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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 30—ANNUAL AND SICK LEAVE REGULATIONS

Effective January 6, 1952, Part 30 is revised and amended to read as follows:

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Sec.
30.101 Definitions.

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AUTHORITY: §§ 30.101 to 30.803 issued under sec. 206, Pub. Law 233, 82d Cong. Interpret or apply Title II, Pub. Law 233, 82d Cong.

NOTICE

The Federal Register Division will be open for the filing and public inspection of documents pursuant to section 2 of the Federal Register Act (49 Stat. 500; 44 U. S. C. 302) between the hours of 8:45 a. m. and 5:15 p. m. on Saturday, December 29, 1951, and Saturday, January 5, 1952. Issues of the FEDERAL REGISTER *will be published during the holiday period as follows:*

December 27 through December 29, 1951; January 1, January 3 through January 5, 1952.

SUBPART A—DEFINITIONS

§ 30.101 *Definitions.* (a) "Act" as used in this part means the "Annual and Sick Leave Act of 1951, Title II, Public Law 233, 82d Congress, approved October 30, 1951 (65 Stat. 679)."

(b) "Employee" and "employees" include officer and officers, respectively.

(c) "Pay period" shall include bi-weekly, semi-monthly, or other pay period when used in this part.

(d) "Accumulated annual leave" means the unused annual leave remaining to the credit of the employee at the end of the last complete pay period occurring in any calendar year.

(e) "Medical certificate" means a written statement signed by a registered practicing physician or other practitioner, certifying to the period of disability of the patient while he was undergoing professional treatment.

(f) "Contagious disease" means a disease ruled as subject to quarantine or requiring isolation of the patient by the health authorities having jurisdiction.

(g) The terms "agency" or "agency head" mean "the heads or governing bodies" of the various Governmental agencies.

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A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

SUBPART B—GENERAL PROVISIONS

§ 30.201 *Pay periods other than biweekly.* Employees who are paid on other than a bi-weekly pay period basis may earn and be credited with leave on a pro-rata basis for a full pay period.

§ 30.202 *Minimum charge.* The minimum charge for leave shall be one hour and additional charges in multiples thereof. Under ordinary circumstances unavoidable or necessary absence from duty of less than one hour, and tardiness, may be excused by the agency head for adequate reasons without charge to leave.

§ 30.203 *Leave with pay status.* Leave shall accrue to an employee while in a pay status.

§ 30.204 *Non-pay status.* Whenever a full-time employee's absence in a non-pay status totals the equivalent of the base pay hours in one pay period, the credits for leave shall be reduced in the amount as earned in a pay period.

§ 30.205 *Change in length of day.* Whenever the number of hours of duty in a full-time employee's work day is permanently changed the leave standing to his credit shall be converted to the proper number of hours based upon the new work day.

§ 30.206 *Separation of employees indebted for unearned leave.* In case of the separation of an employee who is indebted for unearned leave, the employee shall refund the amount paid him for the period of such excess, or deduction therefor shall be made from any salary due him. This section shall not apply in cases of death, retirement for disability, reduction of force, or termination by displacement order of the Civil Service Commission, or in case of an employee is unable to return to duty because of disability, evidence of which shall be supported by an acceptable medical certificate: *Provided,* That employees who enter active military service with restoration rights shall not be deemed as separated for purposes of this section.

SUBPART C—ANNUAL LEAVE

[No regulations have been issued under this subpart at this time.]

SUBPART D—SICK LEAVE

§ 30.401 *Grant of sick leave.* Sick leave shall be granted to employees when they are incapacitated for the performance of their duties by sickness, injury, or pregnancy and confinement or for medical, dental or optical examination or treatment, or when a member of the immediate family of the employe is afflicted with a contagious disease and requires the care and attendance of the employee, or when, through exposure to contagious disease, the presence of the employee at his post of duty would jeopardize the health of others.

§ 30.402 *Application for sick leave.* Written application for grant of sick leave shall be filed within such time limits as the agency may prescribe. Requests for sick leave for medical, dental or optical examinations shall be submitted for approval in advance.

§ 30.403 *Supporting evidence.* Any grant of sick leave in excess of 3 work days must be supported by a medical certificate, or other evidence administratively acceptable. For periods of absence of 3 work days or less the agency may accept the employee's certification as to the reason for the absence.

§ 30.404 *Sickness during annual leave.* When sickness occurs within a period of annual leave the period of illness may be charged as sick leave subject to the provisions of § 30.403.

§ 30.405 *Sick leave not advanced.* Sick leave shall not be advanced to an employee holding a limited appointment, or one expiring on a specified date, in excess of the total sick leave that would accrue during the remaining period of such appointment: *Provided,* That an employee serving a probationary or trial period shall not be construed as holding a limited appointment for purposes of this section.

SUBPART E—PART-TIME EMPLOYEES

§ 30.501 *Accrual of annual leave.* Part-time employees for whom there has been established in advance a regular tour of duty on one or more days during each administrative work week, and hourly employees in the field service of the Post Office Department shall earn annual leave as follows:

(a) Employees with less than three years of service shall earn and be credited with one hour of annual leave for each twenty hours in a pay status.

(b) Employees with three but less than fifteen years of service shall earn and be credited with one hour annual leave for each thirteen hours in a pay status.

(c) Employees with fifteen years or more of service shall earn and be credited with one hour of annual leave for each ten hours in a pay status.

§ 30.502 *Accumulated annual leave.* Part-time employees may accumulate not more than 480 hours or 720 hours' annual leave on the same basis that full-time employees accumulate 60 or 90 days' annual leave.

§ 30.503 *Accrual of sick leave.* Part-time employees shall earn and be credited with one hour of sick leave for each twenty (20) hours in a pay status.

§ 30.504 *Hours of work to be disregarded.* Any hours in a pay status in excess of the agency's basic working hours in any pay period shall be disregarded in computing annual and sick leave earnings of part-time employees.

SUBPART F—HOME LEAVE

§ 30.601 *Home leave.* The leave provided for in subsection 203 (f) of the act shall be designated "home leave."

§ 30.602 *Creditable service for home leave.* Creditable service for purposes of accruing home leave shall include the period between the date of the employee's arrival at a post of duty outside the several States and the District of Columbia to which he is transferred or assigned and the date of his departure from any such post to return by transfer or assignment to a post of duty within the several States and the District of Columbia.

SUBPART G—RECREDIT OF LEAVE

§ 30.701 *Annual leave.* When an employee is separated from a position under the act and reemployed in another position under the act, without a break in service, his annual leave account shall be certified to the employing agency for credit or charge.

§ 30.702 *Sick leave recredit.* Upon reemployment of an employee subject to the act who was separated on or after January 6, 1952, without a break in service, or a break of not more than 52 continuous calendar weeks, the employee's sick leave account shall be certified to the employing agency for credit or charge to his account.

§ 30.703 *Leave from former leave systems.* All leave which was earned under the Leave Acts of 1936 or under any other of the leave systems merged under the act, and to which the employee would have been entitled upon reentering or remaining in the same leave system, shall be recredited under the act: *Provided,* That leave already forfeited shall not be revived by this section.

§ 30.704 *Restoration of veterans.* Any employee who leaves, or has left a position under the act to enter active military service and is reemployed in a position under the act, shall have his leave account certified for credit or charge: *Provided,* That he is reemployed without a break in service or, with a break of not more than 52 continuous calendar weeks after separation from military service or from hospitalization continuing after discharge for not more than one year.

§ 30.705 *Restoration after appeal.* Any employee who is restored to a position as a result of appeal shall have the leave in his account at the time of separation certified for credit or charge.

SUBPART H—ADMINISTRATION

§ 30.801 *Uncommon tours of duty.* Agencies which have employees who work 24-hour shifts, or other uncommon tours of duty, are authorized to promulgate supplemental regulations consistent with the act and the regulations in this part for administering leave for such employees.

§ 30.802 *Travel time for return to United States.* The travel time granted an employee pursuant to section 203 (e) shall be inclusive of the time necessarily occupied in traveling to and from his post of duty and his place of residence in any of the several States or the District of Columbia designated by the employee in his request for leave.

§ 30.803 *Responsibility for administration.* The heads of agencies to which this part applies shall be responsible for the proper administration of this part so far as it pertains to employees under their respective jurisdictions, and they shall maintain an account of leave for each employee in accordance with methods prescribed by the General Accounting Office.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] ROBERT RAMSPECK,
Chairman.

[F. R. Doc. 51-15345; Filed, Dec. 27, 1951; 8:55 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 813]

PART 813—SUGAR QUOTAS AND PRORATIONS OF QUOTA DEFICITS

QUOTAS AND DEFICITS, 1952

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948 (61 Stat. 922) and the Administrative Procedure Act (60 Stat. 237), the regulations of this part are hereby made, prescribed and published to be in force and effect for the calendar year 1952 or until amended or superseded by regulations hereafter made during the calendar year 1952.

Basis and purpose. The sugar quotas set forth below have been established pursuant to section 202 of the Sugar Act of 1948 (hereinafter called the "act") in terms of short tons of sugar, raw value, equal to the quantity determined by the Secretary of Agriculture to be needed to meet the requirements of consumers in the continental United States for the calendar year 1952. The purpose of Sugar Regulation 813 is to establish quotas representing the quantities of sugar which the producing areas may supply to the continental United States market during the calendar year 1952. Prior to the issuance of this regulation, notice was given (16 F. R. 10859) that the Secretary of Agriculture was preparing, among other things, to establish sugar quotas for the calendar year 1952 and to determine whether any domestic area, the Republic of the Philippines, or Cuba would be unable to market the full quota for such area in 1952 and to reallot any quota deficit so determined. In accordance with the Administrative Procedure Act (60 Stat. 237), due consideration has been given to the data, views and arguments submitted in writing by interested persons and to the data, views and arguments expressed at the public hearing held on November 29, 1951, in Washington, D. C., for the purpose of affording interested persons an opportunity to express their views with respect to the establishment of sugar quotas for the calendar year 1952.

Since the sugar quotas for some areas are relatively small, thereby making it possible for such areas to exceed their quotas within a few days after the beginning of the quota year, it is not possible to comply with the 30-day effective date requirement of the Administrative Procedure Act. Accordingly, §§ 813.31 through 813.38 will become effective January 1, 1952.

Sec.

Sec.
813.35 Direct-consumption portion of quotas or prorations.
813.36 Liquid sugar quotas.
813.37 Restrictions on marketing and shipment.
813.38 Inapplicability of quota regulations.

AUTHORITY: §§ 813.31 to 813.38 issued under secs. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies secs. 202, 204, 207, 208, 209, 210 and 212, 61 Stat. 924, 925, 927, 928, 929; 7 U. S. C. Sup. 1112, 1114, 1117, 1118, 1119, 1120, 1122.

§ 813.31 *Basic quotas for domestic areas.* There are hereby established pursuant to subsection (a) of section 202 of the act, for domestic sugar producing areas for the calendar year 1952, the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Domestic beet sugar	1,800,000
Mainland cane sugar	500,000
Hawaii	1,052,000
Puerto Rico	910,000
Virgin Islands	6,000

§ 813.32 *Basic quotas for other areas.* There are hereby established, pursuant to subsections (b) and (c) of section 202 of the act, for foreign countries for the calendar year 1952 the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Republic of the Philippines	974,000
Cuba	2,424,571
Other Foreign Countries	33,429

§ 813.33 [Reserve.]

§ 813.34 *Proration of quota for foreign countries other than Cuba and the Republic of the Philippines*—(a) *Basic prorations.* The quota for foreign countries other than Cuba and the Republic of the Philippines is hereby prorated, pursuant to subsection (c) of section 202 of the act, among such countries as follows:

Country:	*Prorations in pounds, raw value*
Belgium	394,891
Canada	757,029
China and Hong Kong	386,580
Czechoslovakia	353,289
Dominican Republic	8,947,514
Dutch East Indies	283,627
Guatemala	449,359
Haiti	1,236,587
Honduras	4,605,690
Mexico	8,093,344
Netherlands	292,323
Nicaragua	13,714,156
Peru	14,912,478
Salvador	11,013,911
United Kingdom	470,512
Venezuela	389,114
Other countries	57,596
Subtotal	66,358,000
Unallotted reserve	500,000
Total	66,858,000

§ 813.35 *Direct-consumption portion of quotas or prorations*—(a) *Domestic areas.* Pursuant to subsections (a), (b) and (c) of section 207 of the act, the quotas established in § 813.31 for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area:

Area:	*Direct-consumption sugar, short tons, raw value*
Hawaii	29,616
Puerto Rico	126,033
Virgin Islands	0

(b) *Other areas.* Pursuant to subsections (d) and (e) of section 207 of the act, the quotas established in § 813.32 for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area:

Area:	*Direct-consumption sugar, short tons, raw value*
Republic of the Philippines	59,920
Cuba	375,000

§ 813.36 *Liquid sugar quotas.* There are hereby established, pursuant to section 208 of the act, for foreign countries for the calendar year 1952 quotas for liquid sugar as follows:

Country:	*Liquid sugar, wine gallons 72 percent total sugar content*
Cuba	7,970,558
Dominican Republic	830,894
Other foreign countries	0

§ 813.37 *Restrictions on marketing and shipment.* Pursuant to section 209 of the act, all persons are hereby prohibited, during the calendar year 1952, from:

(a) Bringing or importing into the continental United States from the Territory of Hawaii, Puerto Rico, the Virgin Islands, or foreign countries, (1) any sugar or liquid sugar after the applicable quota, or the proration of any such quota, has been filled, or (2) any direct-consumption sugar after the direct-consumption portion of any such quota or proration thereof has been filled.

(b) Shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets or sugarcane grown in either the domestic beet sugar area or the mainland cane sugar area after the quota for such area has been filled.

§ 813.38 *Inapplicability of quota regulations.* Pursuant to section 212 of the act, §§ 813.31 to 813.37 shall not apply to (a) the first ten short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in the calendar year 1952; (b) the first ten short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in the calendar year 1952, for religious, sacramental, educational, or experimental purposes; (c) liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in individual sealed containers not in excess of one and one-tenth gallons each; or (d) any sugar or liquid sugar imported, brought into, or produced or manufactured in the United States for the distillation of alcohol, or for livestock feed or for the production of livestock feed.

STATEMENT OF BASES AND CONSIDERATIONS

The basic quotas established for domestic areas are in amounts specified in the act. Section 202 of the act provides that the quota for the Republic of the Philippines shall be 952,000 short tons "as specified in section 211 of the Philippine Trade Act of 1946." Quotas under the Sugar Act are established in terms of "short tons, raw value." On the basis of the pre-war average polarization of Philippine sugar brought into the continental United States, the 952,000 short ton quota is equivalent to 982,000 short tons, raw value. For prior years the Philippine quota has been established at this level. The completion of data for four post-war years now makes it appropriate to use the more recent (1948–51) average polarization in establishing 1952 quotas. On that basis the statutory quota is equivalent to 974,000 short tons, raw value. The portion of this quota which may be imported as direct-consumption sugar, established as 56,000 short tons in subsection (d) of section 207 of the act, may be filled entirely with refined sugar and is, therefore, determined to be equivalent to 59,920 short tons, raw value.

The basic quotas for other foreign countries have been established by applying the statutory percentages to the difference between the consumption estimate and the sum of the quotas established for domestic areas and the Republic of the Philippines. The quota for foreign countries other than Cuba and the Republic of the Philippines has been prorated on the basis of the original proration made for 1937, as provided by the act. The amounts of the quotas and prorations which may be filled by direct-consumption sugar are as specified in the act. The liquid sugar quotas equal those specified in the act.

Crop estimates at the present time, unlike earlier post-war years, make it appear that the Republic of the Philippines has a fair chance of filling its quota in 1952 so that no deficit proration for that area is warranted at this time. The severe freeze in Louisiana in November 1951 raises the possibility of deficit in 1952 for this area and the prospect of a relatively small quantity of 1951-crop beet sugar for marketing in 1952 raises a similar possibility for that area. However, such small portions of normal Louisiana crops are marketed after January 1 that the effect of the freeze on 1952 marketings will not be as great as may at first be supposed and any possible deficit cannot be satisfactorily estimated until the harvest of the 1952–53 crop approaches. In the beet area, no information will be available even for planting intentions for 1952 for some time, and 1952-crop production is of primary significance to the question of how large a deficit, if any, may occur.

Done at Washington, D. C., this 20th day of December 1951. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51–15308; Filed, Dec. 27, 1951; 8:51 a. m.]

Subchapter H—Determination of Wage Rates

[Sugar Determination 864.4]

PART 864—SUGARCANE (PRODUCTION AND CULTIVATION); LOUISIANA

CALENDAR YEAR 1952

Pursuant to the provisions of section 301 (c) (1) of the Sugar Act of 1948 (herein referred to as "act"), after investigation, and consideration of the evidence obtained at the public hearing held in Thibodaux, Louisiana, on July 11, 1951, the following determination is hereby issued:

§ 864.4 *Fair and reasonable wage rates for persons employed in the production and cultivation of sugarcane in Louisiana during the calendar year 1952*—(a) *Requirements.* The requirements of section 301 (c) (1) of the act shall be deemed to have been met with respect to the production and cultivation of sugarcane in Louisiana during the calendar year 1952, if the producer complies with the following:

(1) *Wage rates.* All persons employed on the farm in the production and cultivation of sugarcane shall have been paid in full for all such work and shall have been paid wages in cash therefore at rates as agreed upon between the producer and the laborer but, after the date of issuance of this section, not less than the following:

(i) *Basic wage rates and adjustments for sugar price changes.* When the average price of raw sugar is within the base price range of $5.60 to $6.00, inclusive, per one hundred pounds for the two-week period immediately preceding the two-week period during which the work is performed, and for each full 10 cents that such price shall average more than $6.00 or less than $5.60, the basic day wage rates in the following table shall be applicable:

TABLE OF RAW SUGAR PRICE RANGES AND APPLICABLE BASIC WAGE RATES[1]

Operations	Price ranges—2-week average price (100 pounds of raw sugar)						
At least	$5.201	$5.301	$5.401	$5.501	$6.100	$6.200	$6.300
But not more than	5.300	5.400	5.500	6.099	6.199	6.299	6.399
				Base price range $5.60–$6			
For all work except as otherwise specified:							
Adult females, per 9-hour day	$2.450	$2.500	$2.550	$2.600	$2.675	$2.750	$2.825
Adult males, per 9-hour day	2.950	3.000	3.050	3.100	3.175	3.250	3.325
Tractor drivers, per 9-hour day	3.700	3.750	3.800	3.850	3.925	4.000	4.075
Teamsters, per 9-hour day	2.950	3.000	3.050	3.100	3.175	3.250	3.325
Workers between 14 and 16 years of age, per 8-hour day	2.250	2.300	2.350	2.400	2.475	2.550	2.625

[1] For each successive full 10-cent price change above $6.30 or below $5.30, the basic wage rates shall be increased or decreased, correspondingly, by the same amounts as shown above for each full 10-cent price change.

(ii) *Hourly rates.* Where workers are employed on an hourly basis, the basic wage rate per hour shall be determined by dividing the applicable basic day wage rate in subdivision (i) of this subparagraph by 9 in the case of adult workers, and by 8 in the case of workers between 14 and 16 years of age.

(iii) *Piecework rates.* The piecework rate for any class of work shall be that agreed upon between the producer and worker: *Provided,* That the hourly rate of earnings for each worker for the time involved on each separate unit of work for which a piecework rate is agreed upon shall be not less than the applicable hourly rate specified in subdivision (ii) of this subparagraph.

(iv) *Determination of average sugar prices.* The two-week average price of raw sugar shall be determined by taking the simple average of the daily spot quotations of 96° raw sugar of the Louisiana Sugar Exchange, Inc., converted to a one hundred pound basis, except that if the Director of the Sugar Branch determines that for any two-week period such average price does not reflect the true market value of raw sugar, because of inadequate volume, failure to report sales in accordance with the rules of such Exchange or other factors, the Director may designate the average price to be effective under this section. For the purpose of this section the average price of raw sugar prevailing during the period from December 14 through December 27, 1951, shall determine the wage rates from January 1 through January 10, 1952, and thereafter the wage rates in successive two-week work periods shall be determined by the average price of raw sugar prevailing in the immediately preceding two-week period.

(2) *Perquisites.* In addition to the foregoing, the producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as a habitable house, medical attention, and similar items.

(b) *Subterfuge.* The producer shall not reduce the wage rates to laborers below those determined in this section through any subterfuge or device whatsoever.

(c) *Claim for unpaid wages.* Any person who believes he has not been paid in accordance with this section may file a wage claim with the local county Production and Marketing Administration Committee against the producer on whose farm the work was performed. Such claim must be filed within two years from the date the work with respect to which the claim is made was performed. Detailed instructions and wage claim forms are available at the office of the local county P. M. A. Committee. Upon receipt of a wage claim the county PMA Committee shall thereupon notify the producer against whom the claim is made concerning the representation made by the laborer, and, after making such investigation as it deems necessary, notify the producer and laborer in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recomended settlement, an appeal may be made to the State PMA Committee, University Station, Baton Rouge, Louisiana, which shall likewise consider the facts and notify the producer and laborer in writing of its recommendation for settlement of the claim. If the recommendation of the State PMA Committee is not acceptable, either party may file an appeal with the Director of the Sugar Branch, Production and Marketing Administration, U. S. Department of Agriculture, Washington 25, D. C. All such appeals shall be filed within 15 days after receipt of the recommended settlement from the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Director of the Sugar Branch, his decision shall be binding on all parties insofar as payments under the act are concerned.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination provides fair and reasonable wage rates which a producer must pay, as a minimum for work performed by persons employed in the production and cultivation of sugarcane in Louisiana during the calendar year 1952 as one of the conditions for payment under the act.

