the provisions of paragraph (d) of this section, the term "purchased transportation to the customer" refers to transportation which conforms to the other requirements of this subdivision and which is performed to transport the taxpayer's first marketable product or group of products (as defined in paragraph (d) (4) (iv) of this section) rather than to transport minerals or mineral products which do not yet constitute the taxpayer's first marketable product or group of products.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A is engaged in the mining of an ore of mineral M and in the production and sale of M concentrate. A retains a portion of his concentrate for use in his own nonmining operations. During 1968, A sold 100,000 tons of M concentrate of ore mined and processed by him, which sales constituted a significant portion of his total production. Eighty thousand tons of that concentrate were sold by A on the basis of a representative price (after adjustments required by subparagraph (1) of this paragraph) of \$30 per ton f.o.b. mine or plant, resulting in gross income from mining of \$2,400,000. The remaining 20,000 tons were sold by A, both directly and through terminals, on the basis of a delivered price (after adjustments required by subparagraph (1) of this paragraph) at City X of \$40 per ton. The delivered price included \$15 per ton cost of purchased transportation from the mine or plant to customers in City X. The representative market or field price of the concentrate sold by A on the basis of a delivered price is \$25 per ton, determined by subtracting the cost of the purchased transportation to the customer (\$15 per ton) from the delivered price for the concentrate (\$40 per ton). Accordingly, A's gross income from mining with respect to the 20,000 tons of M concentrate sold on a delivered basis is \$500,000. The representative market or field price for the concentrate retained by A and used in his own nonmining operations may be computed by reference to the weighted average price for both A's f.o.b. mine and A's delivered sales of concentrate, with the delivered sales prices reduced in the manner described above. On this basis, the representative market or field price for the retained concentrate is \$29 per ton.

Example (2). B is engaged in the mining of an ore of mineral N and in the production of N concentrate. B retained all but an insignificant amount of his concentrate for use in his own nonmining operations. Other producers in B's marketing area sell significant amounts of N concentrate of like kind and grade, both on an f.o.b. mine or plant basis and on a delivered basis. In this case, the prices for both the f.o.b. and the delivered sales made by other producers (after any adjustments required by subparagraph (1) of this paragraph), after reduction of the delivered prices by the cost of purchased transportation to the customer, shall, if such prices are otherwise representative, be taken into account in establishing the representative market or field price for the N concentrate produced and used by B.

(1) *Definition of mining*—(1) *In general.* The term "mining" includes only—

(i) The extraction of ores or minerals from the ground;

(ii) Mining processes, as described in subparagraphs (2) through (6) of this paragraph; and

(iii) So much of the transportation (whether or not by common carrier) of ores or minerals from the point of extraction of the ores or minerals from the ground to the plants or mills in which the processes referred to in subdivision (ii) of this subparagraph are applied thereto as is not in excess of 50 miles, and, if the Commissioner finds that both the physical and other requirements are such that the ores or minerals must be

transported a greater distance to such plants or mills, the transportation over such greater distance as the Commissioner authorizes. However, transportation of the ores or minerals shall not be considered mining transportation where the location at which the processes referred to in subdivision (ii) of this subparagraph are performed has been established for the purpose of increasing the taxpayer's percentage depletion deduction rather than for a substantial business purpose. See paragraph (h) of this section for rules relating to the filing of applications to treat as mining any transportation in excess of 50 miles.

(2) *Definition of mining processes.* (i) As used in subparagraph (1) (ii) of this paragraph, the term "mining processes" means, for taxable years beginning before January 1, 1961, the ordinary treatment processes normally applied by mine owners or operators in order to obtain the commercially marketable mineral product or products, including the following processes (and the processes necessary or incidental thereto), and, for taxable years beginning after December 31, 1960, the following processes (and the processes necessary or incidental thereto):

(a) In the case of coal—cleaning, breaking, sizing, dust allaying, treating to prevent freezing, and loading for shipment;

(b) In the case of sulfur recovered by the Frasch process—cleaning, pumping to vats, cooling, breaking, and loading for shipment;

(c) In the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and ores or minerals which are customarily sold in the form of a crude mineral product (as defined in subparagraph (3) (iv) of this paragraph)—

(1) Where applied for the purpose of bringing to shipping grade and form (as defined in subparagraph (3) (iii) of this paragraph)—sorting, concentrating, sintering, and substantially equivalent processes, and

(2) Loading for shipment.

(d) In the case of lead, zinc, copper, gold, silver, uranium, or fluor spar ores, potash, and ores or minerals which are not customarily sold in the form of the crude mineral product—crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but not including electrolytic deposition, roasting, thermal or electric smelting, or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of the product or products from the ore or the mineral or minerals from other material from the mine or other natural deposit; and

(e) In the case of the following ores or minerals—

(1) The furnacing of quicksilver ores,

(2) The pulverization of talc.

(3) The burning of magnesite, and

(4) The sintering and nodulizing of phosphate rock.

(ii) The term "mining processes" also includes the following processes (and, except as otherwise provided in this subdivision, the processes necessary or incidental thereto):

(a) For taxable years beginning after December 31, 1960, in the case of calcium carbonates and other minerals when used in making cement—all processes (other than preheating the kiln feed) applied prior to the introduction of the kiln feed into the kiln, but not including any subsequent process;

(b) For taxable years beginning after December 31, 1960, and before November 14, 1966, in the case of clay to which former section 613(b) (5) (B) applied, and for taxable years beginning after November 13, 1966, in the case of clay to which section 613(b) (5) or (6) (B) applies—crushing, grinding, and separating the clay from waste, but not including any subsequent process;

(c) For taxable years beginning after October 9, 1969, in the case of minerals (other than sodium chloride) extracted from brines pumped from a saline perennial lake (as defined in paragraph (b) of § 1.613-2)—the extraction of such minerals from the brines, but in no case including any further processing or refining of such extracted minerals; and

(d) For taxable years beginning after December 30, 1969, in the case of oil shale (as defined in paragraph (b) of § 1.613-2)—extraction from the ground, crushing, loading into the retort, and retorting, but in no case hydrogenation, refining, or any other process subsequent to retorting.

(iii) A process is "necessary" to another related process if it is prerequisite to the performance of the other process. For example, if the concentrating of low-grade iron ores to bring to shipping grade and form cannot be effectively accomplished without fine pulverization, such pulverization shall be treated as a process which is "necessary" to the concentration process. Accordingly, because concentration is a mining process, such pulverization is also a mining process. Furthermore, if mining processes cannot be effectively applied to a mineral without storage of the mineral while awaiting the application of such processes, such storage shall be treated as a process which is "necessary" to the accomplishment of such mining processes. A process is "incidental" to another related process if the cost thereof is insubstantial in relation to the cost of the other process, or if the process is merely the coincidental result of the application of the other process. For example, the sprinkling of coal, prior to loading for shipment, with dots of paper to identify the coal for trade-name purposes will be considered incidental to the loading where the cost of that sprinkling is insubstantial in relation to the cost of the loading process. Also, where crushing of a crude mineral is treated as a mining process, the production of fines as a byproduct is ordinarily the coincidental result of the application of a mining process. If a taxpayer demonstrates that, as a factual matter, a par-

ticular process is necessary or incidental to a process named as a mining process in section 613(c) (4) of this paragraph, the necessary or incidental process will also be considered a mining process.

(iv) The term "mining" does not include purchasing minerals from another. Accordingly, the processes listed in this paragraph shall be considered as mining processes only to the extent that they are applied by a mine owner or operator to an ore or mineral in respect of which he is entitled to a deduction for depletion under section 611. The application of these processes to purchased ores, minerals, or materials does not constitute mining.

(3) *Processes recognized as mining for ores or minerals covered by section 613(c) (4) (C).* (i) As used in section 613(c) (4) (C) and subparagraph (2) (1) (c) of this paragraph, the terms "sorting" and "concentrating" mean the process of eliminating substantial amounts of impurities or foreign matter, or separating two or more valuable minerals or ores, without changing the physical or chemical identity of the ore or minerals. Examples of sorting and concentrating processes are hand or mechanical sorting, magnetic separation, gravity concentration, jigging, the use of shaking or concentrating tables, the use of spiral concentrators, the use of sluices or sluice boxes, sink-and-float processes, classifiers, hydrotators and flotation processes. Under section 613(c) (4) (C), sorting and concentration will be considered mining processes only where they are applied to bring an ore or mineral to shipping grade and form.

(ii) As used in section 613(c) (4) (C) and and subparagraph (2) (1) (c) of this paragraph, the term "sintering" means the agglomeration of fine particles by heating to a temperature at which incipient, but not complete, fusion occurs. Sintering will be considered a mining process only where it is applied to an ore or mineral, or a concentrate of an ore or mineral, as an auxiliary process necessary to bring the ore or mineral to shipping form. A thermal action which is applied in the manufacture of a finished product will not be considered to be a mining process even though such thermal action may cause the agglomeration of fine particles by incipient fusion, and even though such action does not cause a chemical change in the agglomerated particles. For example, the sintering of finely ground iron ore concentrate, prior to shipment from the concentration plant, for the purpose of preventing the risk of loss of the finely divided particles during shipment is considered a mining process. On the other hand, for example, a heating process applied to defluoridize phosphate rock; or to expand or harden clay, shale, perlite, vermiculite, or other materials in the course of the manufacture of lightweight aggregate or other building materials is not considered to be a mining process.

(iii) As used in section 613(c) (4) (C) and this section, to "bring to shipping grade and form" means, with respect to

taxable years beginning after December 31, 1960, to bring (by the application of mining processes at the mine or concentration plant) the quality or size of an ore or mineral to the stage at which the ore or mineral is shipped to a customer or used in a nonmining process (as defined in paragraph (g) of this section) by the taxpayer.

(iv) An ore or mineral is "customarily sold in the form of a crude mineral product", within the meaning of section 613(c)(4)(C), if a significant portion of the production thereof is sold or used in a nonmining process prior to the alteration of its inherent mineral content by some form of beneficiation, concentration, or ore dressing. An ore or mineral does not lose its classification as a crude mineral product by reason of the fact that, before sale or use in a nonmining process, the ore or mineral may be crushed or subjected to other processes which do not alter its inherent mineral content. Whether the portion of production sold or used in the form of a crude mineral product is a significant portion of the total production of an ore or mineral is a question of fact.

(4) *Type of processes recognized as mining for ores or minerals covered by section 613(c)(4)(D).* Cyanidation, leaching, crystallization, and precipitation, which are listed in section 613(c)(4)(D) as treatment processes considered as mining, and the processes (or combination of processes) which are substantially equivalent thereto, will be recognized as mining only to the extent that they are applied to the taxpayer's ore or mineral for the purpose of separation or extraction of the valuable mineral product or products from the ore, or for the purpose of separation or extraction of the mineral or minerals from other material extracted from the mine or other natural deposit. A process, no matter how denominated, will not be recognized as mining if the process beneficiates the ore or mineral to the degree that such process, in effect, constitutes smelting, refining, or any other nonmining process within the meaning of paragraph (g) of this section. As used in section 613(c)(4)(D) and subparagraph (2)(i)(d) of this paragraph, the term "concentration" has the meaning set forth in the first two sentences of subparagraph (3)(i) of this paragraph.

(5) *Processes recognized as mining under section 613(c)(4)(I).* Under the authority granted the Secretary or his delegate in section 613(c)(4)(I), the processes which are described in subdivisions (i) through (iv) of this subparagraph, and the processes necessary or incidental thereto, are recognized as mining processes for taxable years beginning after December 31, 1960. The processes described in subdivisions (i) through (iv) of this subparagraph are in addition to the specific processes recognized as mining under section 613(c)(4). Such additional processes are:

(i) Crushing and grinding, but not fine pulverization (as defined in paragraph (g)(6)(v) of this section);

(ii) Size classification processes applied to the products of allowable crushing and grinding;

(iii) Drying to remove free water, provided that such drying does not change the physical or chemical identity or composition of the mineral; and

(iv) Washing or cleaning the surface of mineral particles (including the washing of sand and gravel and the treatment of kaolin particles to remove surface stains), provided that such washing or cleaning does not activate or otherwise change the physical or chemical structure of the mineral particles.

(6) In the case of a process applied subsequent to a nonmining process, see paragraph (g)(2) of this section.

(g) *Nonmining processes*—(1) *General rule.* Unless they are otherwise provided for in paragraph (f) of this section as mining processes (or are necessary or incidental to processes listed therein), the following processes are not considered to be mining processes—electrolytic deposition, roasting, calcining, thermal or electric smelting, refining, polishing, fine pulverization, blending with other materials, treatment effecting a chemical change, thermal action, and molding or shaping. See subparagraph (6) of this paragraph for definitions of certain of these terms.

(2) *Processes subsequent to nonmining processes.* Notwithstanding any other provision of this section, a process applied subsequent to a nonmining process (other than nonmining transportation) shall also be considered to be a nonmining process. Exceptions to this rule shall be made, however, in those instances in which the rule would discriminate between similarly situated producers of the same mineral. For example, roasting is specifically designated in subparagraph (1) of this paragraph as a nonmining process, but in the case of minerals referred to in section 613(c)(4)(C) sintering is recognized as a mining process. If certain impurities in an ore can only be removed by roasting in order to bring it to the same shipping grade and form as a competitive sintered ore of the same kind which requires no roasting, the subsequent sintering of the roasted ore will be treated as a mining process. In that case, however, the roasting of the ore will nonetheless continue to be treated as a nonmining process.

(3) *Transportation for the purpose of marketing or distribution; storage.* Transportation the primary purpose of which is marketing, distribution, or delivery for the application of only nonmining processes shall not be considered as mining. Nor shall transportation be considered as mining merely because, during the course of such transportation, some extraneous matter is removed from the ore or mineral by the operation of forces of nature, such as evaporation, drainage, or gravity flow. Similarly, storage or warehousing of manufactured products shall not be considered as mining. The preceding sentence shall apply even though, during the course of such storage or warehousing, some extraneous

matter is removed from the ore or mineral by the operation of forces of nature, such as evaporation, drainage, or gravity flow.

(4) *Manufacturing, etc.* The production, packaging, distribution, and marketing of manufactured products, and the processes necessary or incidental thereto, are nonmining processes.

(5) *Transformation processes.* Processes which effect a substantial physical or chemical change in a crude mineral product, or which transform a crude mineral product into new or different mineral products, or into refined or manufactured products, are nonmining processes except to the extent that such processes are specifically designated as mining processes in section 613(c) or in paragraph (f) of this section.

(6) *Definitions.* As used in section 613(c)(5) and this section—

(i) The term "calcining" refers to processes used to expel the volatile portions of a mineral by the application of heat, as, for example, the burning of carbonate rock to produce lime, the heating of gypsum to produce calcined gypsum or plaster of Paris, or the heating of clays to reduce water of crystallization.

(ii) The term "thermal smelting" refers to processes which reduce or beneficiate ores or minerals by the application of heat, as, for example, the furnacing of copper concentrates, the heating of iron ores, concentrates, or pellets in a blast furnace to produce pig iron, or the heating of iron ores or concentrates in a direct reduction kiln to produce a feed for direct conversion into steel.

(iii) The term "refining" refers to processes (other than mining processes designated in section 613(c)(4) or this section) used to eliminate impurities or foreign matter from smelted or partially processed metallic and nonmetallic ores and minerals, as, for example, the refining of blister copper. In general, a refining process is designed to achieve a high degree of purity by removing relatively small amounts of impurities or foreign matter from smelted or partially processed ores or minerals.

(iv) The term "polishing" refers to processes used to smooth the surface of minerals, as, for example, sawing applied to finish rough cut blocks of stone, sand finishing, buffing, or otherwise smoothing blocks of stone.

(v) The term "fine pulverization" refers to any grinding or other size reduction process applied to reduce the normal topsize of a mineral product to less than .0331 inches, which is the size opening in a No. 20 Screen (U.S. Standard Sieve Series). A mineral product will be considered to have a normal topsize of .0331 inches if at least 98 percent of the product will pass through a No. 20 Screen (U.S. Standard Sieve Series), provided that at least 5 percent of the product is retained on a No. 45 Screen (U.S. Standard Sieve Series). Compliance with the normal topsize test may also be demonstrated by other tests which are shown to be reasonable in the circumstances. The normal topsize test shall be applied

to the product of the operation of each separate and distinct piece of size reduction equipment utilized (such as a roller mill), rather than to the final products for sale. Fine pulverization includes the repeated recirculation of material through crushing or grinding equipment to accomplish fine pulverization. Separating or screening the product of a fine pulverization process (including separation by air or water flotation) shall be treated as a nonmining process.

(vi) The term "blending with other materials" refers to processes used to blend different kinds of minerals with one another, as, for example, blending iodine with common salt for the purpose of producing iodized table salt.

(vii) The term "treatment effecting a chemical change" refers to processes (other than designated mining processes) which transform or modify the chemical composition of a crude mineral, as, for example, the coking of coal. The term does not include the use of chemicals to clean the surface of mineral particles provided that such cleaning does not make any change in the physical or chemical structure of the mineral particles.

(viii) The term "thermal action" refers to processes which involve the application of artificial heat to ores or minerals, such as, for example, the burning of bricks, the coking of coal, the expansion or popping of perlite, the exfoliation of vermiculite, the heat treatment of garnet, and the heating of shale, clay, or slate to produce lightweight aggregates. The term does not include drying to remove free water.

(h) *Application to treat, as mining, transportation in excess of 50 miles.* If a taxpayer desires to include in the computation of his gross income from mining transportation in excess of 50 miles from the point of extraction of the minerals from the ground, he shall file an original and one copy of an application for the inclusion of such greater distance with the Commissioner of Internal Revenue, Washington, D.C. 20224. The application must include a statement setting forth in detail the facts concerning the physical and other requirements which prevented the construction and operation of the plant (in which mining processes, as defined in paragraph (f) of this section, are applied) at a place nearer to the point of extraction from the ground. These facts must be sufficient to apprise the Commissioner of the exact basis of the application. If the taxpayer's return is filed prior to receipt of notice of the Commissioner's action upon the application, a copy of such application shall be attached to the return. If, after an application is approved by the Commissioner, there is a material change in any of the facts relied upon in such application, a new application must be submitted by the taxpayer.