(b) *Requirements of the act and standards employed.* In determining fair and reasonable wage rates, the act requires that a public hearing be held, that investigations be made, and that consideration be given to (1) the standards formerly established by the Secretary of Agriculture under the Agricultural Adjustment Act, as amended, and (2) the differences in conditions among various sugar producing areas.

A public hearing was held in Thibodaux, Louisiana, on July 11, 1951, at which interested persons presented testimony with respect to fair and reasonable wage rates for production and cultivation work during the calendar year 1952. In addition investigations have been made of the conditions affecting wage rates in Louisiana. In this determination consideration has been given to testimony presented at the hearing and to the information resulting from investigations. The primary factors which have been considered are (1) prices of sugar and by-products; (2) income from sugarcane; (3) cost of production; (4) cost of living; and (5) relationship of labor cost to total cost. Other economic influences also have been considered.

(c) *1952 wage determination.* In the 1952 wage determination, wage payments to workers under the wage-price escalator are increased from 5 cents to 7.5 cents per 9-hour day for each full 10-cent increase in the price of raw sugar above $6.00 per hundredweight. Other provisions of the 1952 wage determination continue unchanged from those in effect during the calendar year 1951.

At the public hearing, representatives of producers recommended that when the price of raw sugar reaches $6.40 per hundredweight, the wage increment under the wage-price escalator for the calendar year 1952 be raised to 10 cents per

9-hour day from the 5-cent increment effective during the calendar year 1951. A spokesman for labor, while making no specific recommendation with respect to wage rates, appealed to all interested parties to do everything within their power to raise the income level of sugarcane field workers.

An analysis of costs, returns and profits data in the light of conditions likely to prevail in 1952 does not indicate a basis for increasing wage rates in the base price range. However, at raw sugar price levels above $6.00 per hundredweight, the analysis indicates that producers can pay somewhat higher wages to workers than were paid in 1951. Changes in the increments of the wage-price escalator scale provided in this determination are proportionate to the increases provided in the 1951 harvesting wage determination and will provide for greater participation by workers engaged in production and cultivation work in the income received by producers from higher sugar prices. Based upon the above analysis and an examination of other factors generally considered in wage determinations, the wage rates provided in the determination are considered fair and reasonable.

As in previous wage determinations, in addition to cash wages, the worker must be furnished, without charge, customary perquisites such as habitable housing, medical attention and similar items.

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

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929; 7 U. S. C. Sup. 1131)

Issued this 20th day of December 1951.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 51-15309; Filed, Dec. 27, 1951; 8:51 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Amdt. 2]

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

Findings. 1. Pursuant to Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958) regulating the handling of Irish potatoes grown in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of recommendations and information submitted by the administrative committee for Area No. 2, established under said marketing agreement and order, and other available information, it is hereby found that the amended limitation of shipments, hereinafter set forth, will tend to effectuate the declared policy of the act.

2. It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and (ii) this amendment relieves restriction on the handling of Irish potatoes grown in the aforesaid production area.

Order, as amended. The provisions in paragraph (b) (1) of § 958.310 (16 F. R. 10016) shall be amended to read as follows:

(b) *Order.* (1) During the period from December 31, 1951, to May 31, 1952, both dates inclusive, no handler shall ship potatoes grown in Area No. 2, as such area is defined in Marketing Agreement No. 97 and Order No. 58, which do not meet the following grade and size requirements: (i) U. S. No. 1 or better grade, 2 inches minimum diameter or 4 ounces in weight or larger; (ii) U. S. No. 2 grade, 1⅞ inch minimum diameter or larger; or (iii) U. S. No. 1, Sizes 1½ to 2 inches, with 30 percent tolerance for oversize.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 26th day of December 1951, to become effective December 31, 1951.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 51-15343; Filed, Dec. 27, 1951; 8:54 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 7]

PART 43—GENERAL OPERATION RULES

ANNUAL AND PERIODIC INSPECTIONS

Proposed rules regarding compliance with §§ 43.22-1 and 43.22-2 were published on October 4, 1951 in 16 F. R. 10132-3. Interested persons were afforded an opportunity to submit data, views, or arguments. Consideration has been given to all relevant matter presented. The section of the regulations being implemented is repeated here to assist the public in understanding how the Administrator's rules apply. The following rules are hereby adopted.

§ 43.22 *Inspections*—(a) *Annual inspection.* An aircraft shall not be flown, except for airworthiness flight tests, unless within the preceding 12 calendar months it has been given an annual inspection as prescribed by the Administrator and has been found to be airworthy by a person designated by the Administrator.

(b) *Periodic inspection.* An aircraft shall not be flown for hire, unless within the preceding 100 hours of flight time it has been given a periodic inspection by an appropriately rated mechanic in accordance with the periodic inspection report form prescribed by the Administrator, has been found to be airworthy, and a notation to that effect has been entered by such mechanic in the aircraft log. The annual inspection required by paragraph (a) of this section will be accepted as one such periodic inspection.

(c) *Air carrier exemption.* Air carrier aircraft are exempted from paragraphs (a) and (b) of this section when such aircraft are maintained and inspected in accordance with a continuous maintenance and inspection system as provided for by Part 41, 42, or 61 of this subchapter.

§ 43.22-1 *Annual inspections (CAA rules which apply to § 43.22 (a)).* The purpose of these rules is to prescribe the scope of the annual inspection and to set forth the procedure to be followed by an aircraft owner when making application for an annual inspection.

(a) *Inspection requirement prior to presenting application.* Immediately prior to submitting an application for annual inspection, the aircraft shall be inspected and found airworthy by a certificated aircraft and engine mechanic(s). The mechanic(s) shall conduct and record the airworthiness inspection in accordance with the instructions on the reverse of Form ACA-319 (11-49) entitled, "Periodic Aircraft Inspection Report". All items found unairworthy, as a result of the inspection, shall be corrected prior to presenting the aircraft to the CAA representative for annual inspection.

(b) *Application procedure.* After the aircraft has been found airworthy in accordance with paragraph (a) of this section, the aircraft owner (or his agent) shall make application for annual inspection by completing Form ACA-305 entitled, "Application for Airworthiness Certificate and/or Annual Inspection of Aircraft", and present it and the aircraft to a CAA representative for consideration. The aircraft shall be presented in condition for inspection, i. e., all inspection plates, access doors, fairing and cowling shall be open or removed and the aircraft and engine thoroughly cleaned to properly reflect the actual condition of all the parts and components being inspected.

The following official documents shall be available in the aircraft at the time it is presented for inspection:

(1) Current registration certificate as required by § 43.10 (a).

(2) If the aircraft is flown to the point where the annual inspection is to be conducted, the aircraft shall display a current Certificate of Airworthiness, Form ACA-1362, issued in accordance with § 1.67 of this chapter, or carry a special flight authorization (Form ACA-1779 entitled, "Application and Authorization for Ferry Permit") issued in accordance with § 43.10 (a).

(3) The aircraft and engine records required by § 43.23.

(4) The aircraft Operation Limitations, Form ACA-309, or a current Air-

plane Flight Manual as required by § 43.10 (b).

(5) The Inspection Report, Form ACA–319, required by paragraph (a) of this section.

(c) *Renewal of airworthiness certificate.* Section 1.64 (a) (3) of this chapter provides for renewing an airworthiness certificate upon satisfactory completion of the annual inspection described in paragraphs (a) and (b) of this section. The CAA will issue a new Certificate of Airworthiness, Form ACA–1362, each time the aircraft passes the annual inspection requirements. The CAA representative conducting the annual inspection will, upon completion of the inspection, issue the new Certificate of Airworthiness to expire one year from the date the annual inspection was completed. This procedure will be applied without reference to whether the former Certificate of Airworthiness has expired or is still current.

(d) *Application and inspection forms.* The inspection and application forms mentioned above are available at all CAA regional and Aviation Safety district offices and from all Designated Aircraft Maintenance Inspectors.

§ 43.22–2 *Periodic inspection (CAA rules which apply to § 43.22 (b)).* The purpose of these rules is to prescribe the scope of the periodic inspection and to identify the form and method of recording the findings of this inspection.

(a) *Periodic aircraft inspection report, Form ACA–319 (11–49).* The inspection required by § 43.22 (b) shall be recorded on a Form ACA–319 (11–49) in accordance with the instructions on the reverse side of the form by the mechanic(s) making the airworthiness determination. The completed form shall be given to the aircraft owner as evidence of compliance with the requirements of this section. The aircraft owner shall make available to the mechanic(s) the aircraft and engine records in order that the mechanic(s) may record the inspection as required by this part and Part 18 of this chapter. The scope of the entry to be made by the mechanic(s) is indicated in the instructions on the reverse of the Periodic Aircraft Inspection Form, ACA–319 (11–49).

(b) *Annual inspection acceptable in lieu of periodic inspection.* When an aircraft has satisfactorily passed the annual inspection required by § 43.22 (a), it is also considered to have passed the periodic inspection required by § 43.22 (b). In such cases, accumulation of flight time toward the next periodic inspection will start immediately after the inspection specified in § 43.22–1 (a).

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply secs. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective February 1, 1952.

[SEAL] F. B. LEE,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 51–15279; Filed, Dec. 27, 1951; 8:46 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52892]

PART 67—IMPORTATION OF ARTICLES IN CONNECTION WITH THE CHICAGO INTERNATIONAL TRADE FAIR, AT CHICAGO, ILLINOIS, UNDER PUBLIC LAW NO. 218, 82D CONGRESS [1]

ENTRY OF ARTICLES

The following regulations under Public Law No. 218, 82d Congress, approved October 26, 1951, relate to the entry of articles in connection with the Chicago International Trade Fair to be held at Chicago, Illinois, March 22 to April 6, 1952.

Sec.
67.1 Invoices; marking; bond.
67.2 Entry; appraisement; procedure.
67.3 Compliance, provisions of Plant Quarantine Act of 1912, and Federal Food, Drug and Cosmetic Act of June 25, 1938.
67.4 Detail of customs officers to protect revenue; expenses.
67.5 Withdrawal of articles from exhibition for exportation, abandonment, destruction, or for consumption or entry under the general tariff law, involuntary abandonment.

AUTHORITY: §§ 67.1 to 67.5 issued under Pub. Law 218, 82d Cong.

§ 67.1 *Invoices; marking; bond.* (a) Articles intended for exhibition under the provisions of Public Law No. 218, 82d Congress, and valued at more than $100, are subject to the usual certified invoice requirements if of a class for which such invoices are required under the Tariff Act of 1930 and the regulations issued thereunder. The certified invoices shall be on foreign service Form 138 (Invoice of Merchandise) and shall contain the information prescribed under section 481 of the Tariff Act of 1930. (19 U. S. C. 1481)

(b) The marking requirements of the Tariff Act of 1930, as amended, and the regulations promulgated thereunder will not apply to articles imported under the regulations in this part except when such articles are withdrawn for consumption or use in the United States, in which case they shall be released from customs custody only upon a full compliance with the marking requirements of the tariff act, as amended, and the regulations promulgated thereunder.

(c) The Chicago International Trade Fair, Incorporated, shall give to the collector of customs at Chicago, Illinois, a bond in an amount to be determined by the collector and containing such conditions for compliance with Public Law No. 218, 82d Congress, and the regulations in this part, as shall be approved by the Bureau of Customs.

§ 67.2 *Entry; appraisement; procedure.* (a) All entries under the regulations in this part shall be made at the port of Chicago, Illinois, in the name of the Chicago International Trade Fair, Incorporated, which shall be deemed for customs purposes the sole consignee of the merchandise entered under the act and which shall be held responsible to the Government for all duties and

[1] All articles which shall be imported from foreign countries for the purpose of exhibition at the Chicago International Trade Fair, to be held at Chicago, Illinois, from March 22 to April 6, 1952, inclusive, by the Chicago International Trade Fair, Incorporated, a corporation, or for use in constructing, installing, or maintaining foreign exhibits at the said trade fair, upon which articles there shall be a tariff or customs duty, shall be admitted without payment of such tariff, customs duty, fees, or charges under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during or within three months after the close of the said trade fair to sell within the area of the trade fair any articles provided for herein, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury shall prescribe: *Provided*, That all such articles, when withdrawn for consumption or use in the United States, shall be subject to the duties, if any, imposed upon such articles by the revenue laws in force at the date of their withdrawal; and on such articles which shall have suffered diminution or deterioration from incidental handling or exposure, the duties, if payable, shall be assessed according to the appraised value at the time of withdrawal from entry hereunder for consumption or entry under the general tariff law: *Provided further*, That imported articles provided for herein shall not be subject to any marking requirements of the general tariff laws, except when such articles are withdrawn for consumption or use in the United States, in which case they shall not be released from customs custody until properly marked, but no additional duty shall be assessed because such articles were not sufficiently marked when imported into the United States: *Provided further*, That at any time during or within three months after the close of the trade fair, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, whereupon any duties on such articles shall be remitted: *Provided further*, That articles which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond and imported articles in bonded warehouses under the general tariff law may be accorded the privilege of transfer to and entry for exhibition at the said trade fair under such regulations as the Secretary of the Treasury shall prescribe: *And provided further*, That the Chicago International Trade Fair, Incorporated, a corporation, shall be deemed, for customs purposes only, to be the sole consignee of all merchandise imported under the provisions of this act, and that the actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody, together with the necessary charges for salaries of customs officers and employees in connection with the supervision, custody of, and accounting for, articles imported under the provisions of this act, shall be reimbursed by the Chicago International Trade Fair, Incorporated, a corporation, to the Government of the United States under regulations to be prescribed by the Secretary of the Treasury, and that receipts from such reimbursements shall be deposited as refunds to the appropriation from which paid, in the manner provided for in section 524, Tariff Act of 1930, as amended (19 U. S. C. 1524). (Pub. Law No. 218, 82d Cong.)

charges due the United States on account of such entries; but, in the case of merchandise withdrawn from entry under the regulations in this part, an entry under the general tariff law in the name of any person duly authorized in writing by the Chicago International Trade Fair, Incorporated, to make such entry, may be accepted by the collector.

(b) Articles to be entered under the regulations in this part which arrive at ports other than Chicago shall be entered for immediate transportation without appraisement to the latter port in the manner prescribed by the general customs regulations.

(c) Upon the arrival at the port of Chicago of articles to be entered under the regulations in this part, they shall be entered on a special form of entry to read substantially as follows:

ENTRY FOR EXHIBITION

Entry No._____

Entry at the port of Chicago of articles consigned or transferred to the Chicago International Trade Fair, Incorporated, under_____ I. T. No._____ ex S. S._____ from_____ on the day of_____ 1951, for exhibition purposes under Public Law No. 218, of the 82d Congress, approved October 26, 1951.

Mark	Number	Package and contents	Quantity	Invoice	Value

CHICAGO INTERNATIONAL TRADE FAIR, INC.

By _____

(d) Upon such entry being made, the collector shall issue a special permit for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or in the discretion of the collector, to the appraiser's stores for examination and subsequent transfer to the buildings in which they are to be exhibited or used. The articles shall be tentatively appraised prior to their exhibition or use. All imported exhibits entered under the regulations in this part shall be kept segregated from domestic articles and imported duty-paid articles and shall not be removed from the exhibition building except in accordance with § 67.5 (a).

(e) If for any reason articles imported for entry under the regulations in this part are not upon their arrival to be delivered immediately at an exhibition building, the importer should so indicate to the collector in writing, who will cause such articles to be placed in a bonded warehouse, under a "general order permit" at the importer's risk and expense, and such articles may be entered at any time within one year from the date of importation for exhibition, as herein provided for, or under the general tariff law, or for exportation. If not so entered within such period, they will be regarded as abandoned to the Government.

(f) Articles which have been admitted without payment of duty for exhibition under any customs law and which have remained in continuous customs custody or under a customs exhibition bond may be transferred to entry for exhibition at the fair in the manner prescribed in § 10.49 (c) of the Customs Regulations of 1943 (19 CFR 10.49 (c)), except that in each case an entry under paragraph (c) of this section shall be filed, which shall supersede any previous entry, and no new bond other than that specified in § 67.1 (c) shall be required. Imported articles in bonded warehouses under the general tariff law may be transferred to entry for exhibition at the fair in the manner prescribed in § 8.33 of the Customs Regulations of 1943 (19 CFR 8.33).

§ 67.3 *Compliance, provisions of Plant Quarantine Act of 1912, and Federal Food, Drug, and Cosmetic Act of June 25, 1938.*—The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (7 U. S. C. 151 to 164a, inclusive, 167), shall not be permitted except under permits issued therefor by the Bureau of Entomology and Plant Quarantine, Department of Agriculture, and in accordance with the plant quarantine regulations. The entry of food products shall conform to the requirements of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq.; 21 U. S. C. 301 et seq.) and regulations issued thereunder.

§ 67.4 *Detail of customs officers to protect revenue; expenses.* (a) The collector of customs at Chicago, Illinois, shall detail an officer to act as his representative at the fair and shall station inside the fair buildings as many additional customs officers and employees as may be necessary properly to protect the revenue.

(b) All actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody of imported articles, together with the necessary charges for salaries of customs officers and employees in connection with the supervision and custody of, and accounting for, articles imported for exhibition at the fair or transferred thereto for exhibition, shall be reimbursed by the Chicago International Trade Fair, Incorporated, to the Government, payment to be made monthly to the collector of customs, Chicago, Illinois, for deposit to the credit of the Treasurer of the United States as a refund to the appropriation "Collecting the Revenue from Customs."

§ 67.5 *Withdrawal of articles from exhibition for exportation, abandonment, destruction, or for consumption or entry under the general tariff law, involuntary abandonment.* (a) Any articles entered under the regulations of this part may be withdrawn for exportation, for abandonment to the Government, for destruction under customs supervision, or for consumption or entry under the general tariff law, but not otherwise, at any time prior to the opening of the fair or at any time during or within three months after the close of the fair. Upon the withdrawal of such articles for consumption or for entry under the general tariff law, or at the expiration of three months after the close of the fair in the case of articles not previously so withdrawn, they shall be appraised with due allowance made for diminution or deterioration from incidental handling or exposure. Such appraisal shall be final in the absence of an appeal to reappraisement, as provided in section 501 of the Tariff Act of 1930, as amended (19 U. S. C. 1501). In the case of such articles withdrawn for entry under the general tariff law under a warehouse bond or a bond conditioned upon exportation, the statutory period of the bond and any extension thereof shall be computed from the date of withdrawal from entry under the provisions of Public Law No. 218 of the 82d Congress.

(b) At any time prior to the opening of the fair, or at any time during or within three months after the close of the fair, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, as provided in § 15.4 of the Customs Regulations of 1943 (19 CFR 15.4).

(c) Any articles entered under the regulations in this part which have not been withdrawn for consumption, entry under the general tariff law, or exportation, or which have not been abandoned to the Government or destroyed under customs supervision, before the expiration of three months after the close of the fair, shall be regarded as abandoned to the Government.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: December 20, 1951.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 51-15338; Filed, Dec. 27, 1951; 8:54 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART A—REGISTRATION AND RESEARCH

PROVISIONAL REGULATIONS

Section 21.188, appearing in the FEDERAL REGISTER of October 6, 1950 (15 F. R. 6761) is canceled.

§ 21.188 *Application of the provisions of the Servicemen's Readjustment Act, Title II, as amended by section 7, Public Law 610, 81st Congress, approved July 13, 1950.* [Canceled.]

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 504, 58 Stat. 293, as amended; 38 U. S. C. 11a, 694, 707)

[SEAL] O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 51-15340; Filed, Dec. 27, 1951; 8:54 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old Age and Survivors Insurance, Social Security Administration, Federal Security Agency

[Regulations 4]

PART 404—FEDERAL OLD-AGE AND SURVIVORS INSURANCE (1950 ——)

SUBPART A—GENERAL PROVISIONS

SUBPART B—QUARTERS OF COVERAGE AND INSURED STATUS

SUBPART C—BASIC COMPUTATION OF BENEFITS AND LUMP SUMS

SUBPART D—OLD-AGE AND SURVIVORS INSURANCE BENEFITS

SUBPART E—REDUCTION AND INCREASE OF INSURANCE BENEFITS AND DEDUCTIONS FROM BENEFITS AND LUMP-SUM DEATH PAYMENTS

SUBPART F—OVERPAYMENTS, UNDERPAYMENTS, WAIVER OF ADJUSTMENT OR RECOVERY OF OVERPAYMENTS, AND LIABILITY OF A CERTIFYING OFFICER

SUBPART G—FILING OF APPLICATIONS AND OTHER FORMS

SUBPART H—EVIDENCE

AUTHORITY: §§ 404.1 to 404.1408 issued under sec. 205, 49 Stat. 624, as amended, sec. 1102, 49 Stat. 647, sec. 218, 64 Stat. 514; 42 U. S. C. 405, 418, 1302. Statutory provisions interpreted or applied are cited to text.