(i) *Extraction from waste or residue.* "Extraction of ores or minerals from the ground" means not only the extraction of ores or minerals from a deposit, but also the extraction by mine owners

or operators of ores or minerals from waste or residue of their prior mining. It is immaterial whether the waste or residue results from the process of extraction from the ground or from application of mining processes as defined in paragraph (f) of this section. However, extraction of ores or minerals from waste or residue which results from processes which are not allowable as mining processes is not treated as mining. "Extraction of ores or minerals from the ground" does not include extraction of ores or minerals by the purchaser of waste or residue or the purchaser of the rights to extract ores or minerals from waste or residue. The term "purchaser" does not apply to any person who acquires a mineral property, including waste or residue, in a tax-free exchange, such as a corporate reorganization, from a person who was entitled to a depletion allowance upon ores or minerals produced from such waste or residue, or from a person who would have been entitled to such depletion allowance had section 613(c)(3) been in effect at the time of the transfer. The term "purchaser" also does not apply to a lessee who has renewed a mineral lease if the lessee was entitled to a depletion allowance (or would have been so entitled had section 613(c)(3) been in effect at the time of the renewal) upon ores or minerals produced from waste or residue before renewal of the lease. It is not necessary, for purposes of the preceding sentence, that the mineral lease contain an option for renewal. The term "purchaser" does include a person who acquires waste or residue in a taxable transaction, even though such waste or residue is acquired merely as an incidental part of the entire mineral enterprise. For special rules with respect to certain corporate acquisitions referred to in section 381(a), see section 381(c)(18) and the regulations thereunder.

(j) *Definition of controlled group.* When used in this section—

(1) The term "controlled" includes any kind of control, direct or indirect, whether or not legally enforceable, and however exercisable or exercised. It is the reality of the control which is decisive, not its form or the mode of its exercise. A presumption of control arises if income or deductions have been arbitrarily shifted.

(2) The term "group" means the organizations, trades, or businesses owned or controlled by the same interests.

PAR. 7. Section 1.613-5, as redesignated, is amended by revising paragraph (a), revising example (4) in paragraph (b) (7) (to correct a typographical error), and adding a new paragraph (c). The amended and added provisions read as follows:

§ 1.613-5 Taxable income from the property.

(a) *General rule.* The term "taxable income from the property (computed without allowance for depletion)", as used in section 613 and this part, means "gross income from the property" as defined in section 613(c) and §§ 1.613-3

and 1.613-4, less all allowable deductions (excluding any deduction for depletion) which are attributable to mining processes, including mining transportation, with respect to which depletion is claimed. These deductible items include operating expenses, certain selling expenses, administrative and financial overhead, depreciation, taxes deductible under section 162 or 164, losses sustained, intangible drilling and development costs, exploration and development expenditures, etc. See paragraph (c) of this section for special rules relating to discounts and to certain of these deductible items. Expenditures which may be attributable both to the mineral property upon which depletion is claimed and to other activities shall be properly apportioned to the mineral property and to such other activities. Furthermore, where a taxpayer has more than one mineral property, deductions which are not directly attributable to a specific mineral property shall be properly apportioned among the several properties. In determining the taxpayer's taxable income from the property, the amount of any particular item to be taken into account shall be determined in accordance with the principles set forth in paragraph (d) (2) and (3) of § 1.613-4.

(b) *Special rule; decrease in mining expenses resulting from gain recognized under section 1245(a)(1).* * * *

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

Example (4). On January 1, 1963, B, who uses the calendar year as his taxable year and who normally allocates depreciation costs to mines according to the percentage of time which the depreciable asset is used with respect to the mines, acquired a truck which was section 1245 property. During 1963 the truck was used exclusively on mine No. 1, which B operated and treated as a separate property. The depreciation adjustments allowed in respect of the truck for 1963 were \$1,000 (the amount allowable), which amount was allocated to mine No. 1 in computing the taxable income therefrom. On January 1, 1964, B acquired and began operating mine No. 2 and elected under section 614(c) to aggregate and treat as one property mines Nos. 1 and 2. During 1964 B used the truck 60 percent of the time for mine No. 1 and 40 percent of the time for mine No. 2. For 1964 the depreciation adjustments allowed in respect of the truck were \$1,000 (the amount allowable), which amount was allocated to the aggregation of mines Nos. 1 and 2 in computing the taxable income therefrom. On December 31, 1964, B sold mine No. 2. For 1965 the depreciation adjustments allowed in respect of the truck were \$1,000 (the amount allowable), which amount was allocated to mine No. 1 in computing the taxable income therefrom. On January 1, 1966, B recognized gain upon sale of the truck of \$600 to which section 1245(a)(1) applied. In computing the taxable income from mine No. 1 for 1966, the expenses otherwise required to be taken into account are reduced by \$600, since all the depreciation adjustments allowed with respect to the truck, including those allowed with respect to the use of the truck at mine No. 2 (\$400 for 1964), relate to the same mineral property from which B had taxable income in 1966, the taxable year in which he sold the truck.

(c) *Treatment of particular items in computing taxable income from the property.* In determining taxable income from the property under the provisions of paragraph (a) of this section—

(1) Trade or cash discounts (or allowances determined to have the same effect as trade or cash discounts) which are actually allowed to the taxpayer in connection with the acquisition of property, supplies, or services shall not be included in the cost of such property, supplies, or services.

(2) Intangible drilling and development costs which are deducted under section 263(c) and § 1.612-4 shall be subtracted from the gross income from the property.

(3) Exploration and development expenditures which are deducted for the taxable year under sections 615, 616, or 617 shall be subtracted from the gross income from the property.

(4) (i) Selling expenses, if any, paid or incurred with respect to a raw mineral product shall be subtracted from gross income from the property. See subdivision (iii) of this subparagraph for the definition of the term "raw mineral product." For example, the selling expenses paid or incurred by a producer of raw mineral products with respect to products such as crude oil, raw gas, coal, iron ore, or crushed dolomite shall be subtracted from gross income from the property.

(ii) A reasonable portion of the expenses of selling a refined, manufactured, or fabricated product, shall be subtracted from gross income from the property. Such reasonable portion shall be equivalent to the typical selling expenses which are incurred by unintegrated miners or producers in the same mineral industry so as to maintain equality in the tax treatment of unintegrated miners or producers in comparison with integrated miner-manufacturers or producer-manufacturers. If unintegrated miners or producers in the same mineral industry do not typically incur any selling expenses, then no portion of the expenses of selling a refined, manufactured, or fabricated product shall be subtracted from gross income from the property when determining the taxpayer's taxable income from the property.

(iii) For purposes of this subparagraph, a product will be considered to be a raw mineral product if (in the case of oil and gas) it is sold in the immediate vicinity of the well or if (in the case of minerals other than oil and gas) it is sold under the conditions described in paragraph (b) (1) of § 1.613-4. In addition, a product will be considered to be a raw mineral product if only insubstantial value is added to the product by non-mining processes (or, in the case of oil and gas, by conversion or transportation processes). For example, in the case of a producer of crushed granite poultry grit, both bulk and bagged grit will be deemed to be a raw mineral product for purposes of the selling expense rule set forth in this subparagraph.

(iv) The term "selling expenses", for purposes of this subparagraph, includes sales management salaries, rent of sales offices, sales clerical expenses, salesmen's

salaries, sales commissions and bonuses, advertising expenses, sales traveling expenses, and similar expenses, together with an allocable share of the costs of supporting services, but the term does not include delivery expenses.

(5) Taxes which are taken as a credit rather than as a deduction or which are capitalized shall not be subtracted from the gross income from the property.

(6) Trade association dues paid or incurred by a producer of crude oil or gas or a raw mineral product shall be subtracted from the gross income from the property. See subparagraph (4) (iii) of this paragraph for the definition of the term "raw mineral product". In addition, a reasonable portion of the trade association dues incurred by a producer of a refined, manufactured, or fabricated product shall also be subtracted from gross income from the property if the activities of the association relate to production, treatment and marketing of the crude oil or gas or raw mineral product. One reasonable method of allocating the trade association dues described in the preceding sentence is an allocation based on the proportion that the direct costs of mining processes and the direct costs of nonmining processes (or, in the case of oil and gas, conversion and transportation processes) bear to each other. The foregoing rules shall apply even though one of the principal purposes of an association is to advise, promote, or assist in the production, marketing, or sale of refined, manufactured, or fabricated products. For example, a reasonable portion of the trade association dues paid to an association which promotes the sale of cement, refined petroleum, or copper products shall be subtracted from gross income from the property.

PAR. 8. Section 1.613-6, as redesignated, is amended to read as follows:

§ 1.613-6 Statement to be attached to return when depletion is claimed on percentage basis.

In addition to the requirements set forth in paragraph (g) of § 1.611-2, a taxpayer who claims the percentage depletion deduction under section 613 for any taxable year shall attach to his return for such year a statement setting forth in complete, summary form, with respect to each property for which such deduction is allowable, the following information:

(a) All data necessary for the determination of the "gross income from the property", as defined in §§ 1.613-3 and 1.613-4, including—

(1) Amounts paid as rents or royalties including amounts which the recipient treats under section 631(c),

(2) Proportion and amount of bonus excluded, and

(3) Amounts paid to holders of other interests in the mineral deposit.

(b) All additional data necessary for the determination of the "taxable income from the property (computed without the allowance for depletion)", as defined in § 1.613-5.

PAR. 9. Section 1.614-3 is amended by revising paragraph (g) (3) (ii) thereof to read as follows:

§ 1.614-3 Rules relating to separate operating mineral interests in the case of mines.

(g) *Special rule as to deductions under section 615(a) prior to aggregation.* * * *

(3) *Recomputation of tax.* * * *

(ii) *Recomputation of depletion allowance.* The taxpayer shall compute the depletion allowance with respect to the constructed aggregated property for the taxable year for which the recomputation is required to be made. In making this computation, cost depletion for such taxable year shall be computed with reference to the depletion unit for the constructed aggregated property. See paragraph (a) of § 1.611-2. Percentage depletion for such taxable year shall not exceed 50 percent of the taxable income from the constructed aggregated property computed in accordance with § 1.613-5. If a recomputation is required to be made for the same taxable year with respect to any other aggregation or aggregations formed by the taxpayer under section 614(c) (1), the depletion allowance with respect to the other constructed aggregated property or properties shall be similarly computed. If, for a taxable year in respect of which a recomputation is required, the sum of the depletion allowance or allowances as computed under this subdivision is less than the sum of the depletion allowance or allowances actually deducted for such taxable year with respect to all the properties required to be taken into account in making the computation under this subdivision, then the total depletion allowance deducted by the taxpayer for such taxable year shall be reduced by the difference. The taxable income or net operating loss of the taxpayer for such taxable year shall be adjusted to reflect such reduction for purposes of the recomputation of tax. However, if for a taxable year in respect of which a recomputation is required, the sum of the depletion allowance or allowances as computed under this subdivision exceeds the sum of the depletion allowance or allowances actually deducted for such taxable year with respect to all the properties required to be taken into account in making the computation under this subdivision, the recomputation of tax for such taxable year is disregarded for purposes of applying section 614(c) (4) (B), (C), and (D).

[FR Doc. 71-14344 Filed 9-30-71; 8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 932]

OLIVES GROWN IN CALIFORNIA

Proposed Modification of Grade Requirements

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, to

the rules and regulations (Subpart—Rules and Regulations; 7 CFR 932.108-932.161; 36 F.R. 16185) currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California, hereinafter referred to collectively as the "order". This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment to the said rules and regulations was proposed by the Olive Administrative Committee, established under the said marketing agreement and order as the agency to administer the terms and provisions thereof.

The proposal reflects the committee's evaluation of (1) industry operations under the same requirements during 1970-71 and (2) the crop and marketing conditions that will prevail during 1971-72 which will be aided through implementation of the amendment as hereinafter set forth.

The proposed amendment involves § 932.149 by reestablishing, through a new effective date, certain provisions which modify the grade requirements for Chopped or Minced style of canned ripe olives. The modification is in the form of certain requirements, as hereinafter set forth, which would be added to the specifications contained in U.S. Grade C for such style. Shipments of Chopped or Minced style olives produced before December 21, 1970 (the date when the provisions of the current § 932.149(d) became effective), would be exempt from such additional requirements. The effective date of the exemption (December 21, 1970), specified by reference in the current provisions of § 932.149(e) would be inserted therein and combined with a new paragraph (d).

Shipments of Whole, Pitted, and Broken pitted styles of canned ripe olives produced prior to September 1, 1970, would not be affected by this amendment. The effective date (September 1, 1970) of the applicable provisions as referenced by the current paragraph (f) would be inserted therein and the paragraph redesignated as paragraph (e). Certain provisions currently contained in paragraph (g) of the section are obsolete and would be deleted as would the reference to paragraph (g) currently contained in the introductory language.

The proposal is as follows:

Section 932.149, except paragraphs (a), (b), and (c) thereof, is amended to read as follows:

§ 932.149 Modified grade requirements for specified styles of canned olives of the ripe type.

The grade requirement prescribed in § 932.52(a)(1) are modified as follows with respect to specified styles of olives of the ripe type:

* * * * *
(d) On and after October 18, 1971, Chopped or Minced style of canned ripe olives, as set forth in § 52.3753(f) of the U.S. Standards for Grades of Canned

Ripe Olives in this title, shall grade at least U.S. Grade C and shall be practically free from identifiable units of pit caps, end slices, and slices ("practically free from identifiable units" means that not more than 5 percent, by weight, of the units of Chopped or Minced style of olives may be identifiable pit caps, end slices, or slices): *Provided*, That packaged olives of the Chopped or Minced style produced prior to December 21, 1970, may be shipped if such packaged olives comply with the applicable requirements in effect, under this part, immediately prior to such date.

(e) With respect to the provisions of paragraphs (a), (b), and (c) of this section, any packaged olives of the specified styles, produced prior to September 1, 1970, may be shipped if such packaged olives comply with the applicable requirements in effect, under this part, immediately prior to such date.

(f) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "U.S. Grade B," "U.S. Grade C," and the terms "uniformity of size," "character," "absence of defects," and "ripe type" shall have the same meaning as when used in the U.S. Standards for Grades of Canned Ripe Olives (§§ 52.3751-52.3766 of this title; 36 F.R. 16567).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal may 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 the seventh day after publication of the notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 27, 1971.

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

[FR Doc.71-14432 Filed 9-30-71;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1518, 1910]

SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Clarification of Notice of Proposed Rule Making

On September 28, 1971, there was published in the FEDERAL REGISTER (36 F.R. 19083) a notice of proposed amendments to Parts 1518 and 1910 of Title 29, Code of Federal Regulations, concerning

safety and health standards for construction. The notice is hereby supplemented to make more clear that the proposed amendments do not relate only to light residential construction. The proposed amendments relate to general construction activities encompassed by the terms of the proposed amendments.

Signed at Washington, D.C., this 29th day of September 1971.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.71-14478 Filed 9-30-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket 69-7; Notice 13]

OCCUPANT CRASH PROTECTION IN PASSENGER CARS

Proposed Safety Standards

This notice proposes the addition of an occupant crash protection option to Standard No. 208, to allow manufacturers to install seatbelts with ignition interlocks for the period up to August 15, 1975.

Standard No. 208, Occupant Crash Protection, in 49 CFR 571.21, was published in the FEDERAL REGISTER of March 10, 1971, 36 F.R. 4600, with an amendment on July 8, 1971, 36 F.R. 12858. Petitions for reconsideration of the March 10 issuance were filed by several persons, and amendments of the standard in response to those petitions, along with denials of other requests, are published in this issue of the FEDERAL REGISTER, 36 F.R. 19254.

In response to requests by several manufacturers for a delay in the date by which passive protection must be provided in passenger cars, for the reasons discussed in the notice of action on the petitions, it is hereby proposed that a third option be allowed for the period from August 15, 1973, to August 15, 1975. Under the proposed option, manufacturers would install seatbelts with ignition interlocks in the front seating positions. With the minor amendments proposed for S7.3.3 and S7.3.4, the interlock system would not conflict with the requirements effective January 1, 1972, and could therefore be installed at any time after that date.

The added option would have the following requirements:

(1) Lap belts or nondetachable lap and shoulder belt combinations would be installed in the front outboard seating positions, and lap belts (either with or without shoulder belts) in the other seating positions.

(2) An interlock system would prevent the engine from starting if any front seat occupants did not have their belts fastened.

(3) In order to prevent defeating the systems by leaving the belts fastened permanently, it would be necessary to fasten the belts after an occupant is seated, i.e., the seat sensor and the belt switch would have to operate sequentially, to start the engine.

(4) Unfastening a belt would not stop the engine after it was started.

(5) A light-sound warning system would operate if a belt were unfastened after the engine was started, and would also operate if the ignition were turned to the Start position with a belt unfastened at an occupied front position.

(6) In the front outboard seating positions, upper torso belts would operate from emergency-locking (inertia reel) retractors, and the lap belts would have either emergency-locking or automatic-locking retractors.

(7) All belts would be required to conform to Standard No. 209; the front outboard belts, whether lap belts or nondetachable lap and shoulder belt combinations, would have to meet the injury criteria of the standard when tested with dummies in a 30-m.p.h. frontal barrier crash; and the lap belts in the front center position (if any) must remain intact in the same crash test. Although a detachable shoulder belt is not prohibited at the front outboard positions, and assembly with a detachable shoulder belt would have to meet the injury criteria with the lap belt alone.

It is intended by this option to provide a high level of seatbelt usage, and to increase the life- and injury-saving effectiveness of installed belt systems, in the interim period before passive systems are required.

It is accordingly proposed that the following amendments be made to Standard No. 208, in 49 CFR 571.21:

1. S4.1.2 would be amended to read as follows:

S4.1.2 Passenger cars manufactured from August 15, 1973 to August 14, 1975. Passenger cars manufactured from August 15, 1973 to August 14, 1975, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2., or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1, or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

2. A new section S4.1.2.3 would be added, reading as follows:

S4.1.2.3 Third option—lap and shoulder belt protection system with ignition interlock and belt warning.

S4.1.2.3.1 Except for convertibles and open-body vehicles, the vehicles shall—

(a) At each front outboard designated seating position have a Type 1 seatbelt assembly or a Type 2 seatbelt assembly with a nondetachable upper torso portion that conforms to Standard No. 209 and S7.1 and S7.2 of this standard, a seatbelt warning system that conforms to S7.3, and an ignition interlock that conforms to S7.4;

(b) At any center-front designated seating position, have a Type 1 or Type 2 seatbelt assembly that conforms to

Standard No. 209 and S7.1 and S7.2 of this standard, a seatbelt warning system that conforms to S7.3, and an ignition interlock system that conforms to S7.4;

(c) At each other designated seating position, have a Type 1 or Type 2 seatbelt assembly that conforms to Standard No. 209 and S7.1 and S7.2 of this standard;

(d) At each front outboard designated seating position, meet the frontal crash protection requirements of S5.1, in a perpendicular impact, with the test device restrained by a Type 1 seatbelt assembly or a Type 2 seatbelt assembly with a nondetachable upper torso portion; and

(e) When it perpendicularly impacts a fixed collision barrier, while moving longitudinally forward at any speed up to and including 30 m.p.h., under the test conditions of S8.1, with an anthropomorphic test device at any front-center seating position restrained by a Type 1 or Type 2 seatbelt assembly, experience no complete separation of any load-bearing element of the seatbelt assembly or anchorage.

S4.1.2.3.2 Convertibles and open-body type vehicles shall at each designated seating position have a Type 1 or Type 2 seatbelt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard, and at each front designated seating position have a seatbelt warning system that conforms to S7.3, and an ignition interlock system that conforms to S7.4.

3. The following sentence would be added at the end of S7.1.1: "However, an upper torso restraint furnished in accordance with S4.1.2.3.1(a) shall adjust by means of an emergency-locking retractor that conforms to Standard No. 209."

4. S7.3 would be amended, and a new S7.4 added, to read as follows:

S7.3 Seatbelt warning system. The following provisions shall apply to all seatbelt assemblies furnished in accordance with S4.1.1 or S4.1.2, except as provided by S7.3.5 with respect to belt interlock systems furnished in accordance with S4.1.2.3.

S7.3.3 The warning system shall not activate if the vehicle has an automatic transmission, the ignition switch is in the "on" position, and the gear selector is in the "park" position.

S7.3.4 Notwithstanding the provisions of S7.3.1, when the ignition switch of a vehicle with a manual transmission is in the "on" position, the warning system shall either—

(a) Not activate when the transmission is in neutral; or

(b) Not activate when the parking brake is engaged.

S7.3.5 The above provisions of S7.3 shall apply to seatbelt assemblies with interlock systems furnished in accordance with S4.1.2.3, with the following exceptions.

S7.3.5.1 The warning system shall also be provided for the center-front seating position, if any.

S7.3.5.2 In addition to the conditions specified in S7.3.1, the warning system shall activate if—

(a) The vehicle ignition switch is in the "on" position and the transmission gear selector is in any forward position; and

(b) A person of at least the weight of a 50th percentile 6-year-old child is seated in a center-front designated seating position and the lap belt for that position is not in use, as determined, at the manufacturer's option, either by the belt latch mechanism being fastened or the belt being extended at least 4 inches from its stowed position.

S7.3.5.3 The provisions of S7.3.2 shall apply to all front seating positions.

S7.3.5.4 Notwithstanding the other provisions of S7.3, the warning system shall activate whenever the ignition switch is in the "start" position and the operation of the seatbelt systems required by S7.4.1 to start the engine has not been performed.

S7.4 Belt interlock system.

S7.4.1 The engine starting system of a passenger car manufactured in accordance with S4.1.2.3 shall not be operable when a person of at least the weight of a fifth percentile adult female is seated at the driver's seating position, or a person of at least the weight of a 50th percentile 6-year-old child is seated at any other front designated seating position, unless the belt system at each occupied position is operated after the occupant is seated. At each seating position, the operation that allows the starting of the engine shall be, at the manufacturer's option, either the extension of the belt assembly at least 4 inches from its stowed position, or the fastening of the belt latch mechanism.

S7.4.2 A belt interlock system furnished in accordance with S7.4.1 shall not affect the operation of the vehicle when the engine is running.

Interested persons are invited to submit comments on the proposed amendments. Comments should identify the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on November 2, 1971, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: January 1, 1972.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and

Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 501.8.

Issued on September 29, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-14488 Filed 9-30-71;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

[21 CFR Part 420]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Naled and 2,2-Dichlorovinyl Dimethyl Phosphate; Proposed Tolerance

Dr. C. C. Compton, Coordinator, Inter-regional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the Agricultural Experiment Stations of Delaware, Michigan, Minnesota, and Pennsylvania; the U.S. Department of Agriculture; the American Mushroom Institute; and mushroom growers submitted a petition (PP 1E1100) proposing establishment of tolerances for residues of the insecticides naled and 2,2-dichlorovinyl dimethyl

phosphate (expressed as naled) in or on mushrooms at 0.5 part per million from application of either insecticide.

Part 120, chapter I, title 21 was redesignated Part 420 and transferred to chapter III (36 F.R. 424).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The pesticides are useful for the purpose for which the tolerances are being established.

2. The proposed usage is not reasonably expected to result in residues of the pesticides in eggs, meat, milk, and poultry. The usage is classified in the category specified in § 420.6(a)(3).

3. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), it is proposed that Part 420 be amended, as follows:

1. In § 420.215, by revising the paragraph "0.5 part per million * * *" as follows:

§ 420.215 Naled; tolerances for residues.

* * * * *
0.5 part per million in or on cucumbers, eggplants, melons, mushrooms, peppers,

pumpkins, rice, summer squash, tomatoes, winter squash.

2. In § 420.235, by revising the paragraph "0.5 part per million * * *" as follows:

§ 420.235 2,2-Dichlorovinyl dimethyl phosphate; tolerances for residues.

* * * * *
0.5 part per million (expressed as naled) in or on cucumbers and mushrooms.

* * * * *

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: September 24, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.71-14403 Filed 9-30-71;8:47 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, DIVISION OF MANAGEMENT SERVICES, IDAHO STATE OFFICE, ET AL.

Delegation of Authority Regarding Contracts and Leases

SEPTEMBER 22, 1971.

A. Pursuant to delegation of authority contained in Bureau Manual 1510.03B2d, the Chief, Division of Management Services, State Office; Chief, Branch of Administrative Management, State Office; District Managers; and Chief, Division of Administration in each District Office, are authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized equipment, regardless of amount, and
2. To enter into contracts on the open market for supplies and materials, excluding capitalized equipment, not to exceed \$2,500 per transaction (\$2,000 for construction), provided that the requirement is not available from established sources, and
3. To enter into negotiated contracts pursuant to section 302(c)(2) of the FPAS Act, regardless of amount. This authority is to be used for rental of equipment and aircraft and for procurement of supplies and services required for emergency fire suppression and presuppression, where the order exceeds \$2,500.

WILLIAM L. MATHEWS,
State Director.

[FR Doc.71-14423 Filed 9-30-71;8:47 am]

Office of the Secretary

T. C. LOCKHART

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) None.
- (2) Delete: Aquataine and Pacific Petroleum. Add: Ashland Oil and Archer Daniels Midland.
- (3) None.
- (4) None.

This statement is made as of September 22, 1971.

Dated: September 17, 1971.

T. C. LOCKHART.

[FR Doc.71-14422 Filed 9-30-71;8:47 am]

PUERTO RICO

Maximum Level of Imports of Finished Products

Pursuant to Proclamation 3279, as amended, I prescribe that for the allocation period January 1, 1971, through December 31, 1971, the maximum level of imports of finished products (excluding residual fuel oil to be used as fuel) into Puerto Rico established by section 14 of Oil Import Regulation 1, as revised and amended, is adjusted upward by 300 average barrels daily to permit the importation of propane and butane.

HOLLIS M. DOLE,

Assistant Secretary of the Interior.

SEPTEMBER 24, 1971.

[FR Doc.71-14421 Filed 9-30-71;8:47 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case 413]

J.A. GOLDSCHMIDT S.A.

Order Restoring Export Privileges Conditionally and Placing Respondent on Probation

On July 28, 1971, effective August 5, 1971 (36 F.R. 14489), an order was issued against the above-named respondent, J.A. Goldschmidt S.A., 149 rue Saint Honore, Paris 1, France, denying all U.S. export privileges for 9 months and thereafter placing respondent on probation for the remainder of 3 years. On August 18, 1971 (36 F.R. 16523), an order was issued suspending the effectiveness of the sanctions in the order of July 28, 1971, until further notice.

On August 25, 1971, the respondent filed a request for reopening of the hearing for the purpose of reconsideration of sanctions that were imposed. Evidence in support of such request was presented. Significant portions of this evidence were not available at the time of the original hearing in the case.

A hearing on the matter of reopening was held before the Compliance Commissioner on September 2, 1971, and he has submitted a report and recommendation. After considering the entire record in the case and the report and recommendation of the Compliance Commissioner, I confirm the findings of fact in the order of July 28, 1971, and I make the following additional findings of fact.

1. The respondent J.A. Goldschmidt S.A. (hereinafter Goldschmidt), because of financial difficulties underwent complete reorganization in 1969. The indi-

viduals responsible for the management and policies of the company at the time the violation occurred (September 20 to November 25, 1968) are no longer connected with the company. Except for some minor holdings of several individuals the present stockholders of the company are different from the stockholders at the time of the violation.

2. The individual employed by Goldschmidt at the time of the violation who was the principal participant on behalf of said firm in the transaction described in the order of July 28, 1971 (36 F.R. 14489), is no longer connected with Goldschmidt or any of its affiliates.

3. Evidence presented by respondent on the matter of reopening demonstrates that the impact of the denial order of July 28, 1971, against Goldschmidt and its affiliates is much more severe than was contemplated at the time the order was issued and that the sanction therein goes beyond that which is necessary in this case to accomplish the remedial purpose of sanctions.

4. There is reason to believe that the respondent and its affiliates will comply with the provisions of the Export Administration Act of 1969 and the regulations and orders issued thereunder.

Based on the foregoing I have concluded that the purposes of the Export Administration Act will be achieved if respondent's export privileges are restored conditionally and it is placed on probation until August 5, 1974.

Accordingly, it is hereby ordered:

I. The export privileges of the above respondent are hereby restored conditionally and said respondent is placed on probation until August 5, 1974. The conditions of probation are that the respondent shall fully comply with all requirements of the Export Administration Act of 1969 and all regulations, licenses, and orders issued thereunder.

II. Upon a finding by the Director, Office of Export Control or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of this order or with any of the conditions of probation said official without notice, when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of said respondent, revoke all outstanding validated export licenses to which said respondent may be a party and deny to said respondent all export privileges for the remaining period of the order. Such supplemental order shall not preclude the Bureau of International Commerce from taking such further action for any violation as it shall deem warranted. On the entry

of a supplemental order revoking respondent's probation without notice it may file objections and request that such order be set aside and may request an oral hearing as provided in § 388.16 of the Export Control Regulations, but pending such further proceedings the order of revocation shall remain in effect.

III. This order shall apply to not only the respondent but also to its representatives, agents, and employees and also to parties related to respondent within the meaning of § 387.10(b) (2) of the Export Control Regulations.

Dated: September 27, 1971.

RAUER H. MEYER,

Director, Office of Export Control.

[FR Doc.71-14434 Filed 9-30-71;8:48 am]

Office of the Secretary

[Dept. Organization Order 30-7B]

NATIONAL TECHNICAL INFORMATION SERVICE

Organization and Functions

This material supersedes the material appearing at 35 F.R. 14476 of September 15, 1970.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the National Technical Information Service (NTIS).

SEC. 2. *Organization Structure.* The principal organization structure and line of authority of the National Technical Information Service shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

SEC. 3. *Office of the Director.* .01 The Director, as the head of NTIS, directs and is responsible for all activities of the organization.

.02 The Deputy Director assists the Director in managing NTIS and performs the functions of the Director during his absence.

SEC. 4. *Operations Division.* The Operations Division shall:

a. Acquire reports of research and development conducted by agencies of the Federal Government, State and local governments, and private organizations, as appropriate;

b. Acquire business and statistical information produced by operating units of the Department, as will assist the units in the effective dissemination of such information;

c. Abstract, index, and announce the availability of the information within its holdings; and

d. Reproduce as necessary, and sell or lease for an appropriate fee the NTIS collection of reports, microforms, computer tapes, and other media for stored information as may be necessary to increase the availability of information to business and industry, to Federal agencies, to State and local governments, and the general public.

SEC. 5. *Administrative Management Division.* The Administrative Management Division shall:

a. Plan and coordinate budget and fiscal programs, including the internal allocations and control of funds; and collaborate with the Budget Division of the National Bureau of Standards in preparing official budget estimates for NTIS;

b. Represent NTIS in relations with the Office of the Secretary and the National Bureau of Standards with respect to provision of administrative support to NTIS, and carry out such actions within NTIS as will facilitate the rendering of such services;

c. Prepare production reports on operations of NTIS and conduct cost and production analyses for use in making program decisions and in setting charges for various services;

d. Participate in the negotiation of interagency working agreements on services to be rendered by NTIS for such agencies;

e. Provide common administrative services required which are not to be provided by the Office of the Secretary or the National Bureau of Standards;

f. Conduct user studies and research and analysis to determine how information can be made most available and valuable to the users of the services of NTIS; and

g. Study the activities of the Operations Division and design improvements to increase effectiveness and efficiency.

Effective date: September 15, 1971.

LARRY A. JOBE,
Assistant Secretary
for Administration.

[FR Doc.71-14427 Filed 9-30-71;8:47 am]

[Dept. Organization Order 20-5]

OFFICE OF FINANCIAL AND COMPUTER SERVICES

Delegation of Authority

This material supersedes the material appearing at 34 F.R. 12459 of July 30, 1969.

SECTION 1. *Purpose.* This order prescribes the functions and organization of the Office of Financial and Computer Services.

SEC. 2. *Status and line of authority.* The Office of Financial and Computer Services, a Departmental office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration.

SEC. 3. *Functions.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5 and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the office shall provide accounting, related financial services, and computer and related data processing services to the Office of the Secretary, and, as may be designated by the Secretary or as agreed by the Assistant Secretary for Administration and the

Program Secretary Officer involved, to particular operating units.

.02 The Director shall also manage the Working Capital Fund of the Office of the Secretary, which responsibility shall consist of proposing financial policies on operating the Fund for the Assistant Secretary for Administration, prescribing rules and procedures on use of the Fund, giving financial management instructions to heads of Departmental offices responsible for services being financed through the Fund, and taking other actions as may be required to maintain liquidity of the Fund.

SEC. 4. *Organization.* Under the direction and supervision of the Director, the functions of the Office of Financial and Computer Services shall be organized and carried out as provided below.

.01 The Budget Staff shall provide budgetary services for the Office of the Secretary, and for assigned operating units.

.02 The Central Accounting Division shall provide accounting, payroll and related services for the Office of the Secretary, Regional Economic Development Commissions, and for assigned operating units. This division shall also be responsible for developing and assuring compliance with all accounting, payroll and related and office-wide systems and procedures, and for receipt and distribution of all incoming and outgoing mail and miscellaneous office services for the Office of Financial and Computer Services. This division shall also be responsible for the consolidated billings of the Department and for the preparation of selected formal consolidated accounting statements for the Department.

.03 The Data Processing Division shall provide computer and related data processing services for the central accounting and payroll functions, other administrative functions in the Office of the Secretary, and shall provide such ADP services for particular operating units as may be assigned.

SEC. 5. *Effect on other orders.* This order supersedes Department Organization Order 20-5 (formerly DO 134-10) of July 1, 1969.

Effective date: September 13, 1971.

LARRY A. JOBE,
Assistant Secretary
for Administration.

[FR Doc.71-14423 Filed 9-30-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1004), and the statement of policy thereunder in 9 CFR 381.1, the list (36 F.R. 17451) of establishments which are operated under Federal inspection pursuant to the Federal

Meat Inspection Act (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock is hereby amended as follows:

The reference to swine with respect to Bub Davis Packing Co., Establishment 171, is deleted. The reference to Sam Kane Packing Co., Establishment 337, and the reference to cattle and calves with respect to such establishment are deleted. The reference to swine with respect to Missouri Valley Meat, Establishment 7604, is deleted. The reference to

Seitz-Bowers Processing Plant, Establishment 7685, and the reference to cattle and swine with respect to such establishment are deleted. The reference to Bruno's Packing Co., Establishment 7804, and the reference to cattle, calves, and sheep with respect to such establishment are deleted.

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

ESTABLISHMENTS SLAUGHTERING HUMANELY

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses	Mules
Peet Packing Co.	90					()		
Peet Packing Co.	90-A	()						
Peet Packing Co.	90-B	()						
Dubuque Packing Co.	396-C	()						
Growers Meat Co., Inc.	548	()						
D & W Packing Co.	560	()						
Lumberjack Corp.	635					()		
Northwest Packing Co.	2283	()						
C. E. Richard & Sons	2391	()						
Vista Meat Packing Co., Inc.	2854	()	()	()	()			
Dean Sausage Co., Inc.	6621					()		
Illini Beef Packers, Inc.	6792	()						
Western Illinois Ice Co.	6924	()				()		
Feliciana Meat Supply	7123	()	()					
Harrisonburg Wholesale Meat Co., Inc.	7420	()	()	()	()	()	()	()
Buttray Food Stores Division	7689	()	()	()	()			
Bangor Beef Co.	7806	()	()	()				
Meherrin Packing Co.	7931	()				()		
Oscar Mayer & Co., Inc.	7937	()	()					
Gordhamer Food Market	8920	()				()		
Melrose Locker	8927	()				()		
Froz-N-Food Co.	8930	()				()		
New Munich Locker Plant	8961	()				()		
Greenwald Locker Plant	8982	()				()		
New establishments reported: 24								
The Evans Packing Co.	11		()	()				
Central Packing Co., Inc.	96		()					
Cash Brothers Packing Co., Inc.	127			()				
Hynes Packing Co.	197			()				
Fineberg Packing Co.	428					()		
Colorado West Packing, Inc.	662			()				
Hatfield Packing Co.	791	()						
C & C Packing Co.	2033		()					
Department of Animal Science, Colorado State University	2253				()			
Ben Grantham Meat Packers	2290					()		
Animal Science Division, University of Nevada	6004				()			
Bergman Meat Packing Co., Inc.	6783			()				
Interstate Packing Co.	7056				()			
Carolina Abattoir, Inc.	7404		()					
City Meat & Locker	7644			()				
Bahr Meat Service	7678			()				
Rocky Mountain Packing Co.	7690					()		
Triangle Packing Co.	7691					()		
Marias Packing Co.	7692					()		
Roberts Packing Plant	7783			()				
Fahr's Sausage & Processing	7783			()				
City Meat Market	8369				()			
Fosston Coop Association	8374		()					
Valley Meats	8376		()					
Species added: 25								

the products of such establishments. However, if the Secretary had reason to believe that the State would activate the necessary requirements within an additional year, he could allow the State the additional year in which to activate such requirements.

The Secretary had reason to believe, after consultation with the Governor of the State of Pennsylvania, that the State would develop and activate the prescribed requirements by August 18, 1971, and accordingly allowed the State the additional period of time for this purpose. However, the Governor has now advised the Secretary that the State of Pennsylvania will not be in a position to enforce such requirements. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under subsection 5(c) of the Act. Upon the expiration of 30 days after publication of this notice in the FEDERAL REGISTER, the provisions of sections 1-4, 6-10, and 12-22 of the Act shall apply to intrastate operations and transactions and persons engaged therein, in said State, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Act, and any establishment in said State which conducts any slaughtering of poultry or processing of poultry products as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under subsection 5(c) (2) or section 15 of the Act.