SUBPART A—GENERAL PROVISIONS

§ 404.1 *Scope.* The regulations in this part relate (with certain exceptions) to old-age and survivors insurance benefits under title II of the act for months after August 1950 and to lump-sum death payments under that title with respect to deaths after August 1950. Such regulations relate also to whether services performed after 1950 constitute employment, to whether remuneration paid after 1950 for employment constitutes wages, to whether earnings after 1950 constitute self-employment income, to the extension after 1950 of the old-age and survivors insurance system to services performed by employees of State and local Governments, and to the correction, after 1950, of records of wages and self-employment income maintained by the Administrator, all under that title. (For exceptions see §§ 404.204 and 404.1314.)

§ 404.2 *Extent to which Part 403 of this chapter (Regulations 3) remains operative.* (a) Part 403 of this chapter (Regulations 3) continues in effect (with certain exceptions) with respect to old-age and survivors insurance benefits under title II of the act for months prior to September 1950 (except with respect to additional deductions from such benefits under section 203 (g) of the act in effect prior to the Social Security Act Amendments of 1950); to lump-sum death payments under that title with respect to deaths subsequent to 1939 and prior to September 1950; and to whether services performed prior to 1951 constitute employment and whether remuneration paid prior to 1951 for employment constitutes wages, both under that title. (See also §§ 404.204 and 404.1314 and Subparts G and J of this part.)

(b) Except as provided in this section or as specifically incorporated in this part by reference, Part 403 of this chapter (Regulations 3) is superseded by the regulations in this part.

SUBPART B—QUARTERS OF COVERAGE AND INSURED STATUS

NOTE: §§ 404.101 to 404.109 interpret or apply secs. 212, 213, 214, 64 Stat. 504; 42 U. S. C. 412, 413, 414.

§ 404.101 *Effect of insured status.* Eligibility for monthly benefits and the lump sum payable under title II of the Act is based upon the insured status of the individual upon whose record of wages and self-employment income the benefits or the lump sum, or both, are claimed. If he is neither a fully nor a currently insured individual, no benefits or lump-sum payment may be made upon the basis of his wages and self-employment income. (Subpart D of this part explains which benefits are based on fully insured status alone, which on currently insured status alone, and which on both.) An individual acquires an insured status when he has timely acquired sufficient quarters of coverage to give him such status.

§ 404.102 *Quarter and calendar quarter.* The terms "quarter" and "calendar quarter" are used interchangeably to mean a period of three calendar months ending March 31, June 30, September 30, or December 31 of any year.

§ 404.103 *Quarter of coverage prior to 1951.* Any quarter occurring after 1936 and prior to 1951 is a quarter of coverage for an individual if he:

(a) Has been paid $50 or more in wages in such quarter; or

(b) Was not paid at least $50 in wages in such quarter, but has been paid $3,000 in wages in the calendar year in which such quarter occurred, and such quarter occurred (1) after a quarter of coverage in the same calendar year, and (2) prior to the quarter in which the individual died or became entitled to a primary insurance benefit.

Example. A was paid wages of $400 per month in April, May, and June of 1940, and was paid wages of $600 per month in October, November, and December of that year, making a total of $3,000 paid him during the year. He was paid no wages in January, February, or March, or in July, August, or September. A has 3 quarters of coverage in 1940. The first calendar quarter is not a quarter of coverage because A was not paid $50 in wages therein and it was not preceded by a quarter of coverage, even though A was paid $3,000 in the calendar year. The second and fourth calendar quarters are quarters of coverage because A was paid more than $50 in wages therein. The third calendar quarter is a quarter of coverage because it was preceded by a quarter of coverage and A was paid wages of $3,000 during the year.

§ 404.104 *Quarter of coverage after 1950.* Any quarter occurring after 1950 is a quarter of coverage for an individual if he:

(a) Has been paid $50 or more in wages in such quarter; or

(b) Was not paid at least $50 in wages in such quarter, but has been paid $3,600 in wages in the calendar year in which such quarter occurred; or

(c) Has been credited with $100 or more of self-employment income for such quarter (see § 404.106); or

(d) Had self-employment income for the taxable year in which such quarter or part of such quarter occurred, and the aggregate of his self-employment income for, and wages (if any) paid in, such taxable year equals $3,600.

However, no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter, and no quarter after the quarter in which the individual died shall be counted as a quarter of coverage; nor may any quarter be counted as more than one quarter of coverage.

Example 1. From January 1, 1951, to June 30, 1951, A had no income of any kind. From July 1, 1951, to December 31, 1951, he was paid wages of $600 per month. A has 4 quarters of coverage for 1951 since he was paid wages of $3,600 in that year, even though he was not paid any wages in the first two quarters of the year.

Example 2. A was paid wages of $3,600 in January 1951, and $3,600 in January 1952. He became 65 in April 1952, and filed application for benefits in that month. A has 4 quarters of coverage for 1951 since he was paid wages of $3,600 in that year. However, at the time A filed his application he is credited with only two quarters of coverage for 1952, even though he had already been paid wages of $3,600 in that year, since no quarter can be counted as a quarter of coverage until the quarter begins. Had he filed application in October 1952, he would be credited with four quarters of coverage for that year.

Example 3. A was paid wages of $200 a month in April, May, and June 1951. A also had self-employment income of $3,000 during his taxable year beginning February 1, 1951, and ending January 31, 1952. All four quarters of 1951 and the first quarter of 1952 are quarters of coverage for A, since his wages and self-employment income aggregated $3,600 for the taxable year and each of the five quarters occurred in, or partly in, such year.

§ 404.105 *Allocation of 1937 wages.* In 1937, employers reported wages paid their employees on a semi-annual basis, rather than on a quarterly basis as they have done since. It is necessary to allocate those wages to the calendar quarters of 1937 to determine the quarters of coverage of individuals in that year. Such allocation is made as follows:

(a) If wages of not less than $100 were paid in any semi-annual period in 1937 (i. e., period of 6 months commencing either January 1 or July 1), one-half of the total amount thereof shall be deemed to have been paid in each of the calendar quarters in such period.

(b) If wages of less than $100 were paid in any such period, the total amount thereof shall be deemed to have been paid in the latter quarter of such period, except that if in any such period the individual attained age sixty-five all of the wages paid in such period shall be deemed to have been paid before such age was attained.

Example. C attained age 65 on October 19, 1937. He was paid wages of $59 in the 6-month period commencing January 1, 1937, and wages of $63 in the 6-month period commencing July 1, 1937. C has 2 quarters of coverage in 1937. $59 is deemed to have been paid in the latter quarter of the 6-month period commencing January 1, 1937. $63 is deemed to have been paid in the latter quarter of the 6-month period commencing July 1, 1937, and prior to his attainment of age 65.

§ 404.106 *Crediting self-employment income to calendar quarters.* Self-employment income is reported annually. However, it must be credited to calendar quarters in order to make possible the computation of the individual's average monthly wage (see §§ 404.205–404.210 inclusive) and the determination of his quarters of coverage. This crediting is accomplished by the following procedure:

(a) Where the taxable year is a calendar year, the self-employment income of such taxable year is credited equally to each quarter of such calendar year;

(b) Where the taxable year is not a calendar year (i. e., it commences on a date other than January 1, or is less than a calendar year), the self-employment

income is credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters, any part of which is in such taxable year.

Example. B's taxable year began September 1, 1951, and ended at his death January 31, 1952. During that taxable year B received $2,400 in self-employment income. $800 is credited to each of the calendar quarters ending March 31, 1952, December 31, 1951, and September 30, 1951.

§ 404.107 *Fully insured status where individual died before September 1, 1950.* An individual who died before September 1, 1950, was fully insured if he had not less than one quarter of coverage (no matter when acquired) for each two of the quarters elapsing after either 1936 or the quarter in which he attained age twenty-one (whichever is later), and up to, but excluding, the quarter in which he either attained age 65 or died (whichever first occurred); provided that he had at least six quarters of coverage in any event. If the number of quarters elapsing after 1936 or the attainment of age 21 (whichever is applicable) is odd, one is subtracted from such number before this formula is applied. (Subpart N of this part sets out circumstances under which certain veterans of World War II shall be deemed to have died fully insured.)

Example 1. A attained age 21 on September 25, 1945. He died February 14, 1950. 17 quarters elapsed after the quarter A attained age 21 (3d quarter of 1945) and before the quarter of his death (1st quarter of 1950). Since the number of elapsed quarters is odd, it is reduced to 16. Eight quarters of coverage are therefore required for a fully insured status. His wage record is as follows: No wages prior to 1945; $30 in the 4th quarter of 1945; $300 in each of the last three quarters of 1946; $375 in each of the 1st three quarters of 1947; $350 in the 1st quarter and $150 in the 2d quarter of 1948; no wages after 1948. A had three quarters of coverage in 1946, three in 1947, and two in 1948, making a total of eight quarters of coverage. A was, accordingly, fully insured.

Example 2. A attained age 65 on July 4, 1939. He died August 25, 1950. Since only 10 quarters elapsed after 1936 and before the quarter in which he attained age 65, a minimum of 6 quarters of coverage was required for a fully insured status. A had been paid wages of $20 per month from February 1, 1940, to July 31, 1941, $50 in December 1949, $30 in each of the months of March, May, June, and July 1950; and $18 in August 1950. A had three quarters of coverage in 1940; two quarters of coverage in 1941; one quarter of coverage in 1949 and one quarter of coverage in 1950, making a total of seven quarters of coverage. He was, accordingly, fully insured.

§ 404.108 *Fully insured status where individual did not die before September 1, 1950.* An individual who did not die before September 1, 1950, is fully insured if he has not less than:

(a) One quarter of coverage (no matter when acquired) for each two of the quarters elapsing after either 1950 or the quarter in which he attained age twenty-one (whichever is later), and up to, but excluding, the quarter in which he either attained age 65 or died (whichever first occurred), provided that he had at least six quarters of coverage in any event; or

(b) Forty quarters of coverage.

If the number of quarters elapsing after 1950 or the attainment of age 21 (whichever is applicable) is odd, one is subtracted from such number before the formula in paragraph (a) of this section is applied. (Subpart N of this part sets out circumstances under which certain veterans of World War II shall be deemed to have died fully insured.)

Example. A attained age 21 on January 1, 1935. He died on September 21, 1975. He was paid wages of $3,000 per year in monthly salary payments from January 1, 1937, to August 31, 1948. He received no wages or self-employment income after August 1948. A had 47 quarters of coverage. 98 quarters had elapsed after 1950 and before his death, and one-half of that number would be 49. But since A had more than 40 quarters of coverage (even though they were acquired before 1951), he was fully insured.

§ 404.109 *Currently insured status.* An individual is currently insured if he has not less than six quarters of coverage during any one of the following periods:

(a) The thirteen-quarter period ending with the quarter in which he died; or

(b) The thirteen-quarter period ending with the quarter in which he became entitled to old-age insurance benefits (see § 404.303) after August 1950; or

(c) The thirteen-quarter period ending with the quarter in which he became entitled to primary insurance benefits (see § 403.402 of this chapter (Regulations 3)), before September 1950.

Example. A became entitled to primary insurance benefits in January 1950. At that time he had been paid no wages since 1945. After becoming entitled to benefits, he acquired 4 quarters of coverage in 1950 and two in the first half of 1951. He died in December 1951. Although A did not have six quarters of coverage in the 13-quarter period ending with the quarter in which he became entitled to primary insurance benefits (the 1st quarter of 1950) or in the 13-quarter period ending with the quarter in which he became entitled to old-age insurance benefits (the 3d quarter of 1950), he was currently insured because he had six quarters of coverage in the 13-quarter period ending with the quarter in which he died (the last quarter of 1951).

SUBPART C—BASIC COMPUTATION OF BENEFITS AND LUMP SUMS

NOTE: §§ 404.201 to 404.215 interpret or apply sec. 215, 64 Stat. 506; 42 U. S. C. 415.

§ 404.201 *Primary insurance amount defined.* The primary insurance amount is the monthly amount payable to an individual after August 1950 who has fulfilled all the conditions of entitlement to an old-age insurance benefit under section 202(a) of the act (see § 404.303). The primary insurance amount is also the amount payable to an individual who was entitled to a primary insurance benefit for August 1950 (see § 403.402 of this chapter (Regulation 3) after conversion of such primary insurance benefit under the table in § 404.203. It also constitutes the measure of the amount of all other monthly benefits under section 202 of the act and the lump-sum payable under section 202(i) of the act (see § 404.343). The primary insurance amount of an individual who is a fully insured or currently insured individual must always be computed for the purpose of measuring the amount of such other benefit and of the lump sum even though the individual dies without having been entitled to receive any payment under section 202(a) of the act.

§ 404.202 *Method of determining primary insurance amount*—(a) *Individual attained age 22 after 1950 and has six quarters of coverage after 1950.* The primary insurance amount of an individual who attained or would have attained age 22 after 1950 and who has six quarters of coverage (see § 404.104) after 1950 shall be 50 per centum of his average monthly wage if such average monthly wage exceeds $49 but does not exceed $100. If the average monthly wage exceeds $100, his primary insurance amount shall be 50 per centum of $100 plus 15 per centum of the amount by which the average monthly wage exceeds $100 but does not exceed $300. Any primary insurance amount which is not a multiple of 10 cents shall be raised to the next higher multiple of 10 cents. If the individual's average monthly wage is less than $50, the primary insurance amount is that amount in column II of the following table, which is on the line on which appears the individual's average monthly wage in column I of such table:

I	II
Average monthly wage:	*Primary insurance Amount*
$30 or less	$20
$31	21
$32	22
$33	23
$34	24
$35 to $49	25

(b) *Individual attained age 22 prior to 1951 and has six quarters of coverage after 1950.* The primary insurance amount of an individual who attained age 22 prior to 1951 and who has six quarters of coverage (see § 404.104) after 1950 is the larger of the following:

(1) The primary insurance amount as computed under paragraph (a) of this section, or

(2) The primary insurance amount as determined by use of the conversion table in § 404.203.

(c) *All other cases.* The primary insurance amount of all other individuals shall be determined by the use of the conversion table in § 404.203.

§ 404.203 *Use of conversion table to determine primary insurance amount.* For the purpose of paragraphs (b) (2) and (c) of § 404.202 the primary insurance amount of an individual is the amount appearing in column II of the following table on the line on which in column I appears his primary insurance benefit as determined by § 404.204. The average monthly wage of any such individual shall, for purposes of section 203 (a) of the act (see § 404.402) be the amount appearing in column III of the following table on the line on which in column I appears his primary insurance benefit.