Therefore, the operator of each such establishment in the State of Pennsylvania who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Regional Director specified below:

Dr. C. F. Diehl, Director, Northeastern Region for Meat and Poultry Inspection Program, Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102, Telephone: AC 215/537-4216.

Done at Washington, D.C., on September 27, 1971.

G. R. GRANGE,
Acting Administrator.

[FR Doc.71-14430 Filed 9-30-71;8:45 am]

Done at Washington, D.C., on September 27, 1971.

KENNETH M. McENROE,
Deputy Administrator, Meat
and Poultry Inspection Program.

[FR Doc.71-14387 Filed 9-30-71;8:45 am]

POULTRY INSPECTION

Notice of Designation of Pennsylvania

Subsection 5(c) of the Poultry Products Inspection Act (21 U.S.C. 454(c)) required the Secretary of Agriculture to designate promptly after August 18, 1970, any State as one in which the requirements of sections 1-4, 6-10, and 12-22 of said Act would apply to intrastate operations and transactions, and to persons engaged therein, with respect to poultry, poultry products and other

articles subject to the Act, if he determined after consultation with the Governor of the State, or his representative, that the State involved had not developed and activated requirements at least equal to those under sections 1-4, 6-10, and 12-22, with respect to all establishments within the State (except those that would be exempted from Federal inspection under subsection 5(c) (2) of the Act), at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office of the Secretary

INPATIENT HOSPITAL DEDUCTIBLE
FOR 1972

Average Per Diem Rate

Pursuant to the requirements of section 1813(b) (2) of the Social Security Act (42 U.S.C. 1395e(b) (2)), as amended, I hereby determine and announce that the dollar amount which shall be applicable for the inpatient hospital deductible, for purposes of section 1813(a) of the Act, as amended, shall be \$68 in the case of any spell of illness beginning during 1972.

There follows a statement of the actuarial bases employed in arriving at the amount of \$68 for the inpatient hospital deductible for the calendar year 1972 (as contrasted with the figures of \$40 applicable for the period from July 1966 through December 1968, \$44 for calendar year 1969, \$52 for calendar year 1970, and \$60 for calendar year 1971). Certain other cost-sharing provisions under the Hospital Insurance program are also affected by changes in the amount of the inpatient hospital deductible.

The law provides that, for calendar years after 1968, the inpatient hospital deductible shall be equal to \$40 multiplied by the ratio of (1) the current average per diem rate for inpatient hospital services for the calendar year preceding the year in which the promulgation is made (in this case, 1970) to (2) the current average per diem rate for such services for 1966. The law further provides that, if the amount so determined is not an even multiple of \$4, it shall be rounded to the nearest multiple of \$4. Further, it is provided that the current average per diem rates referred to shall be determined by the Secretary of Health, Education, and Welfare from the best available information as to the amounts paid under the program for inpatient hospital services furnished during the year by hospitals who are qualified to participate in the program, and for whom there is an agreement to do so, for individuals who are entitled to benefits as a result of insured status under the Old-Age, Survivors, and Disability Insurance program or the Railroad Retirement Program.

The data available to make the necessary computations of the current average per diem rates for calendar years 1966 and 1970 are derived from individual inpatient hospital bills that are recorded on a 100 percent basis in the records of the program. These records show, for each bill, the total inpatient days of care, the interim reimbursement amount, and the total cost (the sum of interim reimbursement, deductible, and coinsurance).

Each individual bill is assigned both an initial month and a terminal month, as determined from the first day covered by the bill and the last day so covered. Insofar as the initial month and the terminal month fall in the same calendar year, no problems of classification occur.

Two tabulations are prepared, one summarizing the bills with each assigned to the year in which the period it covers begins, and the other summarizing the same bills with each assigned to the year in which the period it covers ends. The true value with respect to the costs for a given year on an accurate accrual basis should fall between the amount of total costs shown for bills beginning in that year and the amount shown for bills ending in that year.

The current average per diem rate for inpatient hospital services for calendar year 1966, on the basis described, is \$37.92, while the corresponding figure for calendar year 1970 is \$63.14. Accordingly, the ratio of the 1970 rate to the 1966 rate is 1.665.

In order to accurately reflect the change in the average per diem hospital cost under the program, the average interim cost (as shown in the tabulations) must be adjusted for (i) the effect of final cost settlements made with each provider of services after the end of its fiscal year to adjust the reimbursement to that provider from the amount paid during that year on an interim basis to the actual cost of providing covered services to beneficiaries, and (ii) for changes in the benefit structure since the base year, 1966. To the extent that the ratio of final cost to interim cost is different in the current year than it was in 1966, the increase in average interim per diem costs will not coincide with the increase in actual cost that has occurred. The inclusion of the lifetime reserve days in the current tabulation of the average interim per diem cost when such days were not included in the corresponding tabulation for the base year, 1966, will understate the estimate of the increase in cost that has occurred, because the average cost per day of very long confinements in a hospital is less than the average for all confinements. In order to estimate the increase in average per diem cost that has occurred, a comparison must be based on similar benefits in the two periods (1970 and 1966); thus the effect of lifetime reserve days must be eliminated from the current year tabulation. The best data available indicates that these adjustments do not change the ratio shown above by enough to result in a different deductible for 1972. The values shown in this report do not reflect these adjustments for final cost settlements or lifetime reserve days. When the ratio of 1.665 is multiplied by \$40, it produces an amount of \$66.60, which must be rounded to \$68. Accordingly, the inpatient hospital deductible for spells of illness beginning during calendar year 1972 is \$68.

Dated: September 29, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-14499 Filed 9-30-71; 8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23852]

NORTHWEST AIRLINES, INC., AND NATIONAL AIRLINES, INC.

Notice of Prehearing Conference Regarding Merger Agreement

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 28, 1971, at 10 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Associate Chief Examiner Robert L. Park.

In order to facilitate the conduct of the conference parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions

of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before October 12, 1971, and the other parties on or before October 21, 1971. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights. Motions concerning the scope of the proceeding shall be filed on or before October 12, 1971, and answers thereto shall be filed on or before October 21, 1971.

Dated at Washington, D.C., September 27, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.
[FR Doc.71-14436 Filed 9-30-71; 8:48 am]

[Docket No. 21866-9; Order 71-9-09]

NORTHWEST AIRLINES, INC.

Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1971.

By tariff revisions¹ marked to become effective October 11, 1971, Northwest Airlines, Inc. (Northwest) proposes to revise the applicability of its deluxe night coach and night coach fares so as to apply on flights departing Miami for Chicago, Milwaukee, and Minneapolis between the hours of 9 p.m. and 3:59 a.m., instead of the present 10 p.m. and 3:59 a.m.

In support of the proposed revision, Northwest alleges that it is being made to provide additional convenience to passengers in making connections to more distant locations, and that it will permit more efficient crew utilization and use of personnel and facilities, and result in a reduction of expenses.

Delta Air Lines, Inc. (Delta) and Eastern Air Lines, Inc. (Eastern) have filed complaints requesting that Northwest's proposal be suspended and investigated.² The complainants allege that Northwest's proposal has not been justified; that it violates the Board's off-peak pricing policy and will have an adverse impact on other carriers; that Northwest ignores the fact that most deviations from traditional night coach hours have been justified on the basis of specific circumstances obtaining in a given market; and that Northwest's justification is based on irrelevant generalizations and misleading statements. In addition, the complainants contend that exceptions involving connecting service previously approved by the Board were to facilitate connections between night coach services, thus enabling a through night coach fare, and that Northwest does not operate any night coach fare service out of Chicago, Milwaukee, or Minneapolis with which a 9 p.m. Miami origination could connect. In conclusion, the carriers allege

¹Revisions to Airline Tariff Publishers, Inc., agent, Tariff CAB No. 136.

²The complaints have also filed to match Northwest's revisions as a defensive measure.

that Northwest's proposal is an attempt to achieve a more prominent position in the Miami-Chicago market.

Northwest, in answer to the complaint, alleges that beginning December 15, 1971, it will operate Flight 724 departing Miami at 9 p.m.; arriving in Chicago at 10:52 p.m. and Minneapolis at 12:39 a.m. The proposed flight is scheduled to operate on Friday, Saturday, and Sunday. The carrier states that it is necessary to arrive in Minneapolis as early as possible due to an operations curfew at that point, and furthermore alleges that its request is justified based on the inconvenience of arrival times at Chicago and Minneapolis.

Upon consideration of all relevant matters, the Board finds that the proposed revision in the application of night coach fares from Miami to Chicago, Milwaukee, and Minneapolis may be unjust or unreasonable or unjustly discriminatory or unduly preferential or unduly prejudicial or otherwise unlawful and should be suspended. These fares are already under investigation in the Domestic Passenger-Fare Investigation, Docket 21866-9.

Northwest justifies its proposal in terms of general allegations of increased operating efficiencies and greater convenience for passengers connecting at the three northern points. Since the flight involved is scheduled to operate only on the 3 weekend days, we question whether any improvement in operating efficiency which might result would materially affect the carrier's overall expense level.

Insofar as the alleged convenience to connecting passengers is concerned, the Board has in the past permitted deviations from normal night coach departure hours to facilitate connections with onward night coach services at the through fare. However, the volume of night coach service operated by Northwest out of the northern points is quite limited. In our opinion Northwest has neither shown that 9 p.m. departures from Miami in these markets would be "off peak" within the meaning of § 399.33(a) of our regulations nor that a valid basis exists for an exception to the rule.³

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof,

It is ordered, That, 1. Pending hearing and decision by the Board, the Exception 6 to Application of Fare Class FN(A) and Fare Class YN(A) on 13th Revised Page 247, Exception 5 to Application of Fare Class FN(1) and Fare Class YN(1) on 18th Revised Page 305, Exception 3 to Application of Fare Class FN on 7th Revised Page 575 and Exception 3 to Application of Fare Class YN on 10th Revised Page 579 of Airline Tariff Publishers, Inc., Agent's CAB No. 136

³The FAA has advised us that there is presently no curfew on night operations at Minneapolis but that the city has requested that carriers not add any additional arrivals or departures between 12 midnight and 6 a.m. A 9 p.m. departure from Miami with a stop at Chicago would arrive in Minneapolis after 12 midnight.

are suspended and their use deferred to and including January 8, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaints of Delta Air Lines, Inc., in Docket 23805, and Eastern Air Lines, Inc., in Docket 23813 are hereby dismissed; and

3. Copies of this order be served upon Delta Air Lines, Inc., Eastern Air Lines, Inc., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-14438 Filed 9-30-71;8:48 am]

[Docket No. 22157]

UNITED AIR LINES, INC.

Notice of Oral Argument Regarding Specific Commodity Rates on Periodicals, Floral Products, and Seafood

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held on October 13, 1971, at 10 a.m. local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., September 28, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-14437 Filed 9-30-71;8:48 am]

[Docket No. 23854; Order 71-9-87]

UNITED AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of September 1971.

By tariff revisions¹ marked to become effective October 1, 1971, United Air Lines, Inc. (United) proposes round-trip group inclusive tour basing (GIT) fares from the West Coast to Hawaii and return, and from Hawaii to Las Vegas or Reno and return, as set out below.

1. United's proposed West Coast-Hawaii GIT fares apply to groups of 88, 105, or 154 or more in coach service and are at a rate-per-mile equivalent to present East Coast-Hawaii GIT fares. The proposed fares reflect discounts of 18.5 to 42.3 percent from coach fares and 10.2 to 37.2 from economy fares. The fares require the additional purchase of travel-related ground services of at least \$75. Westbound travel from the three points

¹ Revisions to Airline Tariff Publishers, Inc., agent, Tariffs Nos. CAB 136 and 142.

of origin—Los Angeles, San Diego, and San Francisco—will be permitted on Friday, Saturday, and Sunday only, while return travel is permitted any day of the week but Monday and Thursday. Return limits are 7 days minimum and 30 days maximum. Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA) and Western Air Lines, Inc. (Western) propose to match United in competitive markets, and in addition Pan American proposes to establish similar fares at Portland and Seattle.

2. United's proposed GIT fares from Hawaii to Reno or Las Vegas and return are for groups of 40 or more. The price per passenger is \$150 to either destination and a minimum air tour purchase of \$40 for 4 days and \$10 for each additional day in excess of 4 days applies. There is a 3-day minimum-stay requirement and the maximum is 30 days. Travel applies at all times except the fares are blacked out from December 17, 1971, through January 8, 1972. The proposed fares reflect discounts from coach fares of 32 to 44 percent. Pan American (jointly with other carriers), Northwest Airlines, Inc. (jointly with Air West), and Western have proposed similar fares to Las Vegas and Reno, and TWA has proposed to match United at Las Vegas only.

In support of its proposed West Coast-Hawaii GIT fares, United alleges that present Hawaiian GIT fares have been very successful in opening a new air travel market as indicated by the fact that up to 80 percent of the traffic using the fares was generated, i.e., would not have made the trip absent the low total package price. The carrier believes that extension of the fares to the west coast points will make low-priced package tours available to substantially more people than at present, although it recognizes that the total response may be somewhat less than that experienced with present Hawaiian GIT fares because of the availability of low regular fares in the proposed markets. United estimates that no more than 40 percent of the passengers using the proposed fare will be diverted from existing fares and that it will experience a profit of \$244,000 annually.

Western has filed a complaint requesting investigation and suspension alleging that the proposal will depress further a very low fare structure. It notes that the proposal requires travel to commence on those days when on-peak fares apply which could undermine the intended effects of off-peak coach/economy fares by causing traffic to revert to its old pattern when passenger movement peaked heavily during the weekend. Western further alleges that United's diversion estimates of 40 percent is significantly understated and that because of the vast array of low-priced fare possibilities, it is unlikely that the fares will generate any significant new traffic. It asserts that United's estimated profit of \$244,000 would be wiped out if the traffic carried represented less than 46 percent generation. (United estimates 60 percent generation—40 percent diversion.)

Western also alleges that Mainland-Hawaii traffic increased 5.4 percent during the first 6 months of 1971 versus the corresponding period a year ago, and that the problem in the Hawaii market is not sagging growth, but excess capacity brought about by certain carriers flooding the market with wide-bodied jets. It notes that the largest group minimum (154) exceeds the capacity of aircraft presently operated by Western and would require it to split the group between two aircraft—a policy it attempts to avoid because of the increased ground handling problems and costs involved.

Certain carrier members of the National Air Carrier Association (the supplementals)² have also filed a complaint requesting investigation and suspension of the proposal. The supplementals allege the fares cannot be justified simply by comparing them with East Coast-Hawaii fares since those fares are based on 1968 economic data and since further fare increases may be forthcoming as a result of the pending Hawaiian fare investigation. They also assert that less restrictive rules (i.e., 7-day minimum stay versus 13 days for present GIT fares, and a tour add-on of \$75 versus \$175 for present fares) are sufficient differences to make the Board's prior decision setting GIT minimum fares not controlling. The supplementals allege that the proposed GIT fares are aimed at existing or potential charter markets, and thus are likely to cause serious economic injury to the charter carriers.

United has answered the complaints alleging that the 5.4-percent growth rate experienced during the first 6 months of 1971 is not indicative of a healthy market; that the proposed GIT fares are not of such a nature that they should be automatically suspended merely because the markets are included in a pending proceeding; and that there is no reason to discount the findings made in the investigation Group Inclusive Tour Basing Fares to Hawaii, Docket 20580, Order 70-7-60, merely because they were based on 1968 data.

In support of its Hawaii-Las Vegas/Reno GIT fares, United alleges that transpacific carriers presently offer a contract bulk inclusive tour fare from the Orient to the West Coast which is \$150 higher than the fare to Hawaii. The carrier believes that the fare will be attractive to present traffic from the Orient (little or none of which presently travels on United) and to Hawaiian residents. United estimates that this group fare will be virtually 100 percent generative and

² The complaints will be accepted as filed by Saturn Airways, Inc., Southern Air Transport, Inc., and Trans International Airlines, Inc., which have filed the powers of attorney required by Part 263 of the Board's Regulations and will not be accepted on behalf of any other carrier. We would remind NACA and other carrier associations that the Board's regulations must be complied with, and in the future no complaint requesting suspension of a tariff filing will be accepted unless the complaint, including the requisite powers of attorney, is timely filed.

that it will contribute \$101,000 annually toward its profits.

Western has complained against this proposal alleging that virtually all of the traffic United claims will be generated, will be diverted from Western. Western states that because of its long-haul restrictions it must maintain a flow of traffic to inland points such as Las Vegas and that the loss of this traffic would have an impact not only on its Las Vegas-Los Angeles service, but also on its Los Angeles-Honolulu service.

United has answered the complaint, asserting that there is simply a difference in marketing judgment. United reiterates its belief that there will be practically no diversion from present traffic.

The Board has determined to permit the proposed West Coast-Hawaii GIT fares. Those fares are essentially an extension of GIT fares that presently apply from Chicago and points east, and are equal to or above the minimum GIT fares established by the Board in the investigation Group Inclusive Tour Basing Fares to Hawaii, Docket 20580. Although those minimums are based essentially on 1968 cost data, and cost increases have occurred subsequent to that time, we nevertheless do not believe the proposed fares can be said to be prima facie unreasonable. Moreover, while the applicable restrictions are somewhat less restrictive, we do not conclude that these differences are sufficient to warrant suspension of the proposed fares. Nevertheless, we will expect the carriers offering these fares to bear the risk of the experiment, and we do not intend to treat any dilution of the fare yield which may result as furnishing a basis for future increases in the level of basic fares. We will also expect the carriers to maintain records of traffic, revenues and expenses sufficient for a full evaluation of profit impact. Such reports are to be filed within 30 days following expiration of the respective tariffs.

Turning to the Hawaii-Las Vegas/Reno GIT fares, we conclude that these fares are so low as to raise a prima facie question of reasonableness, and we therefore will not permit them to become effective pending investigation. We note that the fares are substantially lower than the westbound GIT minimums previously established by the Board.

Upon consideration of the tariff proposals, the complaints, the answer thereto, and other relevant matters, the Board finds that the proposed GIT fares from Hawaii to Las Vegas or Reno and return may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the proposals be suspended pending investigation. With regard to the proposed West Coast-Hawaii GIT fares, the Board finds that on the basis of the facts and information before us, the complaints do not set forth sufficient facts to warrant investigation, and the request therefor and consequently the request for suspension will be denied and the complaints dismissed.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly

sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in appendix A attached hereto,³ and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in appendix A, attached hereto, are suspended and their use deferred to and including December 30, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Docket 23731, Docket 23724 insofar as it applies to proposals considered herein, and Docket 23833 are hereby dismissed;

4. The investigation ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed with the aforesaid tariffs and be served upon Pan American World Airways, Inc., Saturn Airways, Inc., Southern Air Transport, Inc., Trans International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc., which are hereby made parties to this proceeding, and the National Air Carrier Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board,⁴

[SEAL] HARRY J. ZINN,
Secretary.