If the primary insurance benefit (as determined under § 404.204) is—	The primary insurance amount shall be—	And the average monthly wage for computing the maximum under sec. 203(a) of the act shall be—
$10.00	$20.00	$40.00
$10.01–$10.04	20.10	40.20
$10.05–$10.08	20.20	40.40
$10.09–$10.15	20.30	40.60
$10.16–$10.20	20.40	40.80
$10.21–$10.24	20.50	41.00
$10.25–$10.28	20.60	41.20
$10.29–$10.35	20.70	41.40
$10.36–$10.40	20.80	41.60
$10.41–$10.44	20.90	41.80
$10.45–$10.48	21.00	42.00
$10.49–$10.55	21.10	42.20
$10.56–$10.60	21.20	42.40
$10.61–$10.64	21.30	42.60
$10.65–$10.68	21.40	42.80
$10.69–$10.75	21.50	43.00
$10.76–$10.80	21.60	43.20
$10.81–$10.84	21.70	43.40
$10.85–$10.88	21.80	43.60
$10.89–$10.95	21.90	43.80
$10.96–$11.00	22.00	44.00
$11.01–$11.04	22.10	44.20
$11.05–$11.08	22.20	44.40
$11.09–$11.15	22.30	44.60
$11.16–$11.20	22.40	44.80
$11.21–$11.24	22.50	45.00
$11.25–$11.28	22.60	45.20
$11.29–$11.35	22.70	45.40
$11.36–$11.40	22.80	45.60
$11.41–$11.44	22.90	45.80
$11.45–$11.48	23.00	46.00
$11.49–$11.55	23.10	46.20
$11.56–$11.60	23.20	46.40
$11.61–$11.64	23.30	46.60
$11.65–$11.68	23.40	46.80
$11.69–$11.75	23.50	47.00
$11.76–$11.80	23.60	47.20
$11.81–$11.84	23.70	47.40
$11.85–$11.88	23.80	47.60
$11.89–$11.95	23.90	47.80
$11.96–$12.00	24.00	48.00
$12.01–$12.04	24.10	48.20
$12.05–$12.08	24.20	48.40
$12.09–$12.15	24.30	48.60
$12.16–$12.20	24.40	48.80
$12.21–$12.24	24.50	49.00
$12.25–$12.28	24.60	49.20
$12.29–$12.35	24.70	49.40
$12.36–$12.40	24.80	49.60
$24.41–$12.44	24.90	49.80
$12.45–$12.48	25.00	50.00
$12.49–$12.55	25.10	50.20
$12.56–$12.60	25.20	50.40
$12.61–$12.64	25.30	50.60
$12.65–$12.68	25.40	50.80
$12.69–$12.75	25.50	51.00
$12.76–$12.80	25.60	51.20
$12.81–$12.84	25.70	51.40
$12.85–$12.88	25.80	51.60
$12.89–$12.95	25.90	51.80
$12.96–$13.00	26.00	52.00
$13.01–$13.04	26.10	52.20
$13.05–$13.08	26.20	52.40
$13.09–$13.15	26.30	52.60
$13.16–$13.20	26.40	52.80
$13.21–$13.24	26.50	53.00
$13.25–$13.28	26.60	53.20
$13.29–$13.35	26.70	53.40
$13.36–$13.40	26.80	53.60
$13.41–$13.44	26.90	53.80
$13.45–$13.48	27.00	54.00
$13.49–$13.55	27.10	54.20
$13.56–$13.60	27.20	54.40
$13.61–$13.64	27.30	54.60
$13.65–$13.68	27.40	54.80
$13.69–$13.75	27.50	55.00
$13.76–$13.80	27.60	55.20
$13.81–$13.84	27.70	55.40
$13.85–$13.88	27.80	55.60
$13.89–$13.95	27.90	55.80
$13.96–$14.00	28.00	56.00
$14.01–$14.04	28.10	56.20
$14.05–$14.08	28.20	56.40
$14.09–$14.15	28.30	56.60
$14.16–$14.20	28.40	56.80
$14.21–$14.24	28.50	57.00
$14.25–$14.28	28.60	57.20
$14.29–$14.35	28.70	57.40
$14.36–$14.40	28.80	57.60
$14.41–$14.44	28.90	57.80
$14.45–$14.48	29.00	58.00
$14.49–$14.55	29.10	58.20
$14.56–$14.60	29.20	58.40
$14.61–$14.64	29.30	58.60
$14.65–$14.68	29.40	58.80
$14.69–$14.75	29.50	59.00
$14.76–$14.80	29.60	59.20
$14.81–$14.84	29.70	59.40
$14.85–$14.88	29.80	59.60
$14.89–$14.95	29.90	59.80
$14.96–$15.00	30.00	60.00
$15.01–$15.04	30.10	60.20
$15.05–$15.12	30.20	60.40
$15.13–$15.17	30.30	60.60
$15.18–$15.24	30.40	60.80
$15.25–$15.28	30.50	61.00
$15.29–$15.36	30.60	61.20
$15.37–$15.41	30.70	61.40
$15.42–$15.48	30.80	61.60
$15.49–$15.52	30.90	61.80
$15.53–$15.60	31.00	62.00
$15.61–$15.64	31.10	62.20
$15.65–$15.68	31.20	62.40
$15.69–$15.76	31.30	62.60
$15.77–$15.80	31.40	62.80
$15.81–$15.88	31.50	63.00
$15.89–$15.92	31.60	63.20
$15.93–$16.00	31.70	63.40
$16.01–$16.04	31.80	63.60
$16.05–$16.13	31.90	63.80
$16.14–$16.20	32.00	64.00
$16.21–$16.24	32.10	64.20
$16.25–$16.32	32.20	64.40
$16.33–$16.40	32.30	64.60
$16.41–$16.44	32.40	64.80
$16.45–$16.52	32.50	65.00
$16.53–$16.60	32.60	65.20
$16.61–$16.66	32.70	65.40
$16.67–$16.72	32.80	65.60
$16.73–$16.80	32.90	65.80
$16.81–$16.84	33.00	66.00
$16.85–$16.93	33.10	66.20
$16.94–$17.00	33.20	66.40
$17.01–$17.08	33.30	66.60
$17.09–$17.16	33.40	66.80
$17.17–$17.23	33.50	67.00
$17.24–$17.32	33.60	67.20
$17.33–$17.36	33.70	67.40
$17.37–$17.44	33.80	67.60
$17.45–$17.54	33.90	67.80
$17.55–$17.60	34.00	68.00
$17.61–$17.68	34.10	68.20
$17.69–$17.76	34.20	68.40
$17.77–$17.84	34.30	68.60
$17.85–$17.92	34.40	68.80
$17.93–$18.00	34.50	69.00
$18.01–$18.08	34.60	69.20
$18.09–$18.17	34.70	69.40
$18.18–$18.24	34.80	69.60
$18.25–$18.32	34.90	69.80
$18.33–$18.40	35.00	70.00
$18.41–$18.50	35.10	70.20
$18.51–$18.56	35.20	70.40
$18.57–$18.68	35.30	70.60
$18.69–$18.76	35.40	70.80
$18.77–$18.83	35.50	71.00
$18.84–$18.92	35.60	71.20
$18.93–$19.00	35.70	71.40
$19.01–$19.08	35.80	71.60
$19.09–$19.15	35.90	71.80
$19.16–$19.24	36.00	72.00
$19.25–$19.32	36.10	72.20
$19.33–$19.36	36.20	72.40
$19.37–$19.46	36.30	72.60
$19.47–$19.52	36.40	72.80
$19.53–$19.60	36.50	73.00
$19.61–$19.68	36.60	73.20
$19.69–$19.77	36.70	73.40
$19.78–$19.84	36.80	73.60
$19.85–$19.92	36.90	73.80
$19.93–$20.00	37.00	74.00
$20.01–$20.06	37.10	74.20
$20.07–$20.12	37.20	74.40
$20.13–$20.20	37.30	74.60
$20.21–$20.24	37.40	74.80
$20.25–$20.33	37.50	75.00
$20.34–$20.40	37.60	75.20
$20.41–$20.44	37.70	75.40
$20.45–$20.52	37.80	75.60
$20.53–$20.60	37.90	75.80
$20.61–$20.64	38.00	76.00
$20.65–$20.72	38.10	76.20
$20.73–$20.80	38.20	76.40
$20.81–$20.86	38.30	76.60
$20.87–$20.92	38.40	76.80
$20.93–$21.00	38.50	77.00
$21.01–$21.04	38.60	77.20
$21.05–$21.12	38.70	77.40
$21.13–$21.16	38.80	77.60
$21.17–$21.24	38.90	77.80
$21.25–$21.28	39.00	78.00
$21.29–$21.35	39.10	78.20
$21.36–$21.40	39.20	78.40
$21.41–$21.48	39.30	78.60
$21.49–$21.52	39.40	78.80
$21.53–$21.59	39.50	79.00
$21.60–$21.64	39.60	79.20
$21.65–$21.68	39.70	79.40
$21.69–$21.76	39.80	79.60
$21.77–$21.82	39.90	79.80
$21.83–$21.88	40.00	80.00
$21.89–$21.92	40.10	80.20
$21.93–$22.00	40.20	80.40
$22.01–$22.05	40.30	80.60
$22.06–$22.08	40.40	80.80
$22.09–$22.16	40.50	81.00
$22.17–$22.20	40.60	81.20
$22.21–$22.25	40.70	81.40
$22.26–$22.28	40.80	81.60
$22.29–$22.36	40.90	81.80
$22.37–$22.40	41.00	82.00
$22.41–$22.45	41.10	82.20
$22.46–$22.48	41.20	82.40
$22.49–$22.56	41.30	82.60
$22.57–$22.60	41.40	82.80
$22.61–$22.65	41.50	83.00
$22.66–$22.68	41.60	83.20
$22.69–$22.76	41.70	83.40
$22.77–$22.80	41.80	83.60
$22.81–$22.85	41.90	83.80
$22.86–$22.88	42.00	84.00
$22.89–$22.96	42.10	84.20
$22.97–$23.00	42.20	84.40
$23.01–$23.04	42.30	84.60
$23.05–$23.08	42.40	84.80
$23.09–$23.12	42.50	85.00
$23.13–$23.16	42.60	85.20
$23.17–$23.21	42.70	85.40
$23.22–$23.24	42.80	85.60
$23.25–$23.28	42.90	85.80
$23.29–$23.32	43.00	86.00
$23.33–$23.39	43.10	86.20
$23.40–$23.44	43.20	86.40
$23.45–$23.48	43.30	86.60
$23.49–$23.52	43.40	86.80
$23.53–$23.56	43.50	87.00
$23.57–$23.60	43.60	87.20
$23.61–$23.64	43.70	87.40
$23.65–$23.68	43.80	87.60
$23.69–$23.74	43.90	87.80
$23.75–$23.76	44.00	88.00
$23.77–$23.80	44.10	88.20
$23.81–$23.88	44.20	88.40
$23.89–$23.91	44.30	88.60
$23.92–$23.96	44.40	88.80
$23.97–$24.00	44.50	89.00
$24.01–$24.04	44.60	89.20
$24.05–$24.10	44.70	89.40
$24.11–$24.16	44.80	89.60
$24.17–$24.20	44.90	89.80
$24.21–$24.24	45.00	90.00
$24.25–$24.30	45.10	90.20
$24.31–$24.36	45.20	90.40
$24.37–$24.40	45.30	90.60
$24.41–$24.44	45.40	90.80
$24.45–$24.50	45.50	91.00
$24.51–$24.56	45.60	91.20
$24.57–$24.60	45.70	91.40
$24.61–$24.64	45.80	91.60
$24.65–$24.70	45.90	91.80
$24.71–$24.76	46.00	92.00
$24.77–$24.80	46.10	92.20
$24.81–$24.84	46.20	92.40
$24.85–$24.90	46.30	92.60
$24.91–$24.96	46.40	92.80
$24.97–$25.00	46.50	93.00
$25.01–$25.04	46.60	93.20
$25.05–$25.11	46.70	93.40
$25.12–$25.16	46.80	93.60
$25.17–$23.20	46.90	93.80
$25.21–$25.28	47.00	94.00
$25.29–$25.33	47.10	94.20
$25.34–$25.40	47.20	94.40
$25.41–$25.44	47.30	94.60
$25.45–$25.48	47.40	94.80
$25.49–$25.55	47.50	95.00
$25.56–$25.60	47.60	95.20
$25.61–$25.64	47.70	95.40
$25.65–$25.72	47.80	95.60
$25.73–$25.78	47.90	95.80
$25.79–$25.84	48.00	96.00
$25.85–$25.88	48.10	96.20
$25.89–$25.92	48.20	96.40
$25.93–$26.00	48.30	96.60
$26.01–$26.04	48.40	96.80
$26.05–$26.12	48.50	97.00
$26.13–$26.16	48.60	97.20
$26.17–$26.23	48.70	97.40
$26.24–$26.28	48.80	97.60
$26.29–$26.36	48.90	97.80
$26.37–$26.40	49.00	98.00
$26.41–$26.47	49.10	98.20
$26.48–$26.52	49.20	98.40
$26.53–$26.60	49.30	98.60
$26.61–$26.64	49.40	98.80
$26.65–$26.70	49.50	99.00
$26.71–$26.76	49.60	99.20
$26.77–$26.80	49.70	99.40
$26.81–$26.88	49.80	99.60
$26.89–$26.94	49.90	99.80
$26.95–$27.00	50.00	100.00
$27.01–$27.04	50.10	100.67
$27.05–$27.12	50.20	101.33
$27.13–$27.20	50.30	102.00
$27.21–$27.24	50.40	102.67
$27.25–$27.32	50.50	103.33
$27.33–$27.40	50.60	104.00
$27.41–$27.46	50.70	104.67
$27.47–$27.52	50.80	105.33
$27.53–$27.60	50.90	106.00
$27.61–$27.64	51.00	106.67
$27.65–$27.73	51.10	107.33
$27.74–$27.80	51.20	108.00
$27.81–$27.84	51.30	108.67
$27.85–$27.92	51.40	109.33

If the primary insurance benefit (as determined under § 404.204) is—	The primary insurance amount shall be—	And the average monthly wage for computing the maximum under sec. 203(a) of the act shall be—
$27.93–$28.00	$51.50	$110.00
$28.01–$28.08	51.60	110.66
$28.09–$28.16	51.70	111.32
$28.17–$28.24	51.80	111.98
$28.25–$28.31	51.90	112.65
$28.32–$28.36	52.00	113.31
$28.37–$28.44	52.10	113.97
$28.45–$28.52	52.20	114.63
$28.53–$28.61	52.30	115.29
$28.62–$28.68	52.40	115.95
$28.69–$28.76	52.50	116.62
$28.77–$28.84	52.60	117.28
$28.85–$28.92	52.70	117.94
$28.93–$29.00	52.80	118.60
$29.01–$29.08	52.90	119.27
$29.09–$29.16	53.00	119.93
$29.17–$29.25	53.10	120.60
$29.26–$29.32	53.20	121.27
$29.33–$29.40	53.30	121.93
$29.41–$29.48	53.40	122.60
$29.49–$29.58	53.50	123.27
$29.59–$29.68	53.60	123.93
$29.69–$29.76	53.70	124.60
$29.77–$29.84	53.80	125.27
$29.85–$29.92	53.90	125.93
$29.93–$30.00	54.00	126.60
$30.01–$30.08	54.10	127.27
$30.09–$30.16	54.20	127.95
$30.17–$30.27	54.30	128.62
$30.28–$30.36	54.40	129.29
$30.37–$30.44	54.50	129.96
$30.45–$30.52	54.60	130.64
$30.53–$30.64	54.70	131.31
$30.65–$30.72	54.80	131.98
$30.73–$30.80	54.90	132.65
$30.81–$30.92	55.00	133.33
$30.93–$31.00	55.10	134.00
$31.01–$31.08	55.20	134.66
$31.09–$31.16	55.30	135.33
$31.17–$31.28	55.40	135.99
$31.29–$31.36	55.50	136.65
$31.37–$31.44	55.60	137.32
$31.45–$31.52	55.70	137.98
$31.53–$31.64	55.80	138.65
$31.65–$31.73	55.90	139.31
$31.74–$31.80	56.00	139.97
$31.81–$31.92	56.10	140.64
$31.93–$32.00	56.20	141.30
$32.01–$32.10	56.30	141.97
$32.11–$32.20	56.40	142.64
$32.21–$32.28	56.50	143.31
$32.29–$32.40	56.60	143.98
$32.41–$32.50	56.70	144.65
$32.51–$32.60	56.80	145.32
$32.61–$32.68	56.90	145.99
$32.69–$32.80	57.00	146.66
$32.81–$32.90	57.10	147.33
$32.91–$33.00	57.20	148.00
$33.01–$33.08	57.30	148.66
$33.09–$33.20	57.40	149.32
$33.21–$33.30	57.50	149.98
$33.31–$33.40	57.60	150.64
$33.41–$33.48	57.70	151.30
$33.49–$33.60	57.80	151.96
$33.61–$33.70	57.90	152.62
$33.71–$33.80	58.00	153.28
$33.81–$33.88	58.10	153.94
$33.89–$34.00	58.20	154.60
$34.01–$34.10	58.30	155.27
$34.11–$34.20	58.40	155.94
$34.21–$34.28	58.50	156.61
$34.29–$34.40	58.60	157.28
$34.41–$34.50	58.70	157.95
$34.51–$34.60	58.80	158.62
$34.61–$34.68	58.90	159.29
$34.69–$34.80	59.00	159.96
$34.81–$34.90	59.10	160.63
$34.91–$35.00	59.20	161.30
$35.01–$35.08	59.30	161.97
$35.09–$35.20	59.40	162.64
$35.21–$35.30	59.50	163.31
$35.31–$35.40	59.60	163.98
$35.41–$35.48	59.70	164.65
$35.49–$35.60	59.80	165.32
$35.61–$35.70	59.90	165.99
$35.71–$35.80	60.00	166.66
$35.81–$35.88	60.10	167.33
$35.89–$36.00	60.20	168.00
$36.01–$36.10	60.30	168.66
$36.11–$36.20	60.40	169.32
$36.21–$36.28	60.50	169.98
$36.29–$36.40	60.60	170.64
$36.41–$36.50	60.70	171.30
$36.51–$36.60	60.80	171.96
$36.61–$36.68	60.90	172.62
$36.69–$36.80	61.00	173.28
$36.81–$36.90	61.10	173.94
$36.91–$37.00	61.20	174.60
$37.01–$37.08	61.30	175.27
$37.09–$37.20	61.40	175.94
$37.21–$37.30	61.50	176.61
$37.31–$37.40	61.60	177.28
$37.41–$37.48	61.70	177.95
$37.49–$37.60	61.80	178.62
$37.61–$37.70	61.90	179.29
$37.71–$37.80	$62.00	$179.96
$37.81–$37.88	62.10	180.63
$37.89–$38.00	62.20	181.30
$38.01–$38.11	62.30	181.97
$38.12–$38.20	62.40	182.63
$38.21–$38.32	62.50	183.30
$38.33–$38.44	62.60	183.97
$38.45–$38.56	62.70	184.63
$38.57–$38.68	62.80	185.30
$38.69–$38.76	62.90	185.97
$38.77–$38.88	63.00	186.63
$38.89–$39.00	63.10	187.30
$39.01–$39.12	63.20	188.16
$39.13–$39.20	63.30	189.01
$39.21–$39.32	63.40	189.87
$39.33–$39.44	63.50	190.72
$39.45–$39.56	63.60	191.58
$39.57–$39.68	63.70	192.43
$39.69–$39.76	63.80	193.29
$39.77–$39.89	63.90	194.14
$39.90–$40.00	64.00	195.00
$40.01–$40.12	64.10	196.67
$40.13–$40.20	64.20	198.33
$40.21–$40.33	64.30	200.00
$40.34–$40.44	64.40	201.67
$40.45–$40.56	64.50	203.33
$40.57–$40.68	64.60	205.00
$40.69–$40.78	64.70	206.67
$40.79–$40.88	64.80	208.33
$40.89–$41.00	64.90	210.00
$41.01–$41.12	65.00	211.11
$41.13–$41.22	65.10	212.22
$41.23–$41.32	65.20	213.33
$41.33–$41.44	65.30	214.44
$41.45–$41.56	65.40	215.56
$41.57–$41.67	65.50	216.67
$41.68–$41.76	65.60	217.78
$41.77–$41.88	65.70	218.89
$41.89–$42.00	65.80	220.00
$42.01–$42.11	65.90	221.11
$42.12–$42.20	66.00	222.22
$42.21–$42.32	66.10	223.33
$42.33–$42.44	66.20	224.44
$42.45–$42.56	66.30	225.56
$42.57–$42.68	66.40	226.67
$42.69–$42.76	66.50	227.78
$42.77–$42.88	66.60	228.89
$42.89–$43.00	66.70	230.00
$43.01–$43.12	66.80	231.11
$43.13–$43.20	66.90	232.22
$43.21–$43.32	67.00	233.33
$43.33–$43.44	67.10	234.44
$43.45–$43.56	67.20	235.56
$43.57–$43.68	67.30	236.67
$43.69–$43.76	67.40	237.78
$43.77–$43.89	67.50	238.89
$43.90–$44.00	67.60	240.00
$44.01–$44.12	67.70	241.11
$44.13–$44.20	67.80	242.22
$44.21–$44.33	67.90	243.33
$44.34–$44.44	68.00	244.44
$44.45–$44.56	68.10	245.56
$44.57–$44.68	68.20	246.67
$44.69–$44.78	68.30	247.78
$44.79–$44.88	68.40	248.89
$44.89–$45.60	68.50	250.00

§ 404.204 *Determination of primary insurance benefit for conversion table.* For purposes of § 404.203 the primary insurance benefit of an individual shall be as follows:

(a) *Individual entitled to primary insurance benefit on August 1950.* If the individual was entitled to a primary insurance benefit (see § 403.301 of this chapter (Regulations 3)) for August 1950 his primary insurance benefit shall be the primary insurance benefit to which he was entitled for such month, except that if such individual is a World War II veteran (see § 404.1321) or he had rendered services for wages of $15 or more in August 1950, his primary insurance benefit shall be the larger of the following:

(1) The primary insurance benefit to which he was entitled for August 1950 or

(2) The primary insurance benefit to which he was entitled for August 1950 as recomputed under section 209 (q) of the act in effect prior to the Social Security Act Amendments of 1950 (§403.304 of this chapter (Regulations 3)), or in the case of a World War II veteran as recomputed to include wage credits allowable for World War II service under § 404.1305. Such recomputation is to be made as though application has been filed therefor on August 31, 1950.

(b) *Individual died prior to September 1950.* The primary insurance benefit of an individual who died prior to September 1950 is his primary insurance benefit as computed under the act in effect prior to the Social Security Act Amendments of 1950 (see § 403.301 et seq. of this chapter (Regulations No. 3)), except that if the individual was a World War II veteran his primary insurance benefit shall be computed so as to include wage credits allowable for World War II service under § 404.1305, but only if it results in a primary insurance benefit higher than that obtained under section 210 of the act in effect prior to the Social Security Act Amendments of 1950.

(c) *Other cases.* In all other cases, the primary insurance benefit of an individual shall be computed under the provisions of title II in effect prior to the Social Security Act Amendments of 1950, except that

(1) His average monthly wage shall be determined under the provisions of §§ 404.205–404.211, using as his starting date December 31, 1936;

(2) The date the individual became entitled to old-age insurance benefits shall be deemed the date he became entitled to primary insurance benefits; and

(3) The one per centum addition provided for in section 209 (e) (2) of the act in effect prior to the Social Security Act Amendments of 1950 (§ 403.301 of this chapter (Regulations 3)) shall be applicable only with respect to calendar years prior to 1951.

§ 404.205 *Method of determining average monthly wage.* An individual's average monthly wage, for the purpose of computing his primary insurance amount, is computed by dividing

(a) His total wages after his starting date and before his wage closing date, and

(b) His total self-employment income after such starting date and before his self-employment income closing date

by the number of months elapsing after such starting date and before his divisor closing date. There shall be excluded from the divisor any month in any quarter before the quarter in which such individual attained the age of 22 which was not a quarter of coverage, except that if the number of elapsed months is less than 18, it is increased to 18.

§ 404.206 *Wages and self-employment income used in determining average monthly wage.* For the purposes of § 404.205, "total wages" and "total self-employment income" shall include—

(a) All wages after an individual's starting date and before his wage closing date and all self-employment income after such starting date and before his self-employment closing date. Such wages and self-employment income shall not include, however, the excess over

$3,600 of wages paid in and self-employment income credited to any calendar year after 1950, or any self-employment income for taxable years ending in or after the month in which the individual died or became entitled to old-age insurance benefits, whichever first occurred.

(b) All wage credits established or preserved pursuant to section 2 (b) of the act of June 14, 1948 (62 Stat. 438) (see § 404.813);

(c) All wage credits which have become conclusive pursuant to section 205 (c) of the act (see § 404.804);

(d) All wages deemed paid to an individual by reason of his active military or naval service during World War II, provided such wages are otherwise creditable under the provisions of Subpart N of this part;

(e) All compensation certified to the Administration by the Railroad Retirement Board pursuant to section 5 (k) (3) of the Railroad Retirement Act, provided such compensation may otherwise be treated as wages under the provisions of Subpart O of this part.

§ 404.207 *Rounding average monthly wage.* If the average monthly wage as computed under § 404.205 is not a multiple of $1, it is reduced to the next lower multiple of $1.

§ 404.208 *Starting date.* An individual's "starting date" for purposes of § 404.205 is December 31, 1950, or if later, the day before the quarter in which such individual attained the age of 22, whichever results in a higher average monthly wage, except that if such individual's primary insurance amount is determined by use of the conversion table (§ 404.203) and under the provisions of § 404.204 (c), his starting date shall be December 31, 1936.

§ 404.209 *Closing date.* For purposes of § 404.205—(a) *Wage closing date.* An individual's "wage closing date" is the first day of the second quarter before the quarter in which such individual died or became entitled to old-age insurance benefits, whichever first occurred.

(b) *Self-employment closing date.* An individual's "self-employment income closing date" is the first day of the quarter following the end of such individual's last taxable year provided that

(1) Such year ended before the month in which he died or became entitled to old-age insurance benefits, whichever first occurred and

(2) He derived self-employment income during such year.

(c) *Divisor closing date.* An individual's "divisor closing date" is such individual's "wage closing date" or "self-employment income closing date" whichever is the later.

However, if such individual died or became entitled to old-age insurance benefits after the first quarter in which he was both fully insured (see § 404.108) and had attained age 65, his closing dates under paragraphs (a), (b), and (c) of this section shall be determined as though he became entitled to old-age insurance benefits in such first quarter, if a higher average monthly wage would result.

Example. A attained age 65 on December 1, 1953, and filed an application for old-age insurance benefits on December 15, 1953. He had self-employment income of $3,600 for the calendar year 1951 and for the calendar year 1952. A's "wage closing date" is April 1, 1953. His "self-employment income closing date" is January 1, 1953. His "divisor closing date" is April 1, 1953.

§ 404.210 *Average monthly wage for conversion table.* For the purpose of computing maximum benefits, the average monthly wage of an individual whose primary insurance amount is determined by use of the conversion table (see § 404.203) is the appropriate amount in column III of the conversion table.

§ 404.211 *Average monthly wage of veteran of World War II.* Where entitlement to any monthly insurance benefit or a lump sum is based on the guaranteed-insured status granted to a veteran of World War II under the provisions of section 217(b) of the act (see § 404.1311), the average monthly wage of such veteran shall be deemed to be $160.

§ 404.212 *Recomputation of benefits for individual entitled to old-age insurance benefits.* An individual entitled to old-age insurance benefits may secure a recomputation of his primary insurance amount under either paragraph (a) or (b) of this section.

(a) *Where requested at least 6 months after entitlement.* Recomputation is permitted under this paragraph if the individual files an application therefor at least 6 months after the month in which he became so entitled. Such recomputation shall be made in the same manner as is provided in §§ 404.202–404.210 for the computation of the primary insurance amount, except that for purposes of § 404.209 such individual's closing date shall be the first day of the quarter in which he became entitled to old-age insurance benefits. Such recomputation shall be effective for and after the first month of entitlement to old-age insurance benefits.

Example. A files for and becomes entitled to benefits in July 1954. His record shows only wages of $2,500 for 1951; $3,000 for 1952; $3,600 for 1953; $1,800 for the first 6 months of 1954. Since his wage closing date is January 1, 1954, none of the wages for 1954 can be used in the computation of his benefit. His monthly benefit is $72.80. A can file an application after January 1955 and have his benefit recomputed to include the wages paid to him prior to July 1, 1954. His wage closing date becomes July 1, 1954. His benefits will then be $73.90. This recomputed benefit will be effective as of July 1954. The difference between the new benefit rate and the old benefit rate will be paid retroactively to July; as the month he filed his application for recomputation he will receive the new benefit rate.

(b) *Where requested after deductions from benefits.* Recomputation is permitted under this paragraph if

(1) The individual files application therefor, and

(2) His benefits were subject to a deduction under section 203 (b) (1) and (2) of the act for at least 12 months (in a 36-month period) after his last computation of his primary insurance amount, and

(3) He has at least 6 quarters of coverage after 1950 and prior to the quarter in which he filed application for recomputation.

The computation shall be made in the same manner as is provided in §§ 404.202 (a) and 404.205–404.209 for the computation of the primary insurance amount as though the wage earner or self-employed individual became entitled to old-age insurance benefits as of the date he filed application for recomputation. Benefits so recomputed shall be effective for and after the month in which such application for recomputation is filed.

Example. A filed an application and became entitled to old-age insurance benefits in November 1950. He returned to work in January 1951 and worked through December 1952. Deductions under section 203 (b) (1) of the act were imposed for all these months. He filed an application for recomputation in January 1953. A has acquired 6 quarters of coverage after 1950 and has had deduction under section 203 (b) (1) for at least 12 months (within a 36-month period). He is eligible for a recomputation. In such a recomputation only his earnings after 1950 and prior to July 1952 can be considered in computing his new primary insurance amount. If his new primary insurance amount is greater than the primary insurance amount upon which his old-age insurance benefit was based, then his benefit for January 1953 and thereafter is based upon his new primary insurance amount.

§ 404.213 *Recomputation of benefits for survivors*—(a) *Where requested at least 6 months after individual's entitlement or death.* A survivor entitled to monthly benefits on the basis of the wages and self-employment income of an individual who died after August 1950 may secure a recomputation of such deceased individual's primary insurance amount provided such survivor files an application therefor at least 6 months after the month of the individual's death or entitlement, whichever first occurred. Such recomputation shall be made in the same manner as is provided in §§ 404.202–404.210 for the computation of the primary insurance amount except that for purposes of § 404.209 such individual's closing date shall be the first day of the quarter in which he died or became entitled to old-age insurance benefits, whichever first occurred. Such recomputation shall be effective for and after the month in which the survivor who filed the application for recomputation under this paragraph became entitled to such monthly benefits. However, no such recomputation shall affect the amount of a lump-sum death payment (§ 404.343), nor shall it render erroneous any lump-sum death payment certified prior to the effective date of such recomputation.

(b) *Where requested for other reasons.* A survivor entitled to monthly benefits or a lump-sum death payment on the basis of the wages and self-employment income of an individual who died after August 1950 and who had been entitled to an old-age insurance benefit at the time of death, may secure recomputation of the decedent's primary insurance amount without filing application therefor provided:

(1) The decedent would have been entitled to a recomputation under § 404.212 (b) had he filed application therefor in the month of death, or

(2) The decedent during his lifetime was paid compensation under the Railroad Retirement Act (see Subpart O of this part).

(c) *How recomputed, if recomputation based on right of individual.* If recomputation is permitted by paragraph (b) (1) of this section such recomputation shall be made as though the decedent had filed application for recomputation under § 404.212 (b) in the month of death except that such recomputation will also include any railroad compensation (see Subpart O of this part) paid to the decedent prior to the applicable divisor closing date (§ 404.209).

(d) *How recomputed, if recomputation based on railroad compensation.* If recomputation is permitted by paragraph (b) (2) of this section such recomputation shall include only the wages and self-employment income used in the last previous computation of the decedent's primary insurance amount and the railroad compensation (see Subpart O of this part) paid to him prior to the divisor closing date used in such previous computation.

(e) *How recomputed, if recomputation based on both.* If recomputation of the deceased individual's primary insurance amount is permitted under both paragraph (b) (1) and (2) of this section only the recomputation which results in the larger primary insurance amount shall be made.

§ 404.214 *Recomputation for veteran of World War II.* If an individual entitled to old-age insurance benefits is a veteran of World War II and he dies prior to July 27, 1954, his primary insurance amount may be recomputed under the provisions of section 217 (b) of the act.

§ 404.215 *When recomputation is effective.* Any recomputation under the preceding sections shall be effective only if such recomputation results in a higher primary insurance amount.

SUBPART D—OLD-AGE AND SURVIVORS INSURANCE BENEFITS

NOTE: §§ 404.301 to 404.344 interpret or apply sec. 202, 49 Stat. 623, as amended; 42 U. S. C. 402.

§ 404.301 *Types of benefits.* Title II of the act provides for payments of monthly benefits to insured individuals and their dependents, or to the survivors of such individuals, provided that such individuals and dependents, or survivors, meet specified conditions of eligibility. It also states the conditions under which lump-sum death payments will be made. The various types of monthly benefits, and the conditions of eligibility for such benefits and for lump-sum death payments, are set out in this subpart, together with the events causing termination of monthly benefits.

§ 404.302 *Amount of benefit payments.* Ordinarily a beneficiary is paid the monthly benefit or lump sum to which he is entitled in the amount calculated as indicated in the succeeding sections of this subpart. In some instances the amount of the benefit paid for one or more months, or of the lump sum paid, may be greater or less than the amount so calculated because of the provisions of Subparts E and F of this part. See those subparts for full explanation of the circumstances under which these changes occur.

§ 404.303 *Old-age insurance benefits; conditions of entitlement.* An individual is entitled to old-age insurance benefits if he:

(a) Is a fully insured individual (see §§ 404.107–404.108); and

(b) Has attained age 65; and

(c) Has filed an application (see Subpart G of this part) for old-age insurance benefits.

§ 404.304 *Old-age insurance benefits; duration of benefits.* An individual is entitled to an old-age insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. The last month for which such individual is entitled to such benefit is the month preceding the month in which he dies.

§ 404.305 *Old-age insurance benefits; rate of benefit.* The amount of the old-age insurance benefit to which an individual is entitled for any month is equal to his primary insurance amount (see Subpart C of this part) for such month.

§ 404.306 *Wife's insurance benefits; conditions of entitlement.* A wife is entitled to wife's insurance benefits if she:

(a) Is the wife (see § 404.1103) of an individual who is entitled to old-age insurance benefits; and

(b) Has filed an application (see Subpart G of this part) for wife's insurance benefits; and

(c) Either has attained age 65 or, if she has not attained age 65, at the time of filing her application has in her care, individually or jointly with her husband (see § 404.331(b)), a child entitled to a child's insurance benefit (see § 404.312) based upon the wages and self-employment income of her husband; and

(d) Was living with (see § 404.1111) her husband at the time her application was filed; and

(e) Is not entitled to an old-age insurance benefit which is equal to or greater than one-half of an old-age insurance benefit of her husband.

§ 404.307 *Wife's insurance benefits; duration of benefits.* A wife is entitled to a wife's insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such benefit is the month preceding the first month in which any of the following events occurs:

(a) She dies; or

(b) Her husband dies; or

(c) The marriage between the wife and her husband is absolutely and finally terminated by divorce; or

(d) If she has not yet attained age 65, there is no child of her husband entitled to a child's insurance benefit; or

(e) She becomes entitled to an old-age insurance benefit which is equal to or greater than one-half of an old-age insurance benefit of her husband.

§ 404.308 *Wife's insurance benefits; rate of benefit.* The wife's insurance benefit for any month is equal to one-half of the old-age insurance benefit of her husband for that month.

§ 404.309 *Husband's insurance benefits; conditions of entitlement.* A husband is entitled to husband's insurance benefits if he:

(a) Is the husband (see § 404.1106) of an individual who is both currently insured (see § 404.109) and entitled to old-age insurance benefits; and

(b) Has filed an application (see subpart G of this part) for husband's insurance benefits; and

(c) Has attained age 65; and

(d) Was living with (see § 404.1111) his wife at the time his application was filed; and

(e) Was receiving at least one-half of his support (see § 404.332) from his wife at the time she became entitled to old-age insurance benefits, and he filed proof of such support within two years after the month in which she became so entitled; and

(f) Is not entitled to an old-age insurance benefit which is equal to or greater than one-half of the old-age insurance benefit of his wife.

§ 404.310 *Husband's insurance benefits; duration of benefits.* A husband is entitled to a husband's insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. The last month for which he is entitled to such benefit is the month preceding the first month in which any of the following events occurs:

(a) He dies; or

(b) His wife dies; or

(c) The marriage between the husband and his wife is absolutely and finally terminated by divorce; or

(d) He becomes entitled to an old-age insurance benefit which is equal to or greater than one-half of an old-age insurance benefit of his wife.

§ 404.311 *Husband's insurance benefits; rate of benefit.* The husband's insurance benefit for any month is an amount equal to one-half of the old-age insurance benefit of his wife for that month.

§ 404.312 *Child's insurance benefits; conditions of entitlement.* A child is entitled to a child's insurance benefit if he:

(a) Is the child (see § 404.1109) either of an individual entitled to old-age insurance benefits or of an individual who died after 1939 and who was fully or currently insured (see §§ 404.107–404.109 inclusive) at the time of such death; and

(b) Has filed an application (see Subpart G of this part) for child's insurance benefits, and at the time of filing such application was unmarried and had not attained the age of 18; and

(c) Was dependent upon (see §§ 404.315–404.318 inclusive) the individual based upon whose wages and self-

employment income benefits are claimed, either at the time of filing such application (if the individual was then living) or at the time of the individual's death (if he had died prior to such filing).

§ 404.313 *Child's insurance benefits; duration of benefits.* A child is entitled to a child's insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. If the child is born after the death of the individual on the basis of whose wages and self-employment income benefits are claimed, the first month for which the child may be entitled to such a benefit is the month in which such child is born. The last month for which a child is entitled to such benefit is the month preceding the first month in which any of the following events occurs:

(a) The child dies; or

(b) The child marries; or

(c) The child is adopted by anyone other than the individual based upon whose wages and self-employment income such child is entitled to benefits, unless such adoption is by a stepparent, grandparent, aunt, or uncle of the child after the death of such individual; or

(d) The child attains the age of 18.

§ 404.314 *Child's insurance benefits; rate of benefit.* The child's insurance benefit for each month throughout which the individual, based upon whose wages and self-employment income the child is entitled to child's insurance benefits, is alive is an amount equal to one-half of the old-age insurance benefit of such individual for that month. For the month in which such individual dies, or any month subsequent thereto, the child's insurance benefit is an amount equal to the sum of one-half of the primary insurance amount of such individual (see Subpart C of this part) plus one-fourth of such primary insurance amount divided by the number of children entitled to benefits based upon such individual's wages and self-employment income.

Example 1. F is the father of C. F becomes 65 in July 1951 and dies in February 1952. F and C both file in July 1951 for benefits based on the wages and self-employment income of F. Beginning with that month, and up to and including January 1952, C is entitled to a benefit equal in amount to one-half of the old-age insurance benefit of F. Beginning with February 1952, C is entitled to a child's insurance benefit equal in amount to three-fourths of the primary insurance amount of F (i. e., one-half plus one-quarter).

Example 2. F, who died in January 1952, left two children, C and D, each entitled to child's insurance benefits based on the wages and self-employment income of F. C and D are each entitled to a child's insurance benefit equal in amount to five-eighths of the primary insurance amount of F (i. e., one half plus one-half of one quarter).

§ 404.315 *Child's insurance benefits; determination of dependency.* To determine whether a child applying for benefits based upon the wages and self-employment income of an individual is dependent on that individual, or was dependent on him at the time of his death, the statute sets out a number of tests. The test to be used in any case depends on the exact relationship between the child and the individual involved, i. e., whether the individual is or was the child's natural or adopting father or mother or his stepfather or stepmother. The different tests are set out in the sections immediately succeeding.

§ 404.316 *Child's insurance benefits; dependency upon natural or adopting father.* A child who has filed application for child's insurance benefits based upon the wages and self-employment income of a natural or adopting father is deemed to have been dependent upon such individual at the time such application was filed (if such individual was then living), or at the time of such individual's death (if such individual has died), if, at such time, such individual was either living with or contributing to the support of the child. However, even though the natural or adopting father was not living with or contributing to the support of the child at such time, the child is still deemed to have been dependent upon such individual unless the child:

(a) Was neither the legitimate nor the adopted child of such individual; or

(b) Had been adopted by some other individual; or

(c) Was living with and receiving more than one-half of his support (see § 404.332) from his stepfather.

Example. F and M, the parents of C, are divorced. M marries S, and C thereafter lives with M and his stepfather S. S provides C with a home, food, and clothing valued at $20 each month, and K, an uncle, contributes $10 each month for the support of C, but F contributes nothing to C's support. F then dies, and C files an application for child's insurance benefits based upon F's record of wages and self-employment income. C is not entitled to such benefits because F was neither living with nor contributing to the support of C, and C was living with and receiving more than one-half of his support from S.

§ 404.317 *Child's insurance benefits; dependency upon a stepfather.* A child who has filed application for child's insurance benefits based upon the wages and self-employment income of a stepfather is deemed to have been dependent upon such individual at the time such application was filed (if such individual was then living), or at the time of such individual's death (if such individual has died), if, at such time, the child was either living with or was receiving at least one-half of his support from such individual.

§ 404.318 *Child's insurance benefits; dependency upon a natural or adopting mother or stepmother.* A child who has filed application for child's insurance benefits based upon the wages and self-employment income of a natural or adopting mother or a stepmother is deemed to have been dependent upon such individual at the time such application was filed (if such individual was then living), or at the time of such individual's death (if such individual has died), if, at such time:

(a) The child was receiving at least one-half of his support from such individual (see § 404.332); or

(b) Such individual was living with the child or contributing to his support, and the child was neither living with nor receiving contributions from his natural or adopting father; or

(c) Such individual, if the child's natural or adopting mother, was a currently insured individual.

Except as set out in paragraph (b) of this section, the fact that the child's natural or adopting father was living with the child or contributing to the child's support does not prevent a finding that the child was dependent on his mother.

§ 404.319 *Widow's insurance benefits; conditions of entitlement.* A widow is entitled to widow's insurance benefits if she:

(a) Is the widow (see § 404.1104) of an individual who died after 1939, and who, at the time of such death, was fully insured (see §§ 404.107–404.108); and

(b) Has not remarried; and

(c) Has attained age 65; and

(d) Has either filed an application (see Subpart G of this part) for widow's insurance benefits, or was entitled, after she attained age 65, to wife's insurance benefits based upon the wages and self-employment income of her husband for the month preceding the month in which he died; and

(e) Was living with (see § 404.1111) her husband at the time of his death; and

(f) Is not entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount (see Subpart C of this part) of her deceased husband.

§ 404.320 *Widow's insurance benefits; duration of benefits.* A widow is entitled to a widow's insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such benefit is the month preceding the first month in which any of the following events occurs:

(a) She remarries; or

(b) She dies; or

(c) She becomes entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount of her deceased husband.

§ 404.321 *Widow's insurance benefits; rate of benefit.* The widow's insurance benefit for any month is an amount equal to three-fourths of the primary insurance amount of her deceased husband.

§ 404.322 *Widower's insurance benefits; conditions of entitlement.* A widower is entitled to widower's insurance benefits if he:

(a) Is the widower (see § 404.1107) of an individual who died after August 1950 and who, at the time of such death, was both fully and currently insured (see §§ 404.107–404.109 inclusive); and

(b) Has not remarried; and

(c) Has attained age 65; and

(d) Has either filed an application (see Subpart G of this part) for widower's insurance benefits or was entitled to husband's insurance benefits based upon the wages and self-employment in-

come of his wife for the month preceding the month in which she died; and

(e) Was living with (see § 404.1111) his wife at the time of her death; and

(f) Was receiving at least one-half of his support (see § 404.332) from his wife at the time of her death, or at the time she became entitled to old-age insurance benefits if she was then a currently insured individual; and

(g) Filed proof of such support within two years after the date of her death or the month in which she became entitled to old-age insurance benefits (whichever is appropriate); and

(h) Is not entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount (see Subpart C of this part) of his deceased wife.

§ 404.323 *Widower's insurance benefits, duration of benefits.* A widower is entitled to a widower's insurance benefit for each month beginning with the first month in which all of the conditions of entitlement are satisfied. The last month for which he is entitled to such benefit is the month preceding the month in which any of the following events occurs:

(a) He remarries; or

(b) He dies; or

(c) He becomes entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount of his deceased wife.

§ 404.324 *Widower's insurance benefits, rate of benefit.* The widower's insurance benefit for any month is an amount equal to three-fourths of the primary insurance amount of his deceased wife.

§ 404.325 *Mother's insurance benefits, conditions of entitlement.* (a) *Widow.* A widow is entitled to mother's insurance benefits if she:

(1) Is the widow (see § 404.1104) of an individual who died after 1939 and who, at the time of such death, was fully or currently insured (see §§ 404.107–404.109 inclusive); and

(2) Has not remarried; and

(3) Is not entitled to a widow's insurance benefit; and

(4) Is not entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount (see Subpart C of this part) of such deceased individual; and

(5) Has filed an application (see Subpart G of this part) for mother's insurance benefits; and

(6) Has in her care (see § 404.331 (a)) at the time of filing her application, a child of such deceased individual entitled to a child's insurance benefit; and

(7) Was living with (see § 404.1111) her husband at the time of his death.

(b) *Former wife divorced.* A divorced wife is entitled to mother's insurance benefits if she:

(1) Is the former wife divorced (see § 404.1105) of an individual who died after 1939 and who, at the time of such death, was fully or currently insured; and

(2) Was receiving from her divorced husband, pursuant to agreement or court order (see § 404.333) at least one-half of her support (see § 404.332) at the time of his death; and

(3) Meets the conditions of eligibility set out in subparagraphs (2) to (6), inclusive, of paragraph (a) of this section; and

(4) The child in her care is her son, daughter, or legally adopted child, and the child's benefits to which such child is entitled are payable based upon the wages and self-employment income of such deceased, divorced husband.

(c) *Number of mother's benefits on one record.* The statute does not limit the number of mother's benefits payable based upon the wages and self-employment income of an individual. Thus, it is possible for an individual's widow and his divorced wife both to qualify for mother's benefits, if each meets the appropriate conditions of entitlement.

§ 404.236 *Mother's insurance benefits, duration of benefits.* (a) *Widow.* A widow is entitled to a mother's insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such benefit is the month preceding the first month in which any of the following events occurs:

(1) No child of the deceased individual, based upon whose wages and self-employment income she is entitled to mother's insurance benefits, is entitled to a child's insurance benefit; or

(2) She becomes entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount of such deceased individual; or

(3) She becomes entitled to a widow's insurance benefit; or

(4) She remarries; or

(5) She dies.

(b) *Former wife divorced.* A divorced wife is entitled to a mother's insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such benefit is the month preceding the first month in which any of the events set out in subparagraphs (1) to (5), inclusive, of paragraph (a) of this section, occurs, or in which no son, daughter, or legally adopted child of hers is entitled to a child's insurance benefit based upon the wages and self-employment income of her deceased, divorced husband.

§ 404.327 *Mother's insurance benefits; rate of benefit.* The mother's insurance benefit for any month is an amount equal to three-fourths of the primary insurance amount of the deceased individual based upon whose wages and self-employment income she is entitled to such benefit.

§ 404.328 *Parent's insurance benefits; conditions of entitlement.* A parent is entitled to parent's insurance benefits if he:

(a) Is the parent (see § 404.1110) of an individual who:

(1) Died after 1939; and

(2) Was fully insured (see §§ 404.107–404.108) at the time of such death; and

(3) Was not survived by a widow who meets the conditions in § 404.319 (e) and (f), or by a widower who meets the conditions in § 404.322 (a), (e), (f), (g), and (h), or by an unmarried child (including a posthumous child) under age 18 who is deemed dependent upon such individual under § 404.316, § 404.317, or § 404.318; and

(b) Has attained age 65; and

(c) Was receiving at least one-half of his support (see § 404.332) from such individual at the time of such individual's death and (except as provided in § 404.1319) has filed proof of such support within two years after the date of such death; and

(d) Has not married since the death of such individual; and

(e) Is not entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount (see Subpart C of this part) of such deceased individual; and

(f) Has filed an application (see Subpart G of this part) for parent's insurance benefits.

One or more parents of a fully insured individual may become entitled to benefits hereunder.

§ 404.329 *Parent's insurance benefits, duration of benefits.* A parent is entitled to a parent's insurance benefit for each month beginning with the first month after August 1950 in which all of the conditions of entitlement are satisfied. The last month for which such parent is entitled to such benefit is the month preceding the first month in which any of the following events occurs:

(a) The parent dies; or

(b) The parent marries; or

(c) The parent becomes entitled to an old-age insurance benefit which is equal to or greater than three-fourths of the primary insurance amount of the deceased individual based upon whose wages and self-employment income the parent is entitled to parent's insurance benefits.