[FR Doc. 71-14430 Filed 9-30-71; 8:48 am]

FEDERAL POWER COMMISSION

[Dockets Nos. CP72-47, CP72-48]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Supplemental Notice of Application

SEPTEMBER 23, 1971.

On August 30, 1971, Natural Gas Pipeline Company of America (applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Dockets Nos. CP72-47 and CP72-48 applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the transportation of additional volumes of natural gas and the construction and operation of facilities

³ Appendix A filed as part of the original document.

⁴ Concurring and dissenting statement of Member Minetti filed as part of the original document.

for the receipt, measurement, and gasification of ethane and propane from which these additional volumes of natural gas are to be secured. Notice of these applications were issued by the Commission on September 16, 1971.

Take further notice that applicant has presently pending before the Commission in Docket No. RP71-125 a rate proceeding. If the certificates are granted herein, applicant proposes to amend its filing therein to increase the demand and annual sales units therein, and to include the cost of the liquid petroleum products in its cost of purchased gas. The cost of such purchases will therefore increase the base average purchased gas cost under the operation of the purchase gas cost adjustment clause, paragraph 21 of the general terms and conditions of applicant's FPC Gas Tariff, Second Revised Volume No. 1. In the event that it is unable to increase its rates to cover the cost of the liquid petroleum products to be purchased from Phillips Petroleum Co. in Docket No. CP72-47, and from Warren Petroleum Co. in Docket No. CP72-48 because of the effects of Executive Order No. 11615, issued on August 15, 1971, or any superseding order in effect at the time the certificates requested herein are granted, applicant states that it will reject said certificates or delay the acceptance thereof until its rates may be so increased.

In light of the above additional matter not set forth in the Commission's notice of September 16, 1971, it is appropriate that the period for the filing of protests or petitions to intervene be extended beyond the period of 15 days, heretofore provided. Therefore, any person desiring to be heard or to make any protest with

reference to said applications should on or before October 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-14414 Filed 9-30-71;8:46 am]

[Docket No. RI72-91 etc.]

**SOUTHERN UNION PRODUCTION CO.
ET AL.**

**Order Providing for Hearing on and
Suspension of Proposed Changes in
Rates, and Allowing Rate Changes
To Become Effective Subject to
Refund¹**

SEPTEMBER 24, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in appendix A below.

The proposed changed rates and

¹ Does not consolidate for hearing or dispose of the several matters herein.

charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI72-91	Southern Union Production Co.	1	27	El Paso Natural Gas Co. (Mesa Verde Formation; San Juan and Rio Arriba Counties, N. Mex. and La Plata County, Colo.) (San Juan Basin Area).	\$440,120	8-31-71		3-1-72	15.2836	29.23	RI69-336.
	do	5	15	El Paso Natural Gas Co. (Dakota Formation; San Juan County, N. Mex.) (San Juan Basin Area).	62,744	8-31-71		3-1-72	15.2809	29.23	RI69-336.
RI72-92	Thomas A. Dugan	4	8	El Paso Natural Gas Co. (Blanco Mesa Verde Field; Rio Arriba County, N. Mex.) (San Juan Basin Area).	708	8-27-71		2-27-72	15.0610	29.23	RI69-627.
RI72-93	Dugan Production Corp.	7	11	El Paso Natural Gas Co. (Ignacio-Blanco Mesa Verde Field; La Plata County, Colo.) (San Juan Basin Area).	152	8-27-71		2-27-72	14.0	29.23	RI69-362.
RI72-94	Mobil Oil Corp.	305	4	Cities Service Gas Co. (Comanche Field, Comanche County Okla. Other).	372	8-30-71		10-31-71	\$16.0	\$17.0	RI67-272.
	do	418	6	Texas Eastern Transmission Corp. (Greenwood-Waskom Field Caddo Parish, Northern Louisiana).	234	8-30-71		11-2-71	\$18.2622	\$19.4673	RI71-499.
	do	414	17	Texas Eastern Transmission Corp. (Waskom Field, Harrison County, Tex., RR No. 6).	910	8-30-71		11-2-71	\$16.5722	\$16.7731	RI71-370.
RI72-95	Marathon Oil Co.	69	18	Texas Eastern Transmission Corp. (Greenwood Waskom Field, Caddo Parish, Northern Louisiana).	137	8-30-71		11-2-71	\$18.2622	\$19.4673	RI71-343.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
¹ Does not apply to sales under Supplements Nos. 3, 4, 5, 6, and 7.
² Does not apply to sales under Supplements Nos. 18, 19, and 20.
³ Subject to Downward B.t.u. adjustment.

* Includes tax reimbursement;
¹ Subject to Order No. 437.
² The pressure is 14.63 p.s.i.a.

The proposed increases for sales to El Paso in San Juan Basin are based on favored-nation clauses which were allegedly activated by Ateco Oil & Gas Co.'s unilateral rate increase to 29.23 cents which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. The purchaser, El Paso Natural Gas Co., has protested these favored-nation increases on the basis that they are not contractually authorized. In view of the contractual problem presented, the hearings herein shall concern themselves with the contractual basis for these favored-nation filings as well as the justness and reasonableness of the proposed increased rates. These proposed increases exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore are suspended for 5 months.

The other increases involved here also pertain to sales outside Southern Louisiana but do not exceed the corresponding rate filing limitations imposed in Southern Louisiana. Therefore, they are suspended for 61 days from the date of filing, or 1 day from the contractual effective date, whichever is later, pursuant to Order No. 423.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

This order does not relieve any of the respondents herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

[FR Doc.71-14411 Filed 9-30-71;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 563]

COMMON CARRIER SERVICES INFORMATION ¹

Domestic Public Radio Services Applications Accepted for Filing ²

SEPTEMBER 27, 1971.

Pursuant to §§ 1.227(b) (3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public

¹ All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

² The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest

action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,
BEN F. WAFLE,
Secretary.

[SEAL]

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File number, applicant, call sign, and nature of application

- 1451-C2-P-72—Johnson Telephone Co. (New), C.P. for a new two-way station to be located at 9 miles northeast of Remer, Minn., to operate on 152.60 MHz.
- 1452-C2-P-72—Florida Radio Phone (KIG845), C.P. to change the antenna system and relocate facilities operating on 454.175 MHz to a new site described as location No. 2: 100 Southeast Third Avenue, Fort Lauderdale, FL.
- 1453-C2-P-72—Mobilfone of Baton Rouge (KKK707), C.P. for additional facilities to operate on 454.30 MHz at a new site described as location No. 2: 451 Florida Avenue, Baton Rouge, LA.
- 1454-C2-P-72—Gerard T. Uht (KEK289), C.P. for additional facilities to operate on 152.09 MHz at location No. 1: 50 High Street, Buffalo, NY.
- 1463-C2-P-72—Professional Bureau, Inc. (New), C.P. for a new two-way station to be located at 0.2 mile southwest of Main Street, Woodside, Del., to operate on 152.18 MHz.
- 1468-C2-P-72—Paresco, Inc. (New), C.P. for a new two-way station to be located near 2715 Skyland Boulevard, Tuscaloosa, AL, to operate on 152.12 MHz.
- 1469-C2-P-72—Radiofone Corp. of New Jersey (New), C.P. for a new one-way station to be located on Mount Zion Road, Neshanic, N.J., to operate on 43.22 MHz.
- 1470-C2-P-72—Radio Communications Corp. (KLF603), C.P. to relocate facilities operating on 454.175 MHz to WVFV FM Broadcast tower, south end of Tower Hill Road, Gilberts, Ill.
- 1471-C2-P-72—Instant Communications, Inc. (KQK771), C.P. to change the antenna system and relocate facilities operating on 152.18 MHz to the Tower Plaza, 535 East Williams Street, Ann Arbor, MI.
- 1503-C2-P-(2)72—General Telephone Co. of the Midwest (KDT204), C.P. to change the antenna system operating on 152.51 and 152.75 MHz located on old U.S. Highway No. 63, 2.5 miles southeast of Columbia, Mo.
- 1504-C2-P-72—Credit Bureau of Decatur, Inc. (KSJ823), C.P. for additional facilities to operate on 152.03 MHz at a new site described as location No. 2: 320 East Cerro Gordo Street, Decatur, IL.
- 1505-C2-P-72—Pacific Northwest Bell Telephone Co. (KOF342), C.P. to change frequency to 152.60 MHz, replace transmitter and relocate facilities to Hogback Mountain, 4.5 miles east-northeast of Klamath Falls, Oreg.
- 1506-C2-P-(3)72—The Mountain States Telephone & Telegraph Co. (KAF635), C.P. for additional facilities to operate on 152.66 and 152.72 MHz at a new site described as location No. 2: 3.3 miles north-northwest of Milliken, Colo., and to establish test facilities to operate on 157.92 and 157.98 MHz to be located at 926 10th Street, Greeley, CO.
- 43-C2-MP-72—Answer, Inc., of Galveston (KLB617), Modification of C.P. to change the antenna system and relocate facilities operating on 454.025 MHz at location No. 2: 4 miles west of Galveston, Tex. (latitude 29°14'03.8" N., longitude 94°54'50.0" W.).

Major Amendment

- 4256-C2-P-71—Contact of New Mexico (New), Amended to change repeater frequency at location No. 1 to 459.200 MHz and change the control frequency at locations No. 2 and 3 to 454.200 MHz. See PN dated Feb. 16, 1971, Report No. 531.
- 5411-C2-P-71—William A. Houser (New), Amended to change name of applicant to: Dail-A-Page, Inc., and change the location to 201 North Main Street, South Bend, IN. See PN dated Apr. 5, 1971, Report No. 534.
- 5809-C2-P-(3)71—New Orleans Mobilfone (New), Amended to change the antenna system, transmission line and azimuth of maximum radiation at location No. 3. See PN dated May 3, 1971, Report No. 542.
- 116-C2-P-72—Mobile Radio System, LTD (KSJ824), Amended to change base frequency to 152.09 MHz. See PN dated July 19, 1971, Report No. 553.
- 186-C2-P-72—Lett Electronics, Inc. (KEK275), Amended to change base frequency to 454.025 MHz, replace transmitter and change the antenna system. See PN dated July 20, 1971, Report No. 554.

Correction

- 3728-C2-P-70—Radiophone of Houston (New), Correct to read: Major amendment to add base frequency 454.150 MHz. See PN dated Sept. 2, 1969, Report No. 455 and dated Jan. 10, 1970, Report No. 475.
- 3398-C2-P-69—Central Mobile Radio Phone (New), Correct to read: Major amendment to add base frequency 152.24 MHz. See PN dated Oct. 7, 1968, Report No. 408 and dated Jan. 6, 1969, Report No. 421.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Ohio

Central Mobile Radio Phone Service (New), 1928-C2-P-69.

Buckeye Communications Co. (New), 2982-C2-P-69.
Stanger's Telephone Answering Service, Inc. (New), 3040-C2-P-69.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Texas

Joseph H. Wofford doing business as Radiophone of Houston (New), 1046-C2-P-70.
Radio Dispatch, Inc. (KLB701), 1224-C2-P-(2)-70.

RURAL RADIO SERVICE

- 1341-O1-ML-72—Pacific Northwest Bell Telephone (KVU47), Modification of license to change frequency from 157.92 MHz to 157.86 MHz. All other terms of the existing license remain unchanged (rural subscriber stations).
- 1343-O1-ML-72—Pacific Northwest Bell Telephone (KP243), Modification of license to change frequency from 157.92 MHz to 157.86 MHz. All other terms of the existing license remain unchanged (rural subscriber stations).
- 1344-O1-ML-72—Pacific Northwest Bell Telephone (KP338), Modification of license to change frequency from 157.92 MHz to 157.86 MHz. All other terms of the existing license remain unchanged (rural subscriber stations).
- 1345-O1-ML-72—Pacific Northwest Bell Telephone (KP356), Modification of license to change frequency from 157.92 MHz to 157.86 MHz. All other terms of the existing license remain unchanged (rural subscriber stations).
- 1346-O1-ML-72—Pacific Northwest Bell Telephone (KP354), Modification of license to change frequency from 157.92 MHz to 157.86 MHz. All other terms of the existing license remain unchanged (rural subscriber stations).
- 1347-O1-ML-72—Pacific Northwest Bell Telephone (KP677), Modification of license to change frequency from 157.92 MHz to 157.86 MHz. All other terms of the existing license remain unchanged (rural subscriber stations).
- 1348-O1-ML-72—Pacific Northwest Bell Telephone (KSP06), Modification of license to change frequency from 152.66 MHz to 152.60 MHz. All other terms of the existing license remain unchanged (central office-fixed).
- 1507-O1-P-72—Public Service Telephone Co. (New), C.P. for a new central office-fixed station to be located at 10½ Winston Street, Reynolds, GA, to operate on frequency 454.50 MHz.
- 1508-O1-P-72—Public Service Telephone Co. (New), C.P. for a new rural subscriber station to be located at Nakomla, 8.7 km. east of Reynolds, Ga., to operate on frequency 459.50 MHz.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

- 1455-O1-MP-72—American Telephone & Telegraph Co. (KML380), Modification C.P. to change transmitter from Western Electric TD-3, to Western Electric, TD-2-5W, on frequencies 3910 and 3910 MHz toward Corona Del Mar, Calif. Station location: 434 South Grand Avenue, Los Angeles, CA.
- 1456-O1-MP-72—American Telephone & Telegraph Co. (KML24), Modification C.P. to change transmitter from Western Electric TD-3, to Western Electric, TD-2-5W on frequencies 3790 and 3970 MHz toward Los Angeles, Calif. Station location: 3.5 miles east of Corona Del Mar, Calif.
- 1457-O1-MP-72—American Telephone & Telegraph Co. (KML28), Modification C.P. to change transmitter from Western Electric TD-3, to Western Electric, TD-2-5W on frequencies 3970 and 3910 MHz toward Brawley, Calif. Station location: Salton, 9.5 miles north-northeast of Ocotillo, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

- 1458-O1-MP-72—American Telephone & Telegraph Co. (KML28), Modification C.P. to change transmitter from Western Electric TD-2, to Western Electric, TD-2-5W on frequencies 3910 and 3990 MHz toward Salton and Glamis, Calif. Station location: 1.4 miles west-southwest of Brawley, Calif.
- 1459-O1-MP-72—American Telephone & Telegraph Co. (KML80), Modification C.P. to change transmitter from Western Electric TD-2, to Western Electric, TD-2-5W on frequencies 3970 and 3950 MHz toward Brawley, Calif. Station location: 14.8 miles east-northeast of Glamis, Calif.
- 1465-O1-P-72—Southern Bell Telephone & Telegraph Co. (KTU56), C.P. to add frequency 6182.4 MHz toward WMEF-TV Studio, Orlando, Fla. Station location: 45 Magnolia Street, Orlando, FL.
- 1472-O1-P-72—Southwestern Bell Telephone Co. (KZ186), C.P. to add frequencies 11,265 and 11,505 MHz toward Collinsville, Ill. Station location: 2651 Olive Street, St. Louis, MO.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

The following applicant proposes to establish omnidirectional facilities for the provision of Common Carrier "Subscriber-Programmed" television service.

- 1492-O1-P-72—New York-Penn Microwave Corp. (New), C.P. for a new station to be located at Sentinel Heights Road, Syracuse, N.Y. Frequencies: 2150.20 MHz (aural) and 2152.225 MHz (visual) toward various receiving points of system and 2154.00 MHz (aural) and 2158.50 MHz (visual) toward various receiving points of system.

Corrections

Correct service on following public notice entries to read:

- 1327-O1-P-72—American Television Relay, Inc. (KPY72), C.P. to add frequency 6300.0 MHz toward Wilcat Peak, Ariz. Station location: Elden Mountain, 1.8 miles north of East Flagstaff, Ariz.

- 1328-O1-P-72—American Television Relay, Inc. (KPH82), C.P. to change frequency 6345 MHz to 5980.7 MHz and 6285 MHz to 6040.0 MHz toward Jacks Peak, Ariz., and add frequencies 5989.7, 6108.3, 6165, and 6225 MHz toward Tuba City, Ariz., a new point of communication. Station location: 16 miles north of Tuba City, Ariz.

The following applicant proposes to establish omnidirectional facilities for the provision of Common Carrier "Subscriber-Programmed" television service.

- 1328-O1-P-72—Microband Corp. of America (New), C.P. for a new station to be located at Palo Alto Office Center Building, University and Cowper Streets, Palo Alto, Calif. Frequencies 2152.325 MHz (visual), 2150.20 MHz (aural), and 2159.50 MHz (visual) and 2154.00 MHz (aural) all directed toward various receiving points of system. See Report No. 562 dated Sept. 20, 1971.

[FR Doc. 71-14308 Filed 9-30-71; 8:45 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Continuing Authority Directive With Respect to Domestic Open Market Operations

directive to the Federal Reserve Bank of New York with respect to domestic open market operations to reduce the dollar limit on Federal Reserve Bank holdings of short-term certificates of indebtedness purchased directly from the Treasury by \$2 billion to \$1 billion. With this change, paragraph 2 reads as follows:

2. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, or, if the New York Reserve Bank is closed, any other Federal Reserve Bank, to purchase directly from the

in accordance with § 271.5 of its rules regarding availability of information, notice is given that at its meeting on June 29, 1971, the Committee amended paragraph 2 of its continuing authority

Treasury for its own account (with discretion, in cases where it seems desirable, to issue participations to one or more Federal Reserve Banks) such amounts of special short-term certificates of indebtedness as may be necessary from time to time for the temporary accommodation of the Treasury: *Provided*, That the rate charged on such certificates shall be a rate one-fourth of 1 percent below the discount rate of the Federal Reserve Bank of New York at the time of such purchases, and provided further that the total amount of such certificates held at any one time by the Federal Reserve Banks shall not exceed \$1 billion.

NOTE: For paragraph 3 of the directive, see 35 F.R. 447, and for the remainder thereof, see 32 F.R. 9584.