§ 404.330 *Parent's insurance benefits, rate of benefit.* The parent's insurance benefit for any month is an amount equal to three-fourths of the primary insurance amount of the deceised individual based upon whose wages and self-employment income the parent is entitled to such benefit.

§ 404.331 *Meaning of "in her care"—*(a) *Mother's benefits.* For the purposes of § 404.325 and of Subpart E of this part, a mother (widow or former wife divorced) has a child in her care if she exercises parental responsibility for the welfare and care of the child, even though she and the child may be physically separated, provided their separation is for a good reason and does not interfere with the exercise of such parental responsibility.

Example 1. W, the widow of H, has to work six days a week to support herself and C, their child. For convenience C lives with an aunt, who cares for the child's daily needs. However, W pays for the child's support, sees the child as often as possible, and instructs the aunt as to the child's care and

training, which instructions are carried out. W has C in her care.

Example 2. W, the widow of H, is confined to a mental hospital as a mental defective. Their child, C, lives with an aunt, who has full responsibility for the support, care, and upbringing of the child. W writes letters to the aunt and the child from time to time making suggestions, some of which are followed. W, because of her mental condition and the consequent separation from C, is unable to exercise parental responsibility. W does not have C in her care.

(b) *Wife's benefits.* For the purposes of § 404.306 and of Subpart E of this part, a wife has a child in her care, individually or jointly with her husband, if she alone or together with her husband exercises parental responsibility for the welfare and care of the child. If the husband alone exercises such responsibility, the child is not in the wife's care. If such responsibility is exercised exclusively, first by one spouse, then by the other, over successive periods of time, this does not constitute joint care of the child by the husband and wife over the entire period. A child may be in the care of husband or wife while physically separated from him or her, but only if the separation is for a good reason and does not interfere with the exercise of such parental responsibility.

Example. C, the child of H and W, is sent to boarding school by them. They keep in constant touch with C and his teachers and advise them as to C's care and training. All C's expenses are paid by H. W has C in her care jointly with H.

§ 404.332 *Meaning of "one-half of his (her) support"*—(a) *Applicability.* A husband, a widower, a former wife divorced, or a parent is not eligible for benefits based upon the wages and self-employment income of his wife or widow, her divorced husband, or his child, as the case may be, unless such husband, widower, former wife divorced, or parent has been receiving at least one-half of his or her support from such wife, widow, divorced husband, or child. (See §§ 404.309, 404.322, 404.325 (b), and 404.328.) Likewise, the dependency of a child upon his mother or stepfather may turn upon whether he was receiving at least one-half of his support from such mother or stepfather, and his dependency upon his natural or adopting father may turn upon whether he was receiving more than one-half of his support from his stepfather. (See §§ 404.316–404.318 inclusive.)

(b) *What constitutes support.* "Support" includes food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items of maintenance of the person supported.

(c) *What constitutes at least one-half or more than one-half support.* A person is receiving at least one-half of his support from another if that other is making regular contributions, in cash or kind, to such support to the extent of one-half or more thereof. A person is receiving more than one-half of his support from another if that other is making such contributions to such support to the extent of more than one-half thereof. "Contributions," as used here, means contributions actually provided by the contributor from his own property or the use thereof, or by the use of his own credit. When a person receives and uses for his support income from his services or property, which income, under State law, is the community property of himself and his spouse, no part of such income is a contribution by the spouse to such person's support regardless of any legal interest the spouse may have therein. But, conversely, when a person receives and uses for his support income from the services or property of his spouse, which income, under State law, is such community property, all of such income is a contribution by the spouse to such person's support.

§ 404.333 *Meaning of "agreement or court order"*—(a) *Court order.* By "court order" is meant any order, judgment, or decree of a court of competent jurisdiction legally compelling the former husband of a divorced wife to contribute to the latter's support. In determining the existence of such legal compulsion any such order, judgment, or decree shall be considered as in full force and effect unless it has expired or has been vacated.

(b) *Agreement.* By "agreement" is meant a legally enforceable contract between the divorced wife and her former husband, made either before or after the divorce, by the terms of which the husband agrees to contribute to the support of the divorced wife.

§ 404.334 *Simultaneous entitlement to benefits; children.* It is possible for a child to be entitled simultaneously to child's benefits based upon the wages and self-employment income of more than one individual (e. g., a child, entitled to benefits based upon its deceased father's wages and self-employment income, may also become entitled, upon application, to benefits based upon its mother's wages and self-employment income upon her death). Further, if a group of children could all be entitled, upon application, to child's benefits based upon the wages and self-employment income of the same two or more individuals, all of them who are entitled to benefits based upon the wages and self-employment income of at least one such individual will be deemed entitled to benefits based upon the wages and self-employment income of all such individuals with respect to which at least one of such children has filed application. However, a child entitled for any month to child's benefits based on the wages and self-employment income of more than one individual will be entitled for such month only to the benefit based upon the wages and self-employment income of the individual which produces the highest primary insurance amount.

§ 404.335 *Simultaneous entitlement to benefits; others than children*—(a) *Where neither is an old-age insurance benefit.* If an individual is entitled for any month to more than one monthly benefit, none of which is an old-age insurance benefit, he shall be entitled to only the largest of such benefits for such month.

(b) *Where one is an old-age insurance benefit.* If an individual is entitled for any month to an old-age insurance benefit and to any other monthly benefit, such other benefit for such month shall be reduced (after any reduction under Subpart E of this part) by an amount equal to the amount of the old-age insurance benefit.

§ 404.336 *Effect of entitlement under the Railroad Retirement Act.* The effect of entitlement to an annuity or a lump sum under the Railroad Retirement Act upon entitlement to monthly benefits or a lump sum under this subpart is set out in Subpart O of this part.

§ 404.337 *Benefits to individuals entitled before September 1950.* Under section 101 (c) of the Social Security Act Amendments of 1950 (64 Stat. 488), an individual who was entitled to monthly insurance benefits under the Social Security Act as in force prior to the taking effect of the 1950 Amendments, and who would have been entitled to such benefits for September 1950 but for the enactment of the 1950 Amendments, is automatically entitled to the corresponding monthly benefits under the act as amended as though such individual became entitled to such benefits in September 1950. Thus, an individual who was entitled to primary insurance benefits prior to September 1950, and who would have been entitled to such benefits for September 1950 but for the enactment of the 1950 Amendments, becomes entitled to old-age insurance benefits as though he had met the conditions of entitlement to such benefits in September 1950. An individual similarly previously entitled to wife's, widow's, widow's current, child's, or parent's insurance benefits similarly becomes entitled to wife's, widow's, mother's, child's, or parent's insurance benefits, respectively, under the act as amended.

Example. A became entitled to primary insurance benefits in November 1948. He continued receiving these benefits monthly until August 1950. He would have been entitled to a primary insurance benefit in September 1950 except for enactment of the 1950 Amendments. A is therefore automatically entitled to old-age insurance benefits beginning with the month of September 1950.

§ 404.338 *Lump-sum death payments, conditions of entitlement.* A lump sum is payable to one or more of the persons described in §§ 404.339 to 404.342, inclusive, based upon the wages and self-employment income of an individual if:

(a) The individual died after August 31, 1950, either a fully or a currently insured individual (see §§ 404.107–404.109 inclusive); and

(b) An application (see Subpart G of this part) for such lump sum has, except as otherwise provided in said Subpart G of this part, been filed within two years after the date of death of such individual.

Such lump sum is payable even though monthly benefits are also payable based upon the wages and self-employment income of the individual.

§ 404.339 *Lump-sum death payments, to widow or widower.* If the deceased insured individual is survived by a widow or widower (see §§ 404.1104 and 404.1107) who was living with (see § 404.1111) such individual at the time of death, such

widow or widower will become entitled to the lump sum upon filing application in accordance with § 404.338.

§ 404.340 *Lump-sum death payments; to persons equitably entitled.* If there is no widow or widower meeting the requirements of § 404.339, or if such person dies before receiving payment of the lump sum, such lump sum will be payable to any person or persons, equitably entitled thereto, upon filing application in accordance with § 404.338, to the extent and in the proportions that he or they shall have paid the burial expenses of the deceased insured individual. The term "person or persons equitably entitled" does not include, among others, any of the following:

(a) The United States Government or any wholly owned instrumentality thereof;

(b) Any person under contractual obligation to pay the burial expenses of the deceased, to the extent of such obligations;

(c) Any person paying the expense of the burial of a member or employee of such person, to the extent of any payment under a plan, system, or general practice;

(d) Any person furnishing goods or services in connection with the burial of the deceased, to the extent that goods or services are furnished, except that the provisions of this subdivision shall not apply to an organization exempt from the payment of taxes under section 101 (5) or 101 (6) of the Internal Revenue Code, or to a State or any political subdivision thereof or any instrumentality of any one or more of the foregoing;

(e) Any person who has been, or will be, wholly or partially reimbursed, to the extent of such reimbursement.

§ 404.341 *Lump-sum death payments; method of payment to equitably entitled estates.*—(a) *Payment to legal representative.* Where an estate is a "person equitably entitled," payment will be made to the legal representative of such estate.

(b) *Payment to relative of deceased.* Where it appears reasonably certain that a legal representative has not been and will not be appointed, or where the legal representative has been discharged, application may be filed by a relative of the deceased insured individual by blood, marriage, or adoption, and payment may be made to such applicant on behalf of the estate if the requirements of paragraphs (c) and (d) of this section are met.

(c) *Consent of relatives to payment.* Payment of the lump sum may be made as provided in paragraph (b) of this section if consents to such payment are obtained from the spouse of the deceased, if readily available, and from all readily available members of the group of relatives closest in kinship to the deceased, as determined by the following groupings:

(1) Children and children of deceased children;

(2) Parents;

(3) Brothers and sisters and children of deceased brothers and sisters;

(4) All other relatives by blood or adoption, the closeness of relationship being determined according to the law of the domicile of the deceased insured individual.

No consents will be required under this paragraph in any case where the amount due the estate, if divided equally among the applicant and each of the relatives from whom consents would normally be required, would result in a payment to each such person of $15 or less.

(d) *Agreement to distribute.* Payment of the lump sum may be made as provided in paragraph (b) of this section if the applicant promises to distribute the payment to the person or persons entitled thereto under applicable State law and to account therefor to a legal representative if one should be appointed.

§ 404.342 *Lump-sum death payments; method of payment where individual paying burial expenses dies before collecting lump sum.* Where an individual who is equitably entitled by virtue of having paid the burial expenses of the deceased insured individual dies before collecting the lump sum, payment may be made to the estate of such equitably entitled individual in the same manner as is prescribed by § 404.341 for the case in which burial expenses were paid from funds belonging to the estate of the deceased insured individual, except that the spouse of such equitably entitled individual may be preferred as payee on behalf of the estate, in which event consents as required by paragraph (c) of § 404.341 need not be obtained from any other relative of such equitably entitled individual.

§ 404.343 *Lump-sum death payments; amount of payment.* The lump sum to which a widow or widower is entitled under § 404.339 is an amount equal to three times the primary insurance amount (see Subpart C of this part) of the deceased insured individual. Where payment is made to an applicant because he is equitably entitled to a lump sum under § 404.340, the amount payable to him will be determined as follows:

(a) If no person other than such applicant is, or becomes, equitably entitled under § 404.340, the amount payable will be an amount equal to the amount of burial expenses paid by the applicant or three times the primary insurance amount of the deceased, whichever is less;

(b) If two or more persons are or become, equitably entitled under § 404.340, the amount payable to any such applicant is an amount equal to that proportion of three times the primary insurance amount of the deceased which the amount of burial expenses paid by such applicant bears to the total amount of burial expenses paid by all persons equitably entitled, but in no event shall the amount paid to such applicant exceed the amount of burial expenses paid by him.

Example 1. X, who paid all of D's burial expenses of $220, is equitably entitled to a lump sum. D's primary insurance amount is $40, so that the lump sum payable is $120. X is entitled to the entire lump sum.

If X had paid $120 and a person or persons not equitably entitled had paid the remaining $100, X would nevertheless be entitled to the entire $120. If, under the same circumstances, he had paid $100, the amount payable to him would be only $100.

Example 2. X paid $165 and Y paid $55 toward D's burial expenses of $220. Both X and Y are equitably entitled to a portion of a lump sum. D's primary insurance amount is $40, so that the lump sum payable is $120. X is entitled to 165/220 (¾) of the lump sum, or $90, and Y is entitled to 55/220 (¼) of the lump sum, or $30.

If X had paid $90 and Y $30 and a person or persons not equitably entitled had paid the remaining $100, X and Y would nevertheless be entitled to $90 and $30 respectively. If, under the same circumstances, X had paid $60 and Y $15, and the unentitled person $145, the amount payable to X and Y would be only the amounts they actually paid.

Example 3. X paid $100 toward D's burial expenses of $200. The remaining $100 was unpaid. D's primary insurance amount is $40, and a lump sum of $120 is payable. X is equitably entitled to ½ of the lump sum of $120, or $60. If no other individual becomes equitably entitled hereunder by reason of a payment toward D's burial expenses, X will be equitably entitled to an additional $40.

§ 404.344 *Effect of felonious homicide.* A person who has been finally convicted by a court of competent jurisdiction of the felonious homicide of an insured individual shall not be entitled to benefits or a lump-sum death payment based upon the wages and self-employment income of such deceased insured individual, and such person shall be considered nonexistent in determining the entitlement of other persons to benefits or a lump sum based upon such wages and self-employment income.

Example. W, the widow of H, who died fully insured, has been convicted of the murder of her husband. W was living with H at the time of his death. H's burial expenses were paid by his brother, B. H was also survived by his father, F, age 68, but by no child under age 18. W is entitled neither to a lump sum payment nor to widow's monthly benefits, since she has forfeited her rights. Therefore, a lump-sum payment may be made to B as an equitably entitled person and parent's insurance benefits may be paid to F, if they are otherwise entitled.

SUBPART E—REDUCTION AND INCREASE OF INSURANCE BENEFITS AND DEDUCTIONS FROM BENEFITS AND LUMP-SUM DEATH PAYMENTS

NOTE: §§ 404.401 to 404.513 interpret or apply secs. 202, 203, 204, 215, 49 Stat. 623, 64 Stat. 492, as amended; 42 U. S. C. 402, 403, 404, 415.

§ 404.401 *Modification in amount of benefits and lump-sum death payments.* Under certain conditions the amount of benefits and lump sums, as calculated under sections 202 (a)–202 (i) of the act, must be modified upward or downward in determining the amount actually to be paid to the beneficiary. The modifications in the amount calculated under those sections of the act occur where

(a) Reductions of benefits are required under sections 202 (j) (1), 202 (k) (3), and 203 (a) of the act, or

(b) Increases are required under 215 (g) of the act, or

(c) Deductions from benefits or lump sums are required under section 203 (b), (c), (f), (g), or (i) of the act, or under section 907 of the Social Security Act Amendments of 1939, or

(d) Adjustment is required under section 204 (a) of the act.

§ 404.402 *When reductions are required.* A reduction in the amount of benefits is required when there are three or more benefits for a month based upon the wages and self-employment income of an insured individual, and when the total amount of such benefits for such month, calculated under section 202 (a) through (h) of the act, is more than $40 and exceeds one of the following amounts:

(a) $150, or

(b) 80 per centum of such insured individual's average monthly wage, or

(c) if any of such benefits are payable to a child who would, but for the provision in section 202 (k) (2) (A) of the act (see § 404.334), be entitled to benefits payable on the basis of the wages and self-employment income of one or more other insured individuals, 80 per centum of the sum of the average monthly wages of all such insured individuals.

§ 404.403 *How reductions are made.* If, by reason of § 404.402, a reduction in the amount of benefits is required, each of such benefits (except an old-age insurance benefit) must be proportionately reduced so that the total of the benefits will be the amount stated in paragraph (a), (b), or (c) of such § 404.402, whichever is the least, except that if the conditions of paragraph (c) exist, the limitation specified in paragraph (b) shall not apply. In no case will the total amount of benefits for any month be reduced to an amount less than $40.

Example. E, mother of X, Y, Z, died a fully and currently insured individual with an average monthly wage of $80 and a primary insurance amount of $40. Each child's benefit, after adjustment for the maximum, is $21.40. Later A, father of X, Y, Z, died with an average monthly wage of $100 and a primary insurance amount of $50. X filed an application for child's benefits on A's account. Y and Z thereby became automatically entitled on that account. On A's account, each child is entitled to $29.20, or a total of $87.60.

The maximum payable is $150 or 80 percent of the sum of E's average monthly wage and A's average monthly wage, whichever is the lesser. 80 percent of the combined average monthly wage is $144. Since the total benefits payable to the children are less than $144, their individual benefits need not be reduced.

§ 404.404 *Reductions caused by retroactive effect of application.* Reductions are also made where application is filed for any benefit for any month prior to the month in which such application is filed (see Subpart G of this part) and payment of benefits for any such prior month would result in an overpayment in the amount of benefits previously paid to other individuals entitled to benefits on the same record of wages and self-employment income. In such case the applicant's benefit for any month prior to the month in which such application is filed shall be reduced to the extent that may be necessary so that payment thereof will not render erroneous any benefit for such prior month which has been certified for payment before the filing of such application.

§ 404.405 *Reductions caused by entitlement to old-age insurance benefits.* Reductions are also made from an individual's monthly insurance benefit (other than an old-age insurance benefit) by an amount equal to any old-age insurance benefit to which such individual is entitled.

§ 404.406 *Increases of benefits.* If any monthly benefit computed under the provisions of section 202 of the act is not a multiple of 10 cents, it will be increased to the next higher multiple of 10 cents.

§ 404.407 *Relationship between deductions, reductions, adjustments, and increases.* Reductions under §404.402, and increases under § 404.406 are made after making any deductions which may be required under subsection (b), (c), (f), (g), or (i) of section 203 of the act or under section 907 of the Social Security Act Amendments of 1939. However, reductions under § 404.402 are made before reductions under § 404.405, increases under § 404.406 or adjustments under section 204 (a) of the act.

§ 404.408 *Deductions imposed because individual works.* If an individual under the age of 75 renders services for wages of more than $50 in any month for which he is entitled to a benefit or if such individual is charged, under the provisions of section 203 (e) of the act (see § 404.414) with net earnings from self-employment of more than $50 for any month, deductions are made—

(a) From any benefit or benefits which are payable to him. The amount to be deducted is equal to the benefit or total of benefits payable to him for the month in which he rendered the services for wages of more than $50 or for which he was charged with net earnings from self-employment of more than $50.

(b) From any wife's, child's, or husband's insurance benefits which are payable to his wife, child or husband with respect to such individual's wages and self-employment income. The amount to be deducted is equal to such wife's, child's or husband's insurance benefit for the month in which such individual rendered services for wages of more than $50 or for which he was charged with net earnings from self-employment of more than $50.

For the purposes of determining whether an individual has rendered services for "wages" of more than $50, the provisions of section 209 of the Act which for other purposes limits the meaning of wages in a calendar year prior to 1951 to $3,000 or in a calendar year after 1950 to $3,600, do not apply.

§ 404.409 *Deductions because beneficiary failed to have a child in her care.* Deductions will be made from any benefit or benefits which are payable to the wife, widow, or former wife divorced of an individual on whose wages and self-employment income such benefits are payable if

(a) The wife, under retirement age entitled to a wife's insurance benefit, did not have in her care (individually or jointly with her husband) a child of her husband entitled to a child's insurance benefit, or

(b) The widow entitled to a mother's insurance benefit did not have in her care a child of her deceased husband entitled to a child's insurance benefit or

(c) The former wife divorced entitled to a mother's insurance benefit did not have in her care a child of her deceased former husband who is her son, daughter, or legally adopted child and entitled to a child's insurance benefit with respect to the wages or self-employment income of her deceased former husband.

The amount to be deducted is equal to the benefit which is payable to such beneficiary for the month in which she did not have such a child in her care.

§ 404.410 *Manner of making deductions.* Deductions as provided for in § 404.408 and in § 404.409 and as they may be modified by the application of the provisions of section 203 (h) of the act (see § 404.430) are made by withholding benefits in whole or in part, depending upon the amount, if any, to be deducted. If the amount to be deducted is not withheld from the benefit or benefits for the month in which the event occurred which occasioned the deduction (if, for example, the occurrence has not been brought to the attention of the Administration), such amount will constitute a "deduction overpayment" to be adjusted or recovered in accordance with the provisions of section 204 of the act (see Subpart F of this part).

§ 404.411 *Deductions where more than one deduction event in a month occurs.* Section 203 (d) of the act prevents duplication of deductions described in § 404.408 and § 404.409, by reason of the occurrence of more than one of the events enumerated in that section in a particular month. If more than one such event occurs in a month, the total amount of the deduction is the same as if only one such event had occurred. Section 203 (d) of the act has no application to any other deductions or adjustments under the law.

§ 404.412 *Total amount to be deducted.* If, however, any of the events occasioning a deduction under § 404.408 and § 404.409 occurs in more than one month, the total amount to be deducted is equal to the sum of the deductions for all months in which any such event occurred. With respect to net earnings from self-employment, a deduction event is deemed to have occurred in any month to which any excess of net earnings from self-employment is charged (see § 404.414).