By order of the Federal Open Market Committee, September 23, 1971.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.71-14405 Filed 9-30-71;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on June 29, 1971.¹

The information reviewed at this meeting suggests that real output of goods and services is expanding moderately in the current quarter and that the unemployment rate has remained high. Wage rates in most sectors are continuing to rise at a rapid pace. The rate of advance in both consumer prices and wholesale prices of industrial commodities has stepped up again recently after moderating earlier in the year. In June, according to tentative estimates, the money stock both narrowly and broadly defined is still growing rapidly on average, although less than in May; growth in the bank credit proxy remains below the first-quarter rate. Interest rates on most types of market securities have increased on balance in recent weeks. The market exchange rate for the German mark has advanced, and a substantial flow of funds from Germany to other markets has occurred in recent weeks. In consequence of a partial reversal of the earlier speculative outflows of short-term capital from the United States and of an increase in Euro-dollar borrowings of U.S. banks, there has been a surplus in the U.S. payments balance on the official settlements basis in this period. The U.S. merchandise trade balance, which had been in small surplus in the first quarter, was in deficit in April and May. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to the resumption of sustainable economic growth, while encouraging an orderly reduction in the rate of inflation, moderation of short-term capital outflows, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, the Committee seeks to achieve more moderate growth in

monetary aggregates over the months ahead, taking account of developments in capital markets. System open market operations until the next meeting of the Committee shall be conducted with a view to achieving bank reserve and money market conditions consistent with those objectives.

By order of the Federal Open Market Committee, September 23, 1971.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.71-14404 Filed 9-30-71;8:45 am]

CHEMICAL NEW YORK CORP.

Notice of Applications for Approval of Acquisition of Shares of Banks; Correction

In the notice of applications for approval of acquisition of shares of banks published in the FEDERAL REGISTER of September 23, 1971 (36 F.R. 18910), the location of Tappan Zee National Bank should be corrected to read Nyack, N.Y., rather than Nyack, N.J.

[SEAL] TYNNAN SMITH,
Secretary.

[FR Doc.71-14424 Filed 9-30-71;8:47 am]

MIDLANTIC BANKS INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Midlantic Banks Inc., which is a bank holding company located in Newark, N.J., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of Madison National Bank, Madison, N.J.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, September 24, 1971.

[SEAL] TYNNAN SMITH,
Secretary.

[FR Doc.71-14403 Filed 9-30-71;8:46 am]

SOUTHEASTERN MICHIGAN HOLDING CO.

Formation of One-Bank Holding Company

Southeastern Michigan Holding Co., Southgate, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby applicant would become a bank holding company through acquisition of 80 percent or more of the voting shares of Security Bank and Trust Co., Southgate, Mich.

The application may be inspected at the Federal Reserve Bank of Chicago.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than October 21, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on November 5, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, September 25, 1971.

[SEAL] TYNNAN SMITH,
Secretary.

[FR Doc.71-14425 Filed 9-30-71;8:47 am]

STATE NATIONAL BANCSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by State National Bancshares, Inc., El Paso, Tex., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The State National Bank of

¹ The Record of Policy Actions of the Committee for the meeting of June 29, 1971, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

El Paso, El Paso, 30.07 percent of the voting shares of Bassett National Bank; El Paso, 24.99 percent of the voting shares of Citizens State Bank of Ysleta, Ysleta, and 24.27 percent of the voting shares of First National Bank of Fabens, Fabens, all in Texas.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

Board of Governors of the Federal Reserve System, September 27, 1971.

[SEAL] TYNNAN SMITH,
Secretary.

[FR Doc.71-14426 Filed 9-30-71;8:47 am]

VIRGINIA NATIONAL BANKSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) (1)); by Virginia National Bankshares, Inc., Norfolk, Va., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Virginia National Bank, Norfolk, Va., and 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Colonial-American National Bank of Roanoke, Roanoke, Va.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, September 24, 1971.

[SEAL] TYNNAN SMITH,
Secretary.

[FR Doc.71-14407 Filed 9-30-71;8:46 am]

POSTAL RATE COMMISSION

[Administrative Order 1]

CAREER AND EXCEPTED SERVICE Establishment and Operation

OCTOBER 1, 1971.

By virtue of the authority vested in the Postal Rate Commission by section 3604 of title 39 of the United States Code, as added by section 2 of the Postal Reorganization Act, Public Law 91-375, there is hereby established (1) the Postal Rate Commission Career Service, and (2) the Postal Rate Commission Excepted Service. The operation and regulation of both shall be governed by the rules set out in this Administrative Order.

RULE 1. Definitions. For the purpose of these rules:

(a) "Commission" means the Postal Rate Commission.

(b) "Commissioners" mean the Commissioners of the Postal Rate Commission.

(c) "Appointing authority" means the Commission or an employee of the Commission to whom has been delegated by the Commission the authority to make an appointment. Such a delegation of authority must be in writing to be valid.

(d) "Demotion" means a change of an employee of the Commission to a lower grade or rate of the pay schedule.

(e) "Promotion" means a change of an employee of the Commission to a higher grade or rate of the pay schedule.

(f) "Reassignment" means a change of an employee of the Commission from one position to another without promotion or demotion.

(g) "Preference eligible" has the meaning given that term by 5 U.S.C. 2108.

(h) "Probationary period" means the first year of employment of an employee in the Postal Rate Commission Career Service.

RULE 2. Extent of the Postal Rate Commission Career Service. The Postal Rate Commission Career Service, the symbol for which is "PRCS," includes all positions in the Commission, except hearing examiners appointed under 5 U.S.C. 3105 and those positions specifically excepted from the PRCS by the Commission. (See Rule 3.)

RULE 3. Extent of the Postal Rate Commission Excepted Service. The Postal Rate Commission Excepted Service, the symbol for which is "PRES," includes all positions in the Commission specifically excepted from the PRCS by the Commission. Positions of a confidential or policy-determining character, the incumbents of which must be selected on the basis of the appointing authority's personal trust and not merely on the basis of technical qualifications, shall be included in the Excepted Service. All attorney positions shall be in the PRES.

RULE 4. PRCS appointments. (a) A PRCS appointment is made on the basis of merit and fitness. Each appointing authority shall recruit and select individuals for appointment in the PRCS in a manner that will insure that the best qualified candidate available is selected. Each candidate who is a preference eligible and who is equally as well qualified as another candidate who is not a preference eligible is entitled to preference in selection for appointment under this rule over such other candidate who is not a preference eligible. Written examinations are not required to determine a candidate's eligibility or qualification for appointment in the PRCS under this rule; but if a written examination is given, candidates who are preference eligibles are entitled to additional points above their earned ratings in accordance with 5 U.S.C. 3309 and to preference in selection in keeping with the veterans' preference provisions of subchapter I of chapter 33 of title 5, United States Code.

(b) Except as otherwise expressly provided in these rules, each appointment in the PRCS under these rules is made (1) subject to the satisfactory completion of a 1-year probationary period, and (2)

subject to an investigation of the appointee's qualifications and suitability. The subject-to-investigation period is 1 year. An appointee serving a probationary period who fails to demonstrate his fitness or his qualifications for continued employment may be terminated by a notice in writing as to why he is being terminated and the effective date of the termination. An appointee serving subject to investigation in the PRCS who is determined by the investigation to be not qualified or suitable for continued employment in the PRCS may be terminated by a notice in writing as to why he is being terminated and the effective date of the termination. An appointee covered under either (1) or (2) above is not entitled to notice, opportunity to answer, and decision as provided in Rule 12.

(c) An appointee who satisfactorily completes the 1-year probationary and the subject-to-investigation period is automatically in the PRCS and is entitled to the right of transfer under 39 U.S.C. 1006 and all other rights of the PRCS.

(d) At the direction of the Commission appointments may be made which are not subject to investigation.

RULE 5. PRES appointments. (a) A PRES appointment is made on the basis of (1) the appointing authority's personal trust in the appointee, which trust may be based on program agreement or personal confidence, or (2) project service which does not contemplate permanent tenure or career employment. Each candidate for a PRES appointment who is a preference eligible and who is equally as well qualified as another candidate who is not a preference eligible is entitled to preference in selection for appointment under this rule over such other candidate who is not a preference eligible.

(b) An appointee in the PRES, may be terminated by a notice in writing as to why he is being terminated and the effective date of the termination. Such an appointee is not entitled to notice, opportunity to answer, and decision as provided in Rule 12.

(c) An employee serving under a PRES appointment is not in the PRCS; is not entitled to the right of transfer under 39 U.S.C. 1006; does not have a fixed tenure, and, if not a preference eligible entitled to the job-protection benefits under Rule 10, serves at the will of the appointing authority.

RULE 6. Temporary appointments. (a) An appointing authority may make a temporary appointment in either the PRCS or the PRES for less than 1 year when required to meet a need for temporary services, such as to fill a continuing position on a temporary basis or a temporary position for a temporary period. An individual may not receive a temporary appointment within 1 year after having been terminated from a temporary appointment in the Commission except under unusual circumstances and with the prior written consent of the Commission or its designee.

(b) An employee serving under a temporary appointment is not in the PRCS; is not entitled to the right of transfer under 39 U.S.C. 1006; does not have a fixed tenure; and serves at the will of the appointing authority.

RULE 7. Probation. (a) All appointees in the PRCS will be required to serve an initial 1-year probationary period. However, this probationary period is waived for those appointees who are transferred from another Federal Government agency where they have satisfactorily completed a 1-year probationary period or who are reinstated former employees who were in the PRCS.

(b) The purpose of the probationary period is to allow the Commission to determine fully the fitness of the employee and to terminate his services during this period if he fails to demonstrate fully his qualifications for continued employment.

(c) When the Commission decides to terminate an employee serving a probationary period because his work performance or conduct during this period fails to demonstrate his fitness or his qualifications for continued employment, it shall terminate his services by notifying him in writing as to why he is being separated and the effective date of the action.

(d) An employee does not have the right to appeal a termination notice during the probationary period.

RULE 8. Reinstatement and transfer. (a) An appointing authority may make an appointment in the PRCS by the reinstatement of a former employee who was in the PRCS or of an individual who had a competitive status (as that term is defined in 5 CFR 1.3(c)) when he was separated from a position in another Government agency. There is no time limit on the reinstatement of a preference eligible or an individual who has completed the service requirements for career tenure in the competitive service (5 CFR 315.201, 315.202) or an individual who satisfactorily completed 1 year of service in the PRCS.

(b) An appointing authority may make an appointment in the PRCS by transfer of an individual from a position in another Federal Government agency without a break in service of not more than one full workday when the individual to be transferred is serving in the other agency under a career or career-conditional appointment in the competitive service or the equivalent thereof in the U.S. Postal Service, or in any other Government agency having what the Commission finds is an established merit system.

(c) An employee appointed under this rule is not required to serve a probationary period if he satisfactorily completed a probationary period during the period of service that forms the basis for his reinstatement or transfer. However, the employee is subject to the one year period of investigation.

(d) The reinstatement or transfer of a hearing examiner originally appointed under 5 U.S.C. 3105 is governed by Sub-

part B of Part 930 of Title 5, Code of Federal Regulations.

RULE 9. Promotion and reassignment. (a) An appointing authority may promote or reassign an employee of the Commission as the needs of the Commission require. Each promotion and reassignment shall be made for the purpose of promoting the efficiency of the service of the Commission. Selections for promotion and reassignment shall be based on the same considerations that govern an original appointment in the Commission, except the consideration of preference for a preference eligible. A promotion or reassignment may not be made from a PRCS appointment to a PRES appointment or vice versa.

(b) The promotion or reassignment of a hearing examiner originally appointed under 5 U.S.C. 3105 is governed by Subpart B of Part 930 of Title 5, Code of Federal Regulations.

RULE 10. Performance evaluation. (a) Each employee of the Commission, except a hearing examiner, will receive annually a written evaluation of his work performance by his immediate supervisor. Normally, such evaluations will be made on the anniversary date of the employee's entrance into his current grade. The evaluation shall include a brief narrative statement which informs the employee as to whether his work performance is outstanding, satisfactory, or unsatisfactory. An unsatisfactory evaluation shall identify the specific work deficiencies and suggest means for correcting them.

(b) An employee is not entitled to a review of an evaluation that is either outstanding or satisfactory. An employee whose evaluation is unsatisfactory is entitled to a review by the official superior of the rating supervisor. The review authorized by this section does not entitle the employee to a hearing. The written decision of the reviewer is final.

(c) Employees rated unsatisfactory may be either reassigned or demoted to a position in which satisfactory performance may be expected.

(d) A rating of outstanding or satisfactory is required to qualify for within-grade salary step-increases.

RULE 11. Hours of duty and absence and leave. The statutory provisions in title 5, United States Code, and the regulatory provisions in Title 5, Code of Federal Regulations, relating to hours of duty and absence and leave apply to employees of the Commission according to the provisions thereof under authority of 39 U.S.C. 1005(f) as made applicable by 39 U.S.C. 3604(d).

RULE 12. Adverse actions. (a) A preference eligible employee of the Commission who has completed a probationary period is entitled to the job-protection benefits and appellate rights under 5 U.S.C. 7501, 7511, 7512, and 7701, and 5 CFR Parts 752 and 772.

(b) A hearing examiner appointed under 5 U.S.C. 3105 who is employed by the Commission is entitled to the job-protection benefits and hearing rights

under 5 U.S.C. 7521 and 5 CFR Subpart B of Part 930.

(c) An employee of the Commission in the PRCS not covered by paragraph (a) or (b) of this rule may be demoted, suspended for more than 30 days, or removed for such cause as will promote the efficiency of the service. Such an employee against whom adverse action is sought is entitled to (1) at least 30 days' advance written notice, except when there is reasonable cause to believe him guilty of a crime for which a sentence of imprisonment can be imposed, stating any and all reasons, specifically and in detail, for the proposed action; (2) a reasonable time for answering the notice personally, or in writing, or both personally and in writing, and for furnishing affidavits in support of the answer; and (3) a written notice of adverse decision which informs him of the reasons for the action. The right to answer personally does not include the right of "trial" or formal hearing, but merely to make an answer in person to the Commission official who proposed the adverse action or to the designee of that official.

The suspension of an employee for 30 days or less without pay is not an adverse action.

The reassignment of an employee is not an adverse action.

(d) An employee who has received a written notice of adverse decision under paragraph (c) of this rule is entitled to appeal that decision to the Commission, or to a designee of the Commission designated for that specific purpose. Such an appeal may be submitted at any time after the employee receives the adverse decision but not later than 15 calendar days after the effective date of the adverse action. An appellant under this paragraph is entitled: (1) To be represented and advised by counsel or a representative of his own choosing; (2) to be assured freedom from restraint, interference, coercion, discrimination, or reprisal in connection with his appeal; (3) to be assured of a reasonable amount of official time for himself, and his counsel or representative when the latter is an employee of the Commission; and (4) to be accorded a formal hearing on the appeal under reasonable procedures designed to afford full administrative due process but not in accordance with the administrative procedures in subchapter II of chapter 5 of title 5, United States Code. The decision of the Commission or its designee on an appeal shall be in writing and shall state the reasons for the decision and specify any corrective action to be taken. The decision of the Commission or its designee is final and is not subject to review by any administrative authority either within or outside of the Commission.

RULE 13. Insurance and annuities. The statutory provisions in title 5, United States Code, and the regulatory provisions in Title 5, Code of Federal Regulations, relating to insurance and annuities, including retirement, regular life

insurance, optional life insurance, unemployment insurance, Bureau of Employees' Compensation benefits, and the Federal Employees Health Benefits Program continue to apply to employees of the Commission according to the provisions thereof under authority of 39 U.S.C. 1095(f) as made applicable by 39 U.S.C. 3604(d).

RULE 14. General provisions. (a) Under authority of 39 U.S.C. 410 as made applicable by 39 U.S.C. 3604(d), the Commission adopts as a rule of the Commission the provisions of 5 U.S.C. 302 authorizing the Commissioners to make delegations of authority to subordinate officials of the Commission.

(b) Under authority of 39 U.S.C. 410 as made applicable by 39 U.S.C. 3604(d), the Commission adopts as a rule of the Commission the provisions of 5 U.S.C. 5595 and 5596 authorizing the payment of severance pay and back pay and of 5 U.S.C. 5337 regarding pay saving. The Commission, with regard to severance pay and back pay, directs that payment of that pay be made in accordance with 5 CFR Part 550, Subparts G ("Severance Pay") and H ("Back Pay") and with regard to pay saving directs that payment be made in accordance with 5 CFR Part 531, Subpart E ("Salary Retention") except that no appeals are permitted to the Civil Service Commission.

(c) Employees of the Commission and candidates for appointment in the Commission shall give the Commission or its designee all information and testimony in regard to matters inquired of arising under the Postal Reorganization Act, these rules, and the operations of the Commission. Whenever required by the Commission such an individual shall subscribe to that testimony and make oath or affirmation thereto before an officer authorized under law to administer oaths or affirmations.

RULE 15. Compensation. All positions in the Commission, except Commissioners, whether in the PRCS or PRES are allocated to one of the salary grade levels with an established salary range for each level as may be set forth by the Commission under authority of 39 U.S.C. 3604(b).

RULE 16. Saving provision. An employee of the Commission appointed prior to the effective date of these rules shall continue under the appointment given in either the PRCS or the PRES but no such employee is required to serve a probationary or trial period or serve subject to investigation unless that condition was expressly made applicable to his appointment when made.

RULE 17. Publication and effective date. This order shall be effective on October 1, 1971. The Secretary shall cause publication of this order to be made in the FEDERAL REGISTER on that effective date.

By the Commission.

[SEAL]

GORDON M. GRANT,
Secretary.

[FR Doc.71-14490 Filed 9-30-71;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

SEPTEMBER 27, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 28, 1971, through October 7, 1971.

By the Commission.

[SEAL]

RONALD F. HUNT,
Secretary.

[FR Doc.71-14463 Filed 9-30-71;8:46 am]

[70-5033]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issuance and Sale of Preferred Stock at Competitive Bidding

SEPTEMBER 27, 1971.

Notice is hereby given that Jersey Central Power & Light Co. (JCP&L), Madison Avenue at Punch Bowl Road, Morristown, NJ 07960, an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

JCP&L proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 250,000 shares of its Cumulative Preferred Stock, ----- percent Series, par value \$100 per share. The dividend rate of the preferred stock (which will be a multiple of one twenty-fifth of 1 percent) and the price, exclusive of accrued dividends, to be paid to JCP&L (which will be not less than \$100 nor more than \$102.75 per share) will be determined by the competitive bidding. The terms of the new preferred stock include a prohibition until November 1, 1976, against refunding the stock,

directly or indirectly, with funds obtained from the issuance of debt securities at a lower effective interest cost or of preferred stock at a lower dividend cost.