§ 404.413 *Relation to other deductions and adjustments.* The amount of a benefit by which a deduction is measured (i. e., a benefit for the month in which the event occasioning the deduction occurred) is the amount of such benefit as computed under the provisions of section 202 of the act. Such a deduction is imposed prior to and in addition to deductions under section 203 (i) of the act or section 907 of the Social Security Act Amendments of 1939, and prior to and in addition to any adjustments under section 204 (a) of the act (see Subpart F of this part). A deduction so computed may be reduced by the

operation of section 203 (h) of the act. (See § 404.430.)

§ 404.414 *Charging net earnings from self-employment.* The following rules will apply in determining the amount of an individual's net earnings from self-employment that are to be charged to a particular month for purposes of deductions (§ 404.408):

(a) If the individual's net earnings from self-employment for his taxable year are not more than $50 times the number of months in such taxable year, each month in such year shall be charged with $50 or less; or

(b) If such net earnings exceed that amount, each month of such year is first charged with $50. The first $50 of the excess (or the whole of the excess if it be less than $50) is charged to the latest month of the taxable year. The next $50 of the excess, if any (or the whole of the excess if it be less than $50) is charged to the next preceding month and so on until all of the excess is charged or every month to which a portion of the excess is chargeable has been charged with a part of such excess.

§ 404.415 *Months to which net earnings from self-employment cannot be charged.* Notwithstanding the provisions of § 404.414, net earnings from self-employment in excess of $50 times the number of months the taxable year shall not be charged to any month

(a) In which such individual was not entitled to a benefit,

(b) In which the individual performed services for "wages" of more than $50,

(c) In which the individual is a wife, widow, or a former wife divorced who suffers a deduction because of the occurrence of an event specified in § 404.409,

(d) In which the individual was 75 years of age or over, or

(e) In which the individual did not engage in self-employment.

A person shall be deemed to have engaged in self-employment in any month if in such month he renders substantial services in operating a trade or business as an owner or partner even though there may be no net earnings attributable to his services for such month.

§ 404.416 *Definition of "substantial services."* For the purposes of § 404.415, an individual is presumed to have rendered substantial services in each month in his taxable year. However, he may submit evidence to establish that in any month in such taxable year he did not render substantial services with respect to any trade or business the net income or loss of which is includible in computing his net earnings from self-employment for any taxable year. In determining whether an individual has rendered such substantial services in a month, the particular facts in each case will be examined. The following factors, among others, will be considered in making the determination:

(a) The amount of time devoted to the trade or business,

(b) The amount of capital invested in the trade or business,

(c) The nature of the services rendered by the beneficiary.

(d) The seasonal nature of the trade or business,

(e) The presence or absence of a paid manager, a partner, or a family member who manages the business,

(f) The type of business establishment that is involved, and

(g) The relationship of the activity performed prior to the period of retirement with that performed subsequent to retirement.

Example. X, who was entitled to old-age insurance benefits during the entire year and was under 75 years of age, owned and actively operated a fruit stand during part of the year (June 15 through September 15). His net earnings from the business amounted to $940. During the month of September he worked a few hours a day as an employee at a neighborhood store and received wages therefor in excess of $50. In order to determine whether the benefits payable to X are subject to deductions because of his net earnings from self-employment, each month of the year would be charged with $50, and the excess $340 would be charged as follows: $50 to August, $50 to July, and $50 to June. The month of September, for which a deduction would be imposed by reason of wages earned in excess of $50, would not be charged with any part of the $340 excess. There would be no charging to the months of January through May and October through December since X did not engage in self-employment during those months. Therefore, deductions will be imposed because of X's self-employment only for the months of June, July, and August.

§ 404.417 *Reports to the Administration of certain events occasioning deductions.* Section 203 (f) of the act imposes upon an individual the obligation to report to the Administration the occurrence of any of the events enumerated in subsection (b) or (c) of section 203 of the act (other than events described in subsection (b) (2) or (c) (2) thereof) if such individual is in receipt of benefits (on his own behalf or on behalf of another) from which a deduction is to be made under such subsections.

§ 404.418 *Imposition of additional deduction for failure to report deduction event.* If the individual referred to in § 404.417 has knowledge of the occurrence of any event occasioning a deduction (see § 404.420) and fails to report to the Administration prior to the receipt and acceptance of a benefit for the second month following the month in which such event occurred, a deduction is made in addition to that required under section 203 (b) or (c) of the act. An additional deduction will also be imposed against the benefits of a dependent beneficiary receiving benefits on the record of such individual if the dependent had knowledge of the occurrence of such deduction event and failed to report such event prior to the receipt and acceptance of a benefit for the second months following the month in which such event occurred.

§ 404.419 *When individual or dependent has knowledge of deduction event; presumption.* The individual referred to in § 404.417 or a dependent beneficiary receiving benefits on the record of such individual has knowledge of the deduction event if he or the dependent beneficiary knew, or by the exercise of that degree of diligence which reasonably could be expected of him or the dependent beneficiary, should have known both of the occurrence of the event occasioning the deduction and the obligation to report such event. It shall be presumed that an individual who caused a deduction event (including the individual who may be receiving benefits on his behalf) and all other dependent beneficiaries receiving benfits on his record and residing in the same household had knowledge of the deduction event. This presumption shall be considered overcome where lack of knowledge is established by convincing evidence.

§ 404.420 *Factors considered in determining whether presumption of knowledge overcome.* In applying the presumptions and determining whether they have been overcome, due regard shall be given to the nature of some of the provisions regarding deductions and to the difficulty of understanding implicit in those provisions. This would involve, for example, cases where:

(a) Services were rendered in one month for which the beneficiary was paid wages in another;

(b) Taxes, wages in kind, etc., constituted wages;

(c) Services were rendered in the month of filing application prior to such filing;

(d) Services were rendered prior to receipt by the beneficiary of his first benefit check;

(e) Services were rendered in a month for which no benefit check was received;

(f) Coverage of the employer was questionable;

(g) Services were rendered in a "5-Saturday" (or similar workday) month, and services on the fifth Saturday or workday caused the deduction.

In such cases, no additional deduction will be imposed in the absence of evidence that the individual actually understood his obligation under the circumstances.

§ 404.421 *Criteria for evaluating evidence in determining whether presumption of knowledge has been overcome.* In determining what constitutes convincing evidence of lack of knowledge, the following principles shall apply:

(a) An individual's statement shall be accepted as evidence and accorded due weight in the light of the circumstances of the case.

(b) An individual shall not be charged with a degree of care greater than that which could reasonably be expected of the particular individual involved. However, failure to exercise that degree of care which could reasonably be expected of the individual concerned will be sufficient justification for imposing additional deductions.

(c) Evidence of the good faith of an individual shall be considered an indication of his lack of knowledge.

(d) Evidence of inability or impaired ability to readily understand or to remember the usual explanations and instructions given shall be considered an indication of lack of knowledge.

(e) Untoward circumstances such as extended sickness, mental anguish, etc., shall be considered as strongly affecting

an individual's ability to realize or to perform his obligation to report.

(f) Impossibility of performance of the obligation shall be considered as equivalent to lack of knowledge.

(g) The lapse of a considerable period of time may be considered as affecting an individual's memory of his obligation to report or of the occurrence of a deduction event.

(h) Where an individual's earnings exceed $50 but the total for the month is such that instead of increasing his income by working he has, in losing his benefit for one month, actually lost money by working, it may be concluded in the absence of evidence to the contrary that he did not have knowledge of his obligation to report or that a reportable event had occurred.

§ 404.422 *Amount of additional deduction.* The amount of an additional deduction required under § 404.418 and the manner in which it is effected are the same as provided for deductions under section 203 (b) or (c) of the act as may be modified by the application of section 203 (h) of the act, except that the amount of the first additional deduction imposed against any individual shall equal the deduction imposed for the first month in which an unreported deduction event occurred, even though the failure to report is with respect to more than one month. No additional deductions incurred prior to September 1950 nor failure to report deduction events occurring prior to September 1950 shall reduce or affect benefits paid or payable after August 1950.

§ 404.423 *Reports to the Administration of net earnings from self-employment.* Section 203 (g) of the act imposes upon an individual entitled to any monthly benefit under section 202 of the act during a taxable year (or the individual in receipt of such benefit on his behalf) the obligation to report to the Administration the amount of his net earnings from self-employment for any such taxable year when such net earnings exceed the product of $50 times the number of months in such year provided that the individual so entitled had not attained age 75 in or prior to the first month of such year. The report for such taxable year must be filed with the Social Security Administration on or before the 15th day of the third month following the close of such year. The filing of an income tax return with respect to such individual's self-employment income is not such a report. The report to the Administration shall be made on such forms and in accordance with such instructions (printed thereon or attached thereto) as are prescribed by the Administration. The prescribed form may be obtained from any office of the Bureau.

§ 404.424 *Imposition of additional deductions where individual failed to report net earnings from self-employment*—(a) *Failure to report.* If an individual fails to make a timely report of his net earnings from self-employment and at least one deduction is imposed because of his net earnings from self-employment (see § 404.408), he shall suffer one additional deduction in an amount equal to his benefits for the last month in such taxable year for which he was entitled to his benefit. If the failure to make such report continues after the close of the fourth calendar month following the close of such taxable year, such individual shall suffer an additional deduction in the same amount for each month during all or any part of which such failure continues after such fourth month.

(b) *Number of additional deductions.* The number of additional deductions required by this section shall not exceed the number of months in such taxable year for which such individual received and accepted insurance benefits and for which deductions are imposed by reason of such net earnings from self-employment. Also, if more than one additional deduction would be imposed under this section and the failure to report such net earnings from self-employment is the first for which any additional deduction is imposed under this section only one additional deduction shall be imposed with respect to such first failure.

§ 404.425 *Suspensions of benefits currently because individual engaged in self-employment*—(a) *Circumstances under which benefits may be suspended.* If the Administration determines, on the basis of information obtained by or submitted to it, that it may reasonably be expected that an individual entitled to benefits under section 202 for any taxable year will suffer deductions imposed under section 203 (b) (2) (see § 404.408) by reason of his net earnings from self-employment for such year, the Administration may, before the close of such taxable year, suspend the payment for each month in such year (or for only such months as the Administration may specify) of the benefits payable on the basis of such individual's wages and self-employment income. Such suspension shall remain in effect with respect to the benefits for any month until the Administration has determined whether or not any deduction is imposed for such months under section 203 (b) (2).

(b) *Request for report to Administration during taxable year.* The Administration may, before the close of the taxable year of an individual entitled to benefits during such year, request of such individual that he make, at such time or times as the Administration may specify, a declaration of his estimated net earnings from self-employment for the taxable year and that he furnish to the Administration such other information with respect to such net earnings as the Administration may specify. A failure by such individual to comply with any such request shall in itself constitute justification for a determination under this section that it may reasonably be expected that the individual will suffer deductions imposed under section 203 (b) (2) by reason of his net earnings from self-employment for such year.

§ 404.426 *Deduction under section 203 (i) of the act*—(a) *Lump sums under act prior to 1939.* Section 203 (i) of the act provides for deductions from benefits, and lump-sum death payments under section 202 (i) of the act, where a wage earner has been paid a lump sum (hereinafter referred to as a section 204 payment) under section 204 of the Social Security Act in force prior to August 10, 1939 (the date of enactment of the Social Security Act Amendments of 1939). The total to be deducted is an amount equal to the amount of the section 204 payment.

(b) *Death benefit based on certain coal mining services only.* In any case in which a death benefit alone has been granted under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, upon the basis of services in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard rail locomotives) of coal not beyond the tipple, or the loading of coal at the tipple, the amount of such benefit attributable to such services shall be deemed to have been paid to the deceased as a section 204 payment, and deductions shall be made in accordance with § 404.428 from any insurance benefit or benefits payable under title II of the act with respect to wages paid to an individual for such services until such deductions total the amount of such death benefit attributable to such services.

§ 404.427 *Deduction under section 907 of the Social Security Act Amendments of 1939.* Section 907 of the Social Security Act Amendments of 1939 provides for deductions from benefits and lump-sum death payments in cases where the taxes imposed by section 1400 of the Internal Revenue Code with respect to a wage earner's employment in 1939 and subsequent to his attaining age 65, or with respect to services which constitute employment by virtue of section 209 (o) of the act in effect prior to the Social Security Act Amendments of 1950 have neither been deducted by his employer from the wages paid him for services in such employment nor paid by such employer. The total amount to be deducted is an amount equal to 1 per centum of such wages with respect to which taxes have neither been deducted nor paid by the employer.

§ 404.428 *Manner of making deductions under section 203 (i) and section 907 of the Social Security Act Amendments of 1939.* A deduction under §§ 404.426 and 404.427, as the case may be, is made by withholding the amount designated in such section from

(a) Any old-age insurance benefits to which the wage earner who is described under such section is or becomes entitled and

(b) Any benefits or lump sum to which any other person is or becomes entitled with respect to the wages and self-employment income of such wage earner.

Upon determination that a deduction is required, no such benefit for any month and no such lump sum will be paid until a total amount equal to the amount to be deducted has been withheld.

§ 404.429 *Relation of section 203(i) and section 907 of the Social Security Act Amendments of 1939 to other provisions.* A deduction required under section 203 (i) of the act is made in addition to any

deduction required under section 907 of the Social Security Act Amendments of 1939. Deductions required under those sections are made in addition to, but after any, deductions required under section 203(b) or (c) of the act and prior to reductions under section 203(a) of the act and prior to and in addition to any adjustments under section 204(a) of the act.

§ 404.430 *Limiting deductions where total family benefits would not be affected or would be only partly affected.* Deductions which are imposed upon monthly benefits under sections 203 (b), (f), and (g) may be limited by reason of section 203 (h) of the act. Notwithstanding the provisions of such subsections of section 203 as to the amount of the deductions to be imposed for a month, no such deductions will be imposed for a month when the benefits payable for that month to all beneficiaries entitled on the same insurance account and living in the same household would still be equal to the maximum benefits. Similarly, where the result of making such deductions and increasing the benefits to others in the family in the month in which the deduction event occurred would be to leave the household in the position where less than the maximum amount is payable to such household, the amount of the deduction to be imposed will be equal to the difference between the maximum amount of benefits payable to the household and the amount otherwise payable under section 202 to the household in that month. The adjusted benefits would be paid to other individuals in the same household.

Example 1. E, a widow, and her three children, X, Y, and Z, are living in the same household. They are entitled on the account of A, deceased, whose average monthly wage was $100 and primary insurance amount was $50. Unadjusted benefits payable to the family are: E, $37.50; X, Y, and Z, $29.17 each. Reduced to conform to the maximum of $80 the benefits are $24 for E and $18.70 for each child.

X goes to work and earns wages of more than $50 per month, as a result of which deductions are to be imposed against X's benefits. If the deductions were imposed the unadjusted benefits payable to the remaining members of the family are: E, $37.50; Y and Z, $29.17 each. Since these total more than $80, the maximum amount would still be payable to the family. Therefore, no deduction is imposed against the benefits payable to X. E would receive $24 a month; X, Y, and Z would receive $18.70 each.

Example 2. The same facts in example 1 except that A's average monthly wage is $150 and his primary insurance amount was $57.50. Unadjusted benefits payable to the family are: E, $43.13; X, Y, and Z, $33.54 each. Reduced to conform to the maximum of $120 (80 percent of $150) the benefits payable are $36 for E, and $28 for each child.

X goes to work and earns wages of more than $50 per month. His benefit is, therefore, subject to deductions. If full deductions were made by withholding X's benefits, E's benefits would be increased to $43.20 and the benefits of Y and Z would be increased to $33.60 each. The total then payable to the family would be $110.40, which is $9.60 less than the total payable before X's employment. Therefore, E, Y, and Z would continue to receive their checks in the same amounts as formerly, namely, $36, $28, and $28, respectively, and the remaining $18.40 would be paid to X. The partial reduction ($9.60) of the family's benefits due to X's employment would be deducted from X's benefit.

SUBPART F—OVERPAYMENTS, UNDERPAYMENTS, WAIVER OF ADJUSTMENT OR RECOVERY OF OVERPAYMENTS, AND LIABILITY OF A CERTIFYING OFFICER

NOTE: §§404.501 to 404.513 interpret or apply sec. 204, 49 Stat. 624, as amended; 42 U. S. C. 404.

§ 404.501 *General applicability of section 204 (a).* Section 204 (a) of the act provides for adjustments, as set forth in §§ 404.502 and 404.503, in cases where an error has been made which results in an overpayment or underpayment to an individual under title II of the act, including overpayments and underpayments prior to January 1, 1940. The provisions for adjustment also apply in cases where, through error,

(a) A reduction required under section 203 (a), 202 (j) (1), 202 (k) (3) of the act, or

(b) An increase required under section 202 (c) (2) and 215 (g), or

(c) A deduction required under section 203 (b) (as may be modified by section 203 (h)), (c), or (i) of the act or section 907 of the Social Security Act Amendments of 1939

is not made, or where such a reduction, increase, or deduction is made which is either larger or smaller than required. As used in this part, the term "overpayment" includes a payment where nothing was payable under title II of the act and a payment resulting from the failure to impose timely deductions under section 203 (b) (as may be modified by section 203 (h)), or (c) of the act (hereinafter referred to as a "deduction-overpayment"). The term "underpayment" includes nonpayment where some amount was payable under that title.

§ 404.502 *Overpayments.* Upon determination that an overpayment has been made, adjustments will be made against benefits and lump sums as follows:

(a) *Individual overpaid entitled to benefits and/or lump sums.* If the individual to whom an overpayment was made is, at the time of the discovery of such overpayment, entitled to benefits or to a lump sum, or at any time thereafter becomes so entitled, no benefit for any month and no lump sum will be paid to such individual until a total amount equal to the amount of the overpayment has been withheld. Such adjustments will be made against any benefits or lump sum to which such individual is or may become entitled regardless of whether such benefits or lump sums are based on his wages and self-employment income or the wages and self-employment income of another individual.

(b) *Individual overpaid dies before adjustment.* If an individual to whom an overpayment was made dies before adjustment is completed under paragraph (a) of this section, adjustment will be made by decreasing subsequent benefits payable with respect to the wages and self-employment income which were the basis of benefits of such deceased individual.

§ 404.503 *Underpayments.* Underpayments will be adjusted as follows:

(a) *Individual underpaid is living.* If an individual to whom an underpayment was made is living, the amount of such underpayment will be paid to such individual either in a single payment (if he is not entitled to a benefit or lump sum) or by increasing one or more benefits or lump sum to which such individual is or becomes entitled.

(b) *Individual underpaid dies before adjustment.* If an individual to whom an underpayment was made dies before adjustment is completed under paragraph (a) of this section, adjustment will be made by increasing subsequent benefits payable with respect to the wages and self-employment income which were the basis of benefits of such deceased individual.

(c) *Increasing benefits payable to individual equitably entitled.* No amount will be paid under the provisions of paragraph (b) of this section to a person to whom a lump sum is payable as one equitably entitled within the meaning of § 404.340, in excess of the amount of burial expenses of the deceased individual paid by such person.

§ 404.504 *Relation to provisions for reductions and increases.* The amount of an overpayment or underpayment of a benefit is the difference between the amount paid to the beneficiary and the amount of such benefit as reduced under sections 203 (a), 202 (j) (1) or 202 (k) (3), or as increased under sections 202 (c) (2) and 215 (g). Likewise, in effecting an adjustment with respect to an overpayment, no amount can be considered as having been withheld from a particular benefit, which is in excess of the amount of such benefit as so decreased.

§ 404.505 *Relation to other provisions.* Adjustments under this subpart are made in addition to, but after any, deductions required under section 203 of the act or section 907 of the Social Security Act Amendments of 1939.

§ 404.506 *General applicability of section 204 (b).* Section 204 (b) of the act provides that there shall be no adjustment or recovery (by legal action or otherwise) by the United States in the case of an incorrect payment to an individual (including payments made prior to January 1, 1940), if the following conditions exist:

(a) Such individual is without fault, and

(b) Adjustment or recovery would either:

(1) Defeat the purpose of title II of the act, or

(2) Be against equity and good conscience.

§ 404.507 *Fault.* "Fault," as used in "without fault," (see § 404.506) applies only to the individual. (Although the Administration may have been at fault in making the payment, that fact does not relieve the payee if he is not without fault.) What constitutes fault, except for "deduction overpayments" (see § 404.510), depends upon whether the facts show the incorrect payment resulted from:

(a) An incorrect statement made by the individual which he knew or should have known to be incorrect;

(b) Failure to furnish information which he knew or should have known to be material; or

(c) Acceptance of a payment which he either knew or could have been expected to know was incorrect.

§ 404.508 *Defeat the purpose of title II.* "Defeat the purpose of title II" means defeat the purpose of benefits under this title, i. e., to provide at least a subsistence income for beneficiaries. This depends upon whether the individual has an income or financial resources sufficient for more than ordinary needs, or is largely or solely dependent upon current payment of benefits for the necessities of life.

§ 404.509 *Against equity and good conscience.* "Against equity and good conscience" means that it would be inequitable to ask for repayment from the individual (regardless of his financial circumstances). This depends upon whether the individual by reason of the payment has

(a) Relinquished a valuable right, e. g., a wage earner who has retired from employment which he is now unable to regain; or

(b) Changed his position for the worse, e. g., a wage earner entered into employment relying on the erroneous advice of a Bureau representative that his employment after entitlement is not covered and did not report the employment.