The proceeds from the sale of the preferred stock will be used to repay a portion of JCP&L's short-term bank borrowings, which were or will be incurred for construction purposes and which are expected to aggregate \$37 million at the time of the proposed sale. The proceeds from any premium resulting from the sale of the preferred stock will be used to finance the business of JCP&L, including the payment of expenses of the financing.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at \$75,000, including legal fees of \$20,000 and accounting fees of \$4,700. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. The filing further states that the issuance and sale of the preferred stock is subject to the jurisdiction of the Board of Public Utility Commissioners of the State of New Jersey, the State commission of the State in which JCP&L is organized and doing business, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested persons may, not later than October 22, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such

rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.
[FR Doc.71-14410 Filed 9-30-71;8:46 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Modification to Area Wage Determination Decisions for Specified Localities in Certain States

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM-1708, AM-1716, AM-1719, AM-1722, AM-1723, AM- 1725, AM-1731, AM-1733, AM-1734	Aug. 11, 1971
AM-330, AM-331, AM-333	Aug. 13, 1971
AM-376, AM-390, AM-385, AM-395, AM-396, AM-397, AM-404, AM-405, AM-406, AM-407, AM-408, AM-409, AM-410, AM-411, AM-412, AM-413, AM-414, AM-415, AM-416, AM-417, AM-433	Aug. 18, 1971
AM-479, AM-1845	Aug. 20, 1971
AM-3613, AM-3614, AM-3615, AM-3620, AM-3622, AM- 3623, AM-3624, AM-3625	Aug. 25, 1971
AM-2527	Sept. 3, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pur-

suant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, *Procedure for pre-determination of wage rates*, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the 120-day period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C., 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

The modifications to the area wage determination decisions listed above are set for below.

Signed at Washington, D.C., this 24th day of September 1971.

HORACE E. MENASCO,
Administrator, Employment
Standards Administration.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-2,527-56 F.R. 17752, 11 southern California counties: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties. Modification No. 1</i>						
Change: San Luis Obispo County: Plasterers' tenders.....	\$9.65	\$9.45	\$9.55	\$9.30		
<i>WD No. AM-889-53 F.R. 15155, Cook County, Ill. Modification No. 2</i>						
Change: Roofers: Composition and waterproofer.....	8.60	.50	.15		\$0.02	
Slate and tile.....	7.72	.18	.15		.02	
Lathers.....	7.11	.53	.29			
Sheet metal workers.....	8.15	.35	.24		.01	
<i>WD No. AM-831-56 F.R. 15161, Du Page County, Ill. Modification No. 2</i>						
Change: Lathers.....	7.11	.53	.29			
Roofers: Composition.....	8.60	.50	.15		.02	
Slate and tile.....	7.72	.18	.15		.02	
<i>WD No. AM-833-56 F.R. 15170, Lake County, Ill. Modification No. 1</i>						
CHANGE: Bricklayers.....	8.50	.50	.60		.63	
Lathers.....	7.11	.53	.29			
Roofers: Composition and waterproofer.....	8.60	.50	.15		.62	
Slate and tile.....	7.72	.18	.15		.62	
Sheet metal workers.....	8.15	.35	.24		.61	
Laborers, building: Heavy and highway: Building laborers, general laborers, wrecking and demolition, fireproofing and fire ship laborers.....	5.40	.42	.23			
Boiler setter laborers, cement gun laborers.....	5.475	.42	.23			
Boiler setter plastic laborers, stone derrickmen and handlers.....	6.00	.42	.23			
Caisson diggers and well point system.....	6.75	.42	.23			
Chimney laborers (over 40 feet), scaffold laborers (tubular and swinging) wallmen or wreckers.....	5.20	.42	.23			
Windlass and operator.....	5.70	.42	.23			
Plasterers laborers.....	5.625	.42	.23			
Jackhammermen power driven concrete saws.....	5.625	.42	.23			
Cement gun nozzle laborers (gunnite).....	5.75	.42	.23			
Sewers and water main extensions: General laborers, asphalt plant laborers, top laborers, flagmen, asphalt laborer.....	5.40	.42	.23			
Form setters, well point system, jackhammermen and bottommen, pipelayers on drains, catch basin diggers, pipe layer men, all tunnel work, power driven concrete saws.....	5.75	.42	.23			
Second bottommen.....	5.625	.42	.23			
Tampers and smoothers.....	5.475	.42	.23			
Rackers and utemen.....	5.675	.42	.23			
Machine screwmen, mitre box spreaders.....	5.675	.42	.23			
<i>WD No. AM-3,620-56 F.R. 16833, Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Gore, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Kearny, Kiowa, Lane, Lincoln, Logan, Meade, Mitchell, Morton, Nees, Norton, Osborne, Pawnee, Phillips, Pott, Pawlings, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Thomas, Trego, Wallace, and Wichita Counties, Kans. Modification No. 1</i>						
ADD: Sherman County.						
<i>WD No. AM-3,622-56 F.R. 16843, Johnson, Leavenworth, Miami, and Wyandotte Counties, Kans. Modification No. 3</i>						
CHANGE: Line construction western three-fourths of Johnson County; southwest two-thirds of Leavenworth County and Miami County: Lineman.....	6.40	.15	1%		1/2%	
Cable splicers.....	6.72	.15	1%		1/2%	
Groundman, over 1 year.....	4.04	.15	1%		1/2%	
Groundman, first year.....	3.19	.15	1%		1/2%	
Powderman.....	5.35	.15	1%		1/2%	
Line truck and equipment operators: First year.....	4.14	.15	1%		1/2%	
Second year.....	4.62	.15	1%		1/2%	
Over 2 years experience.....	5.35	.15	1%		1/2%	
<i>WD No. AM-3,623-56 F.R. 16849, Shawnee County, Kans. Modification No. 2</i>						
CHANGE: Building construction: Elevator constructors.....	7.57	.135	\$9.30	2%+a+b		
Line construction: Lineman.....	6.40	.15	1%		1/2%	
Cable splicers.....	6.72	.15	1%		1/2%	
Groundman, over 1 year.....	4.04	.15	1%		1/2%	
Groundman, first year.....	3.19	.15	1%		1/2%	
Powderman.....	5.35	.15	1%		1/2%	
Line truck and equipment operators: First year.....	4.14	.15	1%		1/2%	
Second year.....	4.62	.15	1%		1/2%	
Over 2 years experience.....	5.35	.15	1%		1/2%	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-3,624-86 F.R. 16853, Leavenworth County, Kans. Modification No. 3</i>						
CHANGE:						
Line construction southwest two-thirds of county:						
Lineman.....	\$6.40	\$9.15	1%		1.00	
Cable splicers.....	6.72	.15	1%		1.00	
Groundman, over 1 year.....	4.04	.15	1%		1.00	
Groundman, first year.....	3.19	.15	1%		1.00	
Powderman.....	5.35	.15	1%		1.00	
Line truck and equipment operators:						
First year.....	4.14	.15	1%		1.00	
Second year.....	4.92	.15	1%		1.00	
Over 2 years experience.....	5.35	.15	1%		1.00	
<i>WD No. AM-3,625-86 F.R. 16859, Sedgwick County, Kans. Modification No. 1</i>						
CHANGE:						
Building construction:						
Elevator constructors.....	7.67	.195	\$0.20	2%+a+b		
Electricians.....	7.30		1%		1.00	
Line construction:						
Lineman.....	6.40	.15	1%		1.00	
Cable splicers.....	6.72	.15	1%		1.00	
Groundman, over 1 year.....	4.04	.15	1%		1.00	
Groundman, first year.....	3.19	.15	1%		1.00	
Powderman.....	5.35	.15	1%		1.00	
Line truck and equipment operators:						
First year.....	4.14	.15	1%		1.00	
Second year.....	4.92	.15	1%		1.00	
Over 2 years experience.....	5.35	.15	1%		1.00	
<i>WD No. AM-479-86 F.R. 16432, Fayette County, Ky. Modification No. 2</i>						
CHANGE:						
Elevator constructors.....	8.03	.195	\$0.20	2%+b&c	\$0.005	
Elevator constructors' helpers.....	70%JR	.195	.20	2%+b&c	.005	
Plumbers.....	\$7.66	.25	.25		.02	
<i>WD No. AM-1,845-86 F.R. 16246, Baltimore City and County, Md. Modification No. 1</i>						
CHANGE:						
Building and heavy construction:						
Glaziers:						
Glaziers.....	6.30	.15	.10			
Swinging scaffold or bosun's chair.....	6.55	.15	.10			
Tile and terrazzo workers.....	5.84	.125	.40			
<i>WD No. AM-370-86 F.R. 16791, Calhoun County, Mich. Modification No. 2</i>						
CHANGE:						
Asbestos workers.....	7.95	.44	.95		.61	
Roofers—composition.....	7.00					
Roofers, slate and tile.....	7.25					
<i>WD No. AM-390-86 F.R. 16855, Muskegon and Oceana Counties, Mich. Modification No. 2</i>						
CHANGE:						
Asbestos workers.....	7.95	.44	.95		.61	
Painters:						
Brush.....	5.95					
Scaffold over 60 feet.....	6.20					
Spray, sandblasts, structural steel, swing stage and roller over 9 inches.....	6.45					
Steeple jack work over 100 feet.....	7.60					
Roofers:						
Composition.....	7.00					
Slate and tile.....	7.25					
<i>WD No. AM-385-86 F.R. 15883, Kalamazoo, Mich. Modification No.</i>						
CHANGE:						
Asbestos workers.....	7.95	.44	.95		.61	
Roofers composition.....	7.00					
Roofers—slate, tile.....	7.25					
<i>WD No. AM-395-86 F.R. 15883, Zone 1—Highway construction, Michigan. Modification No. 1</i>						
CHANGE:						
Truckdrivers.....	5.93	a14.00	a12.00	\$0.15		
a. Per week, per employee.....						
<i>WD No. AM-396-86 F.R. 15885, Zone 2—Highway construction, Michigan. Modification No. 1</i>						
CHANGE:						
Cement masons.....	6.51	.30	.10			
Operating engineers (entire classification, fringes should read).....		.40	.15		.01	
Teamsters: ABE.....	5.83	a14.00	a12.00	.15		
a. Per week, per employee.....						
<i>WD No. AM-397-86 F.R. 15883, Zone 3, Michigan. Modification No. 1</i>						
CHANGE:						
Cement masons.....	6.44	.30	.10			
Operating engineers (entire classification, fringes should read).....		.40	.15		.01	

MODIFICATIONS—Continued

N.J.—5-LAB-5-G

Classification	Base hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,708—\$6 F.R. 14812, Burlington County, N.J. Modification No. 1</i>						
CHANGE:						
Building construction:						
Roofers:						
Remainder of County:						
Composition, waterproofing and slate.....	\$3.14	\$3.59	\$3.20			
Asphalt shingle.....	8.14	.73	.30			
Laborers, asphalt:						
Streets:						
Head rakers.....	5.49	.33	.34	a		
Rakers.....	5.25	.33	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys.....	5.00	.33	.34	a		
Plant:						
Scale mixer and burner men.....	5.25	.33	.34	a		
Feeders and dustmen.....	5.00	.33	.34	a		
<i>WD No. AM-1,716—\$6 F.R. 14870, Morris County, N.J. Modification No. 1</i>						
CHANGE:						
Building construction:						
Carpenters and insulators:						
Naughton, Mount Freedom, Middle Valley, Parker, Ralston, Ironia, Mendham, Chester, and Brookside:						
Carpenters and insulator.....	8.23	.45	.59	h	\$0.62	
Millwrights.....	8.04	.45	.59	h	.62	
Tile setters.....						
Laborers, asphalt:						
Streets:						
Head rakers.....	5.49	.33	.34	a		
Rakers.....	5.25	.33	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys.....	5.00	.33	.34	a		
Plant:						
Scale mixer and burnermen.....	5.25	.33	.34	a		
Feeders and dustmen.....	5.00	.33	.34	a		
<i>WD No. AM-1,719—\$7 F.R. 14892, Somerset County, N.J. Modification No. 1</i>						
CHANGE:						
Building construction:						
Carpenters:						
Remainder of county:						
Carpenters and insulators.....	8.23	.45	.59		.62	
Millwrights.....	8.04	.45	.59		.62	
Laborers, building:						
Bernardsville, Peapack Gladstone, Far Hills, Basking Ridge, Liberty Corners, Lyens (VA Hospital):						
Roofers.....	6.15	.45	.40			
Rocky Hill, Harlingen, Belle Meade, Neshanic, Montgomery, Zion, Skillman, Clover Hill, Stoutsburg, Blawenburg, Centerville, and Kingston.....						
Tile setters.....	8.14	.50	.53			
Laborers, asphalt:						
Streets:						
Head rakers.....	5.49	.33	.34	a		
Rakers.....	5.25	.33	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys.....	5.00	.33	.34	a		
Plant:						
Scale mixer and burnermen.....	5.25	.33	.34	a		
Feeders and dustmen.....	5.00	.33	.34	a		

Paid holidays:
 A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day;
 E—Thanksgiving Day; F—Christmas Day.

Footnotes:
 a. Holidays: A through F, Washington's Birthday, Armistice Day, Presidential Election Day; providing an employee works or is available for work 3 days in the work week in which the holiday falls.
 h. 2 hours off with pay on any General Election Day.

NEW MEXICO

Classification	Base hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-3,613—\$6 F.R. 16744, Bernalillo County, N. Mex. Modification No. 1</i>						
CHANGE:						
General building and heavy engineering construction:						
Elevator constructors.....	\$3.635	\$3.125	\$3.50	5%+a+b		
Elevator constructors' helpers.....	19.51R	.125	.20	5%+a+b		
Elevator constructors' helpers (prob.).....	29.51R					

NOTICES

MODIFICATIONS—Continued

LINE CONSTRUCTION—NEW MEXICO (A)

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CHANGE:						
Cable splicer.....	\$6.45	\$0.25	1%		1/2%	
Lineman.....	6.00	.25	1%		1/2%	
Technician.....	6.00	.25	1%		1/2%	
Equipment operator.....	5.70	.25	1%		1/2%	
Equipment mechanic.....	5.23	.25	1%		1/2%	
Powderman.....	5.23	.25	1%		1/2%	
Groundman and jackhammer operator:						
First 6 months.....	3.16	.25	1%		1/2%	
Second 6 months.....	3.60	.25	1%		1/2%	
Experienced.....	4.20	.25	1%		1/2%	

WD No. AM-3,614—36 F.R. 16749, Los Alamos County, N. Mex. Modification No. 1

CHANGE:					
General building and heavy engineering construction:					
Elevator constructors.....	6.885	.195	\$0.20	2%+a+b	
Elevator constructors' helpers.....	70% J.R.	.195	.20	2%+a+b	
Elevator constructors' helpers (prob.).....	50% J.R.				
Electricians.....	\$7.63	.25	1%		1/2%
Asbestos workers.....	7.25	.350	\$0.35		

WD No. AM-3,915—F.R. 16763, statewide counties, New Mexico. Modification No. 1

CHANGE: Bernalillo County:					
Cable splicer.....	6.45	.25	1%		1/2%
Lineman.....	6.00	.25	1%		1/2%
Technician.....	6.00	.25	1%		1/2%
Equipment operator.....	5.70	.25	1%		1/2%
Equipment mechanic.....	5.23	.25	1%		1/2%
Powderman.....	5.23	.25	1%		1/2%
Groundman and jackhammer operator:					
First 6 months.....	3.16	.25	1%		1/2%
Second 6 months.....	3.60	.25	1%		1/2%
Experienced.....	4.20	.25	1%		1/2%

LINE CONSTRUCTION—NEW MEXICO (B)

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CHANGE: Statewide except Bernalillo County:						
Cable splicer.....	\$6.92	\$0.25	1%		1/2%	
Lineman.....	6.44	.25	1%		1/2%	
Technician.....	6.44	.25	1%		1/2%	
Equipment operator.....	6.12	.25	1%		1/2%	
Equipment mechanic.....	5.60	.25	1%		1/2%	
Powderman.....	5.60	.25	1%		1/2%	
Groundman and jackhammer operator:						
First 6 months.....	3.39	.25	1%		1/2%	
Second 6 months.....	3.86	.25	1%		1/2%	
Experienced.....	4.61	.25	1%		1/2%	

N.Y.—1-LAB-2-3-F

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CHANGE:						
Building construction:						
Bricklayers, cement masons, plasterers, and stonemasons.....	\$7.70	\$0.40	\$0.30		\$0.01	
Electricians:						
Remainder of county.....	8.50	.30	1%+.35	n		
Heavy and highway construction:						
Laborers:						
Laborers and driller helpers.....	5.45	.50	.50	n		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker, and all other gas, electric, oil, and air tool operators, bull float, tamper pipelayers.....	5.65	.50	.50	n		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator.....	5.85	.50	.50	n		
Blasters, form setters, stone or granite curb setters.....	6.05	.50	.50	n		

WD No. AM-1,722—36 F.R. 14912, Albany County, N.Y. Modification No. 1

Paid holidays:
 A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day;
 E—Thanksgiving Day; F—Christmas Day.

Footnote:
 a. Holidays: A through F, providing the employee works the day before and the day after the holiday.

MODIFICATIONS—Continued

N.Y.—2-LAB-2-3-F

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,725—56 F.R. 14917, Broome County, N.Y. Modification No. 1</i>						
CHANGE:						
Heavy and highway construction:						
Laborers:						
Laborers and driller helpers.....	\$5.85	\$0.50	\$0.50	a	-----	
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootman, chain saw, jackhammer, pavement breaker, and all other gas, electric, oil, and air tool operators, bull float, tamper, pipelayers.....	6.65	.50	.50	a	-----	
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator.....	6.25	.50	.50	a	-----	
Blasters, form setters, stone or granite curb setters.....	6.45	.50	.50	a	-----	

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day;
E—Thanksgiving Day; F—Christmas Day.

Footnote:
a. Holidays: A through F, providing the employee works the day before and the day after the holiday.

N.Y.—9-PEO-1-2-3-J

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,725—56 F.R. 14928, Erie County, N.Y. Modification No. 1</i>						
CHANGE:						
Building construction:						
Carpenters, building, remainder of county:						
Carpenters and millwrights.....	\$7.63	\$1.65	\$0.80	-----	\$0.65	
Lathers.....	9.27	-----	.10	-----	.61	
Marble, tile, and terrazzo workers' helpers.....	6.83	1.35	.40	-----	-----	
Building, heavy and highway construction:						
Power equipment operators:						
Crane with a main boom over 100 feet.....	8.65	.85	.35	-----	.10	
All boom-type equipment, all pan and carryall operators, archer hoist, back and pull hoist operator, blast or rotary drill, track or cat mounted, boiler (when used for power), boom trucks, cableway operator, concrete paver machine, crane operator, derrick operator, dragline operator, elevating grader (self-propelled), head tower operator, hot roller (finish course), hydraulic booms, hydro crane, maintenance engineer, mucking machine operator, multiple drum hoist (more than 1 drum in use), Peino crane, pile driving machine operator, power grader machine operator, scoopmobile, shovel operator, skimmer operator, test core drill machine, tractor shovel operator, vertical caisson auger drill, well drilling machine.....	8.155	.85	.35	-----	.10	
Back filling machine operator, Kolman loader, roller machine operator, snatch and pusher cats, stone crusher, towed or self-propelled rollers, trenching machine operator.....	8.00	.85	.35	-----	.10	
Air hoist operator, cage hoist operator, conveyor operator, conveyor systems (belt-crete or similar), hoisting engine operator, house elevator (when used for hoisting), industrial tractor, locomotive operator (irrespective of power), push button hoist operator, strato tower, tractors (when using winch power).....	8.02	.85	.35	-----	.10	
Concrete mixer operator (½ c.y. or over), gasoline driven boring machine, hydraulic system pumps, hydro hammer, finishing machine operator (asphalt spreader), finishing machine operator, pump operator (4-inch or over), pump operator (2 or 3 in a battery).....	7.035	.85	.35	-----	.10	
Air compressor operator (under 160 cu. ft.), air compressor operator (over 160 cu. ft.), generator, grout machine operator, heating boiler operator (used for temporary heat), lubrication unit or truck, mechanical heaters (when 3 are in a battery), mechanic or repairman, pneumatic mixer operator, powerplant (in excess of 10 kw.), welding machine operator (to and including 3 machines).....	7.81	.85	.35	-----	.10	
Bulldozer (over 50 hp.), motorail.....	8.02	.85	.35	-----	.10	
Bulldozer and tractor (50 hp. drawbar or under), deep trencher, mulchers, power brooms and rakes, seeders.....	7.055	.85	.35	-----	.10	
Fireman.....	7.645	.85	.35	-----	.10	
Truck crane driver.....	7.41	.85	.35	-----	.10	
Aggregate bin operator, apprentice engineer or oiler, cement bin operator, concrete mixer operator (under ½ c.y.), mechanical heaters (when 1 or 2 are used), pump operators (1 inch), pump operator (2 inches), pump operators (3 inches), tractor machines.....	7.235	.85	.35	-----	.10	

N.Y.—8-LAB-2-3-F

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,731—56 F.R. 14960, Onondaga County, N.Y. Modification No. 1</i>						
CHANGE:						
Heavy and highway construction:						
Laborers:						
Laborers and driller helpers.....	\$5.45	\$0.50	\$0.50	a	-----	
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootman, chain saw, jackhammer, pavement breaker, and all other gas, electric, oil and air tool operators, bull float, tamper, pipelayers.....	6.65	.50	.50	a	-----	
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator.....	6.85	.50	.50	a	-----	
Blasters, form setters, stone or granite curb setters.....	6.65	.50	.50	a	-----	

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day;
E—Thanksgiving Day; F—Christmas Day.

Footnote:
a. Holidays: A through F, providing the employee works the day before and the day after the holiday.

MODIFICATIONS—Continued

N.Y.—27-LAB-2-3-D

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,733—36 F.R. 14972, Rensselaer County, N.Y. Modification No. 1</i>						
CHANGE:						
Building construction:						
Bricklayers.....	\$7.70	\$0.40	\$0.30		\$0.01	
Electricians.....						
Rensselaer, Greenbush, Castleton on Hudson, and Nassau.....	8.50	.30	1%+.35	a		
Heavy and highway construction:						
Laborers:						
Laborers and driller helpers.....	5.45	.50	.50	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker, and all other gas, electric, oil and air tool operators, bull float, tamper, pipelayers.....	5.65	.50	.50	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator.....	5.85	.50	.50	a		
Blasters, form setters, stone or granite curb setters.....	6.05	.50	.50	a		

Paid holidays:
 A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day;
 E—Thanksgiving Day; F—Christmas Day.

Footnote:
 a. Holidays: A through F, providing the employee works the day before and the day after the holiday.

N.Y.—29-LAB-2-3 D

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,734—36 F.R. 14976, Schenectady County, N.Y. Modification No. 1</i>						
CHANGE:						
Building construction:						
Bricklayers, cement masons, plasterers, stone masons, caulkers, and pointers.....	\$7.70	\$0.40	\$0.30		.01	
Lathers.....	7.935	.276	.10		.01	
Heavy and highway construction:						
Laborers:						
Laborers and driller helpers.....	5.45	.50	.50	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker, and all other gas, electric, oil, and air tool operators, bull float, tamper, pipelayers.....	5.65	.50	.50	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator.....	5.85	.50	.50	a		
Blasters, form setters, stone or granite curb setters.....	6.05	.50	.50	a		

Paid holidays:
 A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day;
 E—Thanksgiving Day; F—Christmas Day.

Footnote:
 a. Holidays: A through F, providing the employee works the day before and the day after the holidays.

Ohio

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-104—36 F.R. 16897, Butler County, Ohio. Modification No. 1</i>						
CHANGE:						
Elevator constructors.....	\$8.35	\$0.105	\$0.20	2%+a&b	\$0.005	
Elevator constructors' helpers.....	70%JR	.105	.20	2%+a&b	.005	
<i>WD No. AM-105—36 F.R. 16902, Clark County, Ohio. Modification No. 1</i>						
CHANGE:						
Elevator constructors.....	\$8.82	.105	.20	2%+a&b	.005	
Elevator constructors' helpers.....	70%JR	.105	.20	2%+a&b	.005	
<i>WD No. AM-106—36 F.R. 16906, Cuyahoga County, Ohio. Modification No. 1</i>						
CHANGE:						
Elevator constructors.....	\$9.435	.105	.20	2%+a&b	.005	
Elevator constructors' helpers.....	70%JR	.105	.20	2%+a&b	.005	
Ironworkers:						
Structural and ornamental.....	\$8.20	.50	.55	\$0.65	.01	
Reinforcing.....	8.20	.50	.55	.65	.01	
<i>WD No. AM-107—36 F.R. 16911, Franklin and Pickaway Counties, Ohio. Modification No. 1</i>						
CHANGE:						
Electricians—Franklin County, and the remainder of Pickaway County.....	8.43	.13	1%+.45		.01	
Elevator constructors.....	8.82	.105	.20	2%+a&b	.005	
Elevator constructors' helpers.....	70%JR	.105	.20	2%+a&b	.005	
Sheet metal workers.....	\$8.13	.36	.30		.01	
<i>WD No. AM-108—36 F.R. 16915, Green and Montgomery Counties, Ohio. Modification No. 1</i>						
CHANGE:						
Elevator constructors.....	8.53	.105	.20	2%+a&b	.005	
Elevator constructors' helpers.....	70%JR	.105	.20	2%+a&b	.005	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-42-89 F.R. 15984, Mahoning County, Ohio, Modification No. 1</i>						
CHANGE: Elevator constructors.....	\$8.45	\$0.155	\$0.20	2%+a2b	\$0.005	.....
Elevator constructors' helpers.....	70%JR	.165	.20	2%+a2b	.005	.....
Plumbers.....	\$7.61	.20	.40	\$1.00	.02	.....
Steamfitters.....	7.61	.20	.40	1.00	.02	.....
<i>WD No. AM-43-89 F.R. 15988, Muskingum County, Ohio, Modification No. 1</i>						
CHANGE: Elevator constructors.....	8.62	.165	.20	2%+a2b	.005	.....
Elevator constructors' helpers.....	70%JR	.165	.20	2%+a2b	.005	.....
Sheet metal workers.....	\$8.13	.20	.20	.....	.04	.....
<i>WD No. AM-44-89 F.R. 15993, Portage County, Ohio, Modification No. 1</i>						
CHANGE: Ironworkers—remainder of county: Structural, reinforcing and ornamental.....	8.20	.20	.25	\$0.05	.01	.....
<i>WD No. AM-45-89 F.R. 15998, Stark County, Ohio, Modification No. 1</i>						
CHANGE: Ironworkers: Structural, ornamental reinforcing.....	8.35	.40	.40	.....	.02	.....
<i>WD No. AM-46-89 F.R. 15998, Summit County, Ohio, Modification No. 1</i>						
CHANGE: Ironworkers: Structural, ornamental and reinforcing.....	8.20	.20	.25	.05	.01	.....
<i>WD No. AM-47-89 F.R. 15998, Trumbull County, Ohio, Modification No. 1</i>						
CHANGE: Elevator constructors.....	8.45	.165	.20	2%+a2b	.005	.....
Elevator constructors' helpers.....	70%JR	.165	.20	2%+a2b	.005	.....
OMIT: Plumbers and steamfitters.....	\$8.15	.27	.20	.....	.01	.....
ADD: Plumbers and steamfitters, Liberty & Hubbard Twps.....	7.61	.20	.40	\$1.00	.02	.....
Plumbers and steamfitters, remainder of county.....	0.15	.27	.20	.....	.01	.....

WISCONSIN

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-48-89 F.R. 16005, Rock County, Wis. Modification No. 2</i>						
CHANGE: Cable splicers.....	\$7.22	\$0.25	1%	0.2%+d	0.25%	.....
Ironworkers: Vicinity of Janesville, Beloit, Oxfordville, Shoplers, and Clinton: Structural, ornamental and reinforcing.....	8.00	.175	\$0.125	.....	.....	.....

[FR Doc.71-14297 Filed 9-30-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

Correction

In F.R. Doc. 71-13674 appearing at page 18561 in the issue for Thursday, September 16, 1971, the fourth entry from the end of the document should read as follows:

MC 135110, Wood's Trucking Co., Ltd., assigned November 15, 1971, in Room 410, Old Post Office Building, 121 Ellicott Street, Buffalo, NY.

ASSIGNMENT OF HEARINGS

SEPTEMBER 28, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as

presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 84528 Sub 18, Automobile Transport Company of California, assigned December 13, 1971, in Room 13216B, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

MC 108449 Sub 327, Indianhead Truck Line, Inc., now assigned November 10, 1971, at Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 106398 Sub 308, National Trailer Convoy, Inc., assigned December 8, 1971, in Room 13216B, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

MC 51146 Sub 211, Schnelder Transport & Storage, Inc., assigned December 6, 1971, in Room 13216B, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

NO. 35420, Arizona Intrastate Freight Rates and Charges—1971, now assigned December 1, 1971, at Phoenix, Ariz., will be held in the Oil & Gas Commission, 4515 North Seventh Avenue.

I & S NO. 8937, Mechanical Protective Service of Perichables—Nationwide, now assigned October 4, 1971, at San Francisco, Calif., will be held in Courtroom 14, 2d Floor, U.S. Court of Appeals and Post Office Building, Seventh and Mission Streets, instead of Room 503, 555 Battery Street.

MC 33641 Sub 80, IML Freight, Inc., dismissed.

MC 124154 Sub 28, Wingate Trucking Co., Inc., dismissed.

MC 133244 Sub 1, Trans United, Inc., dismissed.

[SEAL] ROBERT L. OSWALD, Secretary.

[FR Doc.71-14443 Filed 9-30-71;8:48 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 28, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42282—*Iron and steel articles to New Orleans, La.* Filed by Illinois Freight Association, agent (No. 370), for interested rail carriers. Rates on iron and steel articles, viz.: Tees, in carloads, as described in the application, from Chicago, Chicago Heights, Hennepin, Joliet, and Sterling, Ill., to New Orleans, La.

Grounds for relief—Market competition.

Tariff—Supplement 75 to Illinois Freight Association, agent, tariff ICC 1159. Rates are published to become effective on November 5, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-14442 Filed 9-30-71; 8:48 am]

[Notice 372]

MOTOR CARRIER TEMPORARY
AUTHORITY APPLICATIONS

SEPTEMBER 27, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9269 (Sub-No. 14 TA), filed September 15, 1971. Applicant: BEST WAY MOTOR FREIGHT, INC., 1765 Sixth Avenue South, Seattle, WA 98134. Applicant's representative: Ben Brown (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, as defined by the Commission, classes A and B explosives, those of unusual value, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from the commercial zone of Tacoma, Wash., to the commercial zone of Spokane, Wash., and return, as follows: From Tacoma over Interstate Highway 5 to Spokane, and return over the same route serving

the intermediate points of Seattle (and its commercial zone), Moses Lake, Wash., restricted to traffic moving to, from, or through Spokane or Moses Lake, for 180 days. NOTE: Applicant states it will interline at Tacoma, Seattle, and Spokane, Wash. Supported by: This application is supported by more than 25 supporting shippers. The letter may be inspected at the Interstate Commerce Commission office in Washington, D.C. 20423, or the Seattle office. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 30844 (Sub-No. 368 TA), filed September 16, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unpackaged and packaged glass aquariums, aquarium accessories, supplies and equipments*, from Saginaw, Mich., to points in Colorado, Georgia, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin, for 180 days. Supporting shipper: O'Dell Manufacturing, Inc., 1930 South Third Street, Saginaw, MI 48601. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 32882 (Sub-No. 64 TA), filed September 16, 1971. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, Post Office Box 17039, Portland, OR 97217. Applicant's representative: Ellis F. Chartier (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, dangerous explosives, household goods as defined by the Commission, and those injurious or contaminating to other lading, between the port of entry on the international boundary line, between the United States and Canada at or near Blaine, and Sumas, Wash., on the one hand, and, on the other, points in Washington, Oregon, and California, for 180 days. Supporting shippers: The East Asiatic Co., Inc., 616 Times Building, Portland, Oreg. 97204; General Steamship Corp., Ltd., 425 Southwest Washington Street, Portland, OR 97204; International Shipping Co., World Trade Building, Portland, Oreg. 97204. Send protests to: District Supervisor W. J. Huetic, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 38835 (Sub-No. 27 TA), filed September 16, 1971. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue SE., Independence, IA 50644. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Au-

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn starch*, from Cedar Rapids, Iowa, to points in Illinois and Minnesota, for 180 days. Supporting shipper: Penick & Ford, Ltd., 10th Avenue and First Street SW., Cedar Rapids, IA 52406. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 59264 (Sub-No. 51 TA), filed September 15, 1971. Applicant: SMITH & SOLOMON TRUCKING COMPANY, How Lane, New Brunswick, N.J. 08902. Applicant's representative: H. Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, in tank vehicles, from Philadelphia, Pa., to Glen Burnie, Md., restricted to shipments originating at the plantsite of Levey Division Cities Service Co., for 150 days. Supporting shipper: Cities Service Co., Levey Division, 1223 Washington Avenue, Philadelphia, PA 19147. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 103993 (Sub-No. 663 TA), filed September 16, 1971. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Van Wert County, Ohio, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Magnolia Homes Division, Guerdon Industries, Inc., Louisville, Ky., and Ohio City (Van Wert County), Ohio. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 106116 (Sub-No. 3 TA), filed September 15, 1971. Applicant: THEODORE MARABELLI, doing business as THEODORE MARABELLI TRUCKING LINES, Rural Delivery No. 2, Tunkhannock, PA 18657. Applicant's representative: Kenneth R. Davis, 990 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Luzerne County, Pa., to Buffalo and Syracuse, N.Y., and other points in New York east of a line extending from the New York-Pennsylvania State line over New York Highway 12 to junction New York Highway 26, thence over New York Highway 26 to Antwerp, N.Y., thence over U.S. Highway 11 to junction New York Highway 87 to Ogdensburg, N.Y., for 180 days.

Supporting shipper: Lehigh Valley Anthracite, Inc., Post Office Box 450, Pittston, PA 18640. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, PA 18503.

Huntbatch, Traffic Division Supervisor). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Well Street, Room 807, Milwaukee, WI 53203.

36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 119767 (Sub-No. 276 TA), filed September 15, 1971. Applicant: BEAVER TRANSPORT CO., Post Office Box 188, Pleasant Prairie, WI 53158, Office: I-94 and County Highway C, Bristol, WI 53104. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and commodities distributed by dairies* (except commodities in bulk), from Browerville, Minn., to points in Indiana and Illinois (except Chicago); from points in Minnesota to points in Ohio on and west of a line beginning at Sandusky, Ohio, and extending south along Ohio Highway 4 to Marion, Ohio, and thence south along U.S. Highway 23 to Portsmouth, Ohio; from points in Minnesota to points in Missouri (except Kansas City), for 180 days. Supporting shipper: Land O'Lakes, Inc., Post Office Box 116, Minneapolis, MN 55440 (Gary

No. MC 123316 (Sub-No. 4 TA), filed September 15, 1971. Applicant: MILAN TRUCKING CO., INC., 233 South Gladstone Avenue, Columbus, IN 42741. Applicant's representative: R. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products, and commodities used by packinghouses*, as described in appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except dairy products, hides, and commodities in bulk), from Detroit, Mich., to Cincinnati, Cleveland, Columbus, Dayton, and Toledo, Ohio; Fort Wayne and Indianapolis, Ind., and Louisville, Ky., for 180 days. Supporting shipper: Glendale Foods, Inc., 1930 Division Street, Detroit, MI 48207. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 802, Century Building,

No. MC 135034 (Sub-No. 2TA) (Amendment), filed August 20, 1971, published FEDERAL REGISTER September 8, 1971, amended and republished as amended this issue. Applicant: KAPE EXPRESS, INC., Post Office Box 5773, Toledo, OH 43613. Applicant's representatives: Keith F. Henley and Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory and museum furniture and equipment and parts and accessories* for the same, from Adrian, Mich., to points in the United States, for 180 days. Supporting shipper: Kewaunee Scientific Equipment Corp., Adrian, Mich. 49221. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604. Note: The purpose of this republication is to redescribe the authority sought.

By the Commission.

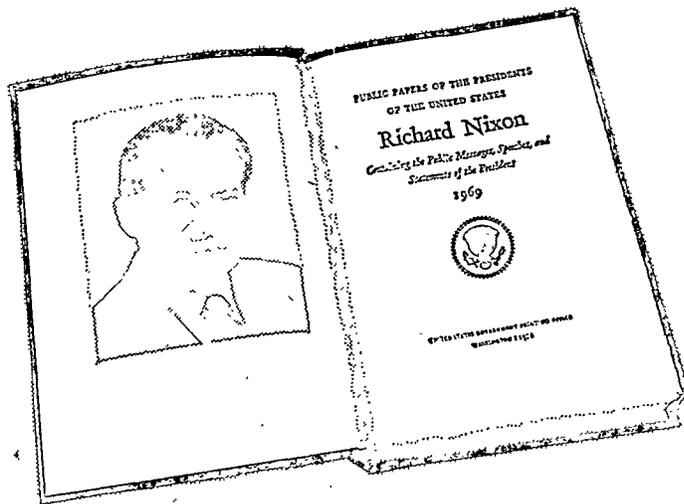
[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-14441 Filed 9-30-71;8:48 am]

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<i>Pages</i>	<i>Date</i>
19237-19291.....	Oct. 1

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