§ 404.510 *When an individual is "without fault" in a deduction-overpayment.* Except as provided in § 404.511, an individual will be without fault in failing to report a deduction event and in accepting a "deduction overpayment" if and only if it is shown that such failure and acceptance is caused by one or more of the following:

(a) Misunderstanding as to whether the allowable limit of $50 applies to gross earnings or "take-home" pay.

(b) Reliance upon erroneous information as to the interpretation of the deduction provision or as to coverage of services, or the like, coming from official sources within the Administration or other governmental agency which the individual had reasonable cause to believe was connected with the administration of benefits under title II.

(c) Unawareness that his earnings were in excess of $50 or that he should have reported such excess, where these earnings were greater than anticipated because of:

(1) Retroactive increases in pay;

(2) Higher overtime pay rates;

(3) Work at higher paid work than realized;

(4) Failure of the employer of an individual unable to keep accurate record to restrict the amount of earnings or the number of hours worked in accordance with a previous agreement intended to avoid deductions;

(5) The occurrence of five Saturdays (or other work-days) in a month and the services on the fifth Saturday or workday caused the deduction; or

(6) Unexpected bonus or vacation pay.

(d) Lack of knowledge that services were covered, or the earnings were "wages," because of assurances sought and received from his employer that the services were not covered or that the money was not "wages" under title II, and the circumstances were not such as to place him upon further inquiry.

(e) Unawareness that he was actually employed by a covered employer when he reasonably believed his employer was another individual or firm which was not covered.

(f) The continued issuance of checks to him after he sent notice of the deduction events, provided it led him to believe in good faith that he was entitled to checks subsequently received.

(g) Lack of knowledge that deductions become applicable on the basis of earned wages rather than wages paid.

(h) Lack of knowledge that bonuses and vacation pay and the like, which are reasonably anticipated, constitute "wages."

(i) Failure to realize that the work-deduction provision is on a monthly basis, rather than quarterly.

(j) Receipt of a back-pay award.

(k) Reasonable belief that his employment was not covered, such belief being based upon his employer's failure to make social security tax deductions from his pay.

(l) Lack of knowledge by wife, husband, or child that the old-age beneficiary has incurred work deductions, provided the wife, husband, or child is not living with the beneficiary and had no reason to know of his or her employment.

§ 404.511 *When an individual is at "fault" in a deduction-overpayment—*(a) *Degree of care.* An individual will not be "without fault" if the Administration has evidence in its possession which shows either a lack of good faith or failure to exercise a high degree of care in determining whether circumstances which may cause deductions from his benefits should be brought to the attention of the Administration by an immediate report or by return of a benefit check. The high degree of care expected of an individual may vary with the complexity of the circumstances giving rise to the overpayment and the capacity of the particular payee to realize that he is being overpaid. Accordingly, variances in the personal circumstances and situations of individual payees are to be considered in determining whether the necessary degree of care has been exercised by an individual to warrant a finding that he was without fault in accepting a "deduction overpayment."

(b) *Subsequent deduction-overpayments.* An individual will not be without fault where, after having been exonerated for a "deduction overpayment" and after having been advised of the correct interpretation of the deduction provision, he incurs another "deduction overpayment" under the same circumstances as the first overpayment.

§ 404.512 *When adjustment or recovery will be waived in a deduction-overpayment—*(a) *Adjustment or recovery deemed "against equity and good conscience."* In the situation described in § 404.510 (a) and (b), adjustment or recovery will be waived since it will be deemed that adjustment or recovery would be "against equity and good conscience."

(b) *Adjustment or recovery where earnings exceed total benefits.* In the situations described in § 404.510 (c) to (k), inclusive, if the monthly net cash earnings ("take-home" pay) did not exceed the total benefits affected, there shall be no adjustment or recovery since it will be deemed that under such circumstances adjustment or recovery would be "against equity and good conscience." Where the net cash earnings exceeded the total benefits affected, adjustment or recovery shall be waived only if it appears that adjustment or recovery would "defeat the purpose of Title II" or would otherwise be "against equity and good conscience."

(c) *Other situation.* In the situation described in § 404.510 (l), adjustment or recovery shall be waived only if the wife, husband or child establishes that adjustment or recovery would "defeat the purpose of Title II" or would be "against equity and good conscience."

§ 404.513 *Liability of a certifying officer.* Section 204 (c) of the act provides that no certifying or disbursing officer shall be held liable for any amount certified or paid by him to any individual

(a) Where adjustment or recovery of such amount is waived under section 204 (b) of the act; or

(b) Where adjustment under section 204 (a) of the act is not completed prior to the death of all individuals against whose benefits or lump sums deductions are authorized.

SUBPART G—FILING OF APPLICATIONS AND OTHER FORMS

NOTE: § 404.601 interprets or applies secs. 202, 205, 49 Stat. 623, as amended, 624, as amended; 42 U. S. C. 402, 405.

§ 404.601 *Filing of applications and other forms.* The regulations appearing in §§ 403.701 and 403.704 of this chapter (Regulations 3), to the extent that they apply to the Social Security Act, as amended in 1950, govern this subpart.

SUBPART H—EVIDENCE

NOTE: §§ 404.701 to 404.727 interpret or apply sec. 205, 49 Stat. 624, as amended; 42 U. S. C. 405.

§ 404.701 *Evidence as to right to receive monthly benefits and lump-sum death payments—*(a) *Evidence of eligibility.* An applicant for monthly benefits or a lump-sum death payment shall submit such evidence of eligibility as is specified in this subpart. The Administration may at any time require additional evidence with regard to an applicant's entitlement or with regard to the amount to be paid.

(b) *Evidence of nonoccurrence of termination or deduction event.* The Administration may at any time require any individual receiving, or claiming that he is entitled to receive, a benefit under title II of the act, either for himself or on behalf of another, to submit a written statement in a prescribed manner, certifying that no event has occurred which would cause such benefit

to be terminated, or which would subject such benefit to deductions under the provisions of such title. The failure on the part of such individual to submit such statement, properly executed, to the Administration shall cause the suspension of such benefit.

(c) *Place and manner of submitting evidence.* Evidence in support of an application shall be filed at an office of the Bureau or with an employee of the Administration authorized to receive such evidence, or in cases of persons who are not residing in the United States, at an office maintained outside the United States by the United States Foreign Service. Such evidence may be submitted as part of the application form, if the form provides for its inclusion, or it may be submitted in addition to such form and in the manner indicated by the regulations in this subpart.

(d) *Evidence filed with Railroad Retirement Board.* When applications are made for annuities and lump sums under section 5 of the Railroad Retirement Act (see Subpart O of this part), which are also applications for survivors' benefits and lump-sum death payments under title II of the act, evidence developed and received by the Railroad Retirement Board in support of claims under the Railroad Retirement Act which are later transferred to the Administration may be used in determining entitlement to or eligibility for such benefits or lump-sum death payments payable under title II. Where a claim which has been completely adjudicated by the Railroad Retirement Board is transferred from that agency to the Administration, the Administration may, after examination, adopt as its initial determination any determination made by the Railroad Retirement Board (except as to compensation or periods of service—see section 5 (k) (3) of the Railroad Retirement Act), or, in the light of the sufficiency of the supporting evidence or of new evidence which is introduced, may make such determination as shall be proper.

§ 404.702 *Evidence as to wages.* The amounts of wages paid or self-employment income credited to an individual, and the time of payment or crediting, may be proved by the records of the Administration and by other evidence of probative value in the manner and subject to the limitations prescribed by Subpart I of this part. An applicant for monthly benefits or a lump-sum death payment need not submit evidence as to wages or self-employment income unless requested to do so by the Administration.

§ 404.703 *Evidence as to age.* Except when the Administration, on the basis of information in its records, is satisfied that the date of birth stated in the application is substantially correct, an applicant for benefits shall file supporting evidence showing the date of his birth if his age is a condition of entitlement or is otherwise relevant to payment of benefits. Such evidence may also be required by the Administration as to the age of any other individual when such other individual's age is relevant to the determination of the applicant's entitlement. In determining the weight to be given to evidence offered to prove age, consideration will be given to its general probative value and to its position in the following enumeration:

(a) Public record of birth;
(b) Church record of birth or baptism;
(c) Census Bureau notification of registration of birth;
(d) Hospital birth record or certificate;
(e) Flyttningsbetyg or similar foreign record;
(f) Physician's or midwife's birth record;
(g) Certification, on approved form, of Bible or other family record;
(h) Naturalization record;
(i) Immigration record;
(j) Military record;
(k) Passport;
(l) School record;
(m) Vaccination record;
(n) Insurance policy;
(o) Labor union or fraternal record;
(p) Marriage record; or
(q) Other evidence of probative value.

In lieu of the original of any record, except a Bible or other family record, there may be submitted a copy of such record or a statement as to the date of birth shown by such record, duly certified by the custodian of such record or by an individual designated by the Administration. If the evidence submitted is of recent origin or is not convincing, additional evidence may be required.

§ 404.704 *Evidence as to death.* (a) An applicant for monthly benefits or a lump-sum death payment based upon the wages and self-employment income of a deceased individual shall file supporting evidence as to the death of such individual and as to the time and place of such death. Such evidence may also be required by the Administration as to the death of any other individual when such other individual's death is relevant to the determination of the applicant's entitlement. Such evidence shall be of the following character:

(1) A certified copy of the public record of death, coroner's report of death, or verdict of the coroner's jury of the State or community where death occurred, or a certificate by the custodian of the public record of death or a statement of the contents of the record of death certified by an individual designated by the Administration; or

(2) A statement of the funeral director, attending physician, or intern of the institution where the death occurred; or

(3) A certified copy of an official report or finding of death made by any agency or department of the United States which is authorized or requested to make such report or finding in the administration of any law of the United States, or a statement of the contents of such report or finding certified by an individual designated by the Administration; provided, however, that a finding of presumptive death made pursuant to section 5 of the Missing Persons Act (56 Stat. 143, 50 U. S. C. App. 1005), as amended, shall be accepted only as evidence of the fact of death and not of the date of death.

(b) If none of the evidence described in paragraphs (a) (1), (2), and (3) (b) of this section is obtainable, the reason therefor shall be stated and the applicant may submit:

(1) The signed statements of two or more persons, having personal knowledge of the death, setting forth the facts and circumstances as to the place, date, and cause of death; or

(2) Other evidence of probative value.

If death occurs outside the United States there must be furnished a report of the death by a United States consul, or other agent of the State Department, bearing the signature and official seal of such consul or agent, or a certified copy of the public record of death authenticated by the United States consul or other agent of the State Department, or other evidence of probative value.

§ 404.705 *Presumption of death.* Whenever it is necessary to determine the death of an individual in order to determine the right of another to a monthly benefit or a lump-sum death payment under section 202 of the act, and such individual has been unexplainedly absent from his residence and unheard of for a period of seven years, the Administration, upon satisfactory establishment of such facts and in the absence of any evidence to the contrary, will presume that such individual has died.

§ 404.706 *When evidence as to marriage and termination of marriage required.* A wife, husband, widow, or widower who applies for monthly benefits or for a lump-sum death payment based upon the wages and self-employment income of a husband, wife, deceased husband, or deceased wife, as the case may be, shall file supporting evidence as specified in §§ 404.707 to 404.709, inclusive, as to her or his marriage to such individual, as to the time and place of marriage, and as to the termination of any former marriage. A former wife divorced who applies for benefits based upon the wages and self-employment income of her deceased divorced husband shall file supporting evidence as specified in § 404.710 as to her marriage to such individual and her divorce from him. Evidence of marriage may also be required by the Administration as to the marriage of any other individual when such a marriage is relevant to the determination of an applicant's entitlement.

§ 404.707 *Evidence as to ceremonial marriage.* (a) Evidence as to a ceremonial marriage shall be of the following character:

(1) A copy of the public record of marriage or a statement as to the marriage, duly certified by the custodian of such record or by an individual designated by the Administration; or

(2) A copy of the church record of marriage or a statement as to such marriage, duly certified by the custodian of such record or by an individual designated by the Administration; or

(3) The original certificate of marriage.

(b) If none of the evidence described in paragraph (a) (1), (2), and (3) of this section is obtainable, the reason therefor shall be stated and the applicant may submit:

(1) The signed statement of the clergyman or officials who performed the marriage ceremony; or

(2) Other evidence of probative value.

If the application for benefits, in support of which evidence of a ceremonial marriage is required, is for a lump-sum death payment to a widow or widower, the Administration may accept, in lieu of the evidence enumerated above, a statement, signed by the applicant, that he or she was ceremonially married to the individual based upon whose wages and self-employment income such benefits are claimed. If the application is for a husband's or wife's monthly benefits, such a statement of the applicant may be so accepted only if confirmed in writing by the individual based upon whose wages and self-employment income such benefits are claimed.

§ 404.708 *Evidence as to common-law marriage.* Evidence as to a common-law marriage shall be such as to disclose the facts upon which the informant bases his belief as to the existence of such marriage. Such evidence shall be as follows:

(a) If the husband and wife are living, such evidence shall be in the form of signed statements of the husband and wife and two of their blood relatives. The signed statement of another individual may be substituted for the statement of each such relative which is not obtainable;

(b) If either the husband or wife is deceased, such evidence shall be in the form of signed statements of the surviving spouse and of two blood relatives of the deceased spouse. The signed statement of another individual may be substituted for the statement of any such relative, upon a written showing that such relative's statement is not reasonably obtainable;

(c) If both the husband and wife are deceased, such evidence shall be in the form of signed statements of one blood relative of each deceased spouse. The signed statement of another individual may be substituted for the statement of any such relative, upon a written showing that such relative's statement is not reasonably obtainable.

(d) If none of the evidence described in paragraphs (a), (b), and (c) of this section is obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

The corroborative statements by relatives or other individuals described in paragraphs (a) and (b) of this section may, in the discretion of the Administration, be omitted where the parties entered into a formal marriage ceremony which was void because of a legal impediment then existing to the marriage, and where the impediment was removed and thereafter they continued to live together as man and wife until the application was filed or until the death of one of them, if under applicable State law a valid common-law marriage could come into existence as a result of continued cohabitation as man and wife, or a subsequent agreement of marriage, or both.

§ 404.709 *Evidence as to termination of prior marriage.* Where the validity of an alleged marriage depends upon the termination of a former marriage the applicant shall, when so requested by the Administration, submit:

(a) A certified copy of the decree dissolving such former marriage; or

(b) Evidence of the death of a party to such marriage, as described in § 404.704 (and in the order of priority therein described).

If none of the evidence described in paragraphs (a) and (b) of this section is available, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

§ 404.710 *Evidence as to marriage and divorce of former wife divorced.* A former wife divorced who applies for monthly benefits based upon the wages and self-employment income of her deceased divorced husband shall file as supporting evidence of her divorce from such individual a certified copy of the decree of divorce dissolving her marriage to him. If this evidence is not obtainable, the reason therefor shall be stated, and the applicant may submit other evidence of probative value. She shall also, when requested, file evidence of her marriage to such individual in accordance with § 404.707 or § 404.708.

§ 404.711 *When evidence as to relationship of parent and child required.* Where the existence of a parent-child relationship affects eligibility for benefits under the act (see §§ 404.306 to 404.330, inclusive), an applicant for such benefits shall file evidence of the parent-child relationship as specified in §§404.712 to 404.715, inclusive, as may be appropriate.

§ 404.712 *Evidence as to blood relationship of parent and child.* If the relationship is by blood, the evidence described in § 404.703 shall be submitted (in the order of priority therein provided), if it shows the relationship between the parent and child in question: provided, that a public record of birth, a church record of birth or baptism, or a hospital birth record, described in such § 404.703, which shows the name of the child but does not give the names of the parents and their relationship to the child may be accepted as supporting evidence of relationship if the surname of the child shown thereon is the same as that of the alleged parent at the time of the birth of the child and if none of the information available or furnished to the Administration is inconsistent with the existence of the relationship.

§ 404.713 *Evidence where contract to adopt alleged.* If it is claimed that a child, whether or not related by blood, has the status of child of an individual under applicable State law (see § 404.1109) by reason of a contract by such individual to adopt such child, the contract, if in writing, shall be submitted. If the contract was not in writing, or if it was in writing and cannot be produced, the reason therefor shall be stated and the applicant may submit other evidence of probative value. In addition, the following evidence shall be submitted: Statements of both the natural and the alleged adopting parent or parents, if available, and other evidence of probative value, setting out in full the circumstances of the commencement and continuance of the relationship between the child and the alleged adopting parent or parents.

§ 404.714 *Evidence as to adoption.* If the relationship is by adoption, a certified copy of the decree or order of adoption shall be submitted. If it is not possible to obtain such a certified copy without a court order, a statement to this effect shall be furnished, and the applicant may submit evidence of probative value establishing that a final decree or order of adoption was granted by a court of competent jurisdiction, when such decree was granted, and who were named in such decree as the adopting parent or parents, and the adopted child.

§ 404.715 *Evidence as to steprelationship.* If the relationship is that of stepparent and stepchild, evidence of the relationship of the child to the stepparent's spouse in accordance with §§ 404.712 to 404.714, inclusive, shall be submitted, together with evidence of the marriage of the stepparent and spouse in accordance with §§ 404.707 to 404.709, inclusive.

§ 404.716 *Evidence of "living with" individual.* A wife or husband who applies for monthly benefits based upon the wages and self-employment income of her husband or his wife, or a widow or widower who applies for monthly benefits or for a lump-sum death payment based upon the wages and self-employment income of her deceased husband or his deceased wife, shall file evidence that she or he was living with her or his spouse at the time of filing application or at the time of the spouse's death (see §§ 404.306, 404.309, 404.319, 404.322, and 404.325), as the case may be. Such evidence shall be one of the following:

(a) A statement or statements signed by the wife and husband, or by the widow or widower, that the husband and wife, at the time above stated, were living together at the same place of abode, and customarily so lived together, and giving the address of such place. If the wife and her husband were temporarily living apart, the statement or statements signed by the husband and wife, or by the widow or widower, shall state the places of residence of the husband and wife, the reason for their separation, the length of time they had been separated, and the expected duration of the separation; or

(b) A certified copy of an order or decree of a court of competent jurisdiction directing the husband to contribute to the support of the wife, or the wife to contribute to the support of the husband, as the case may be, and a certification by the proper official of the court that such order had not been revoked or modified prior to the time in question; or

(c) A statement or statements signed by the wife and husband, or by the widow or widower, that the husband was making regular contributions toward the wife's support, or the wife was making

regular contributions toward the husband's support, as the case may be, and describing the amount, time or times, and manner of making such contributions.

If any part of the evidence required above is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

§ 404.717 *Evidence of receipt of support by husband.* A husband who applies for monthly benefits based upon the wages and self-employment income of his wife shall submit evidence of receipt of at least one-half of his support (see § 404.332) from her. Such evidence shall be statements signed by the husband and wife that, at the time she became entitled to old-age insurance benefits, he was receiving at least one-half of his support from her. These statements shall set forth, as of the time of the wife's entitlement to such benefits and for a period of not less than one year prior to such time, the items expended and used for the husband's support and the value of each thereof, the amount of his income, if any, and the items of contributions to his support, the value and time of each, and by whom furnished. If the evidence described above is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value. Proof that a husband was receiving at least one-half of his support from his wife at the time she became entitled to old-age insurance benefits must be filed within two years after the month in which she became so entitled (see § 404.309).

§ 404.718 *Evidence of receipt of support by widower.* A widower who applies for monthly benefits based upon the wages and self-employment income of his deceased wife shall submit evidence of receipt of at least one-half of his support (see § 404.332) from her. Such evidence shall be a statement signed by the widower that, at the time of the death of his wife or at the time his wife became entitled to old-age insurance benefits, as the case may be, he was receiving at least one-half of his support from her. This statement shall set forth, as of the time of the wife's death or the time of her entitlement to old-age insurance benefits, as the case may be, and for a period of not less than one year prior to such time, the items expended and used for the widower's support and the value of each thereof, the amount of his income, if any, and the items of contributions to his support, the value and time of each, and by whom furnished. If the evidence described above is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value. Proof that a widower was receiving at least one-half of his support from his deceased wife at the time of her death or at the time she became entitled to old-age insurance benefits must be filed within two years after the date of her death or within two years after the month in which she became so entitled (see § 404.322), as the case may be.

§ 404.719 *Evidence of receipt of support by former wife divorced.* A former wife divorced who applies for monthly benefits based upon the wages and self-employment income of her deceased divorced husband shall submit evidence that she was receiving from such husband, pursuant to agreement or court order, at least one-half of her support at the time of his death. Such evidence shall be as follows:

(a) The agreement, if in writing, or a certified copy of the court order. If a certified copy of the order or the written agreement cannot be produced, or if the agreement was not in writing, the reason therefor shall be stated and the applicant may submit other evidence of probative value; and

(b) A signed statement by the applicant that, at the time of the death of her divorced husband, she was receiving from him, pursuant to the agreement or court order, at least one-half of her support. This statement shall set forth, as of the time of such husband's death and for a period of not less than one year prior to such time, the items expended and used for the support of the former wife divorced and the value of each thereof, the amount of her income, if any, and the items of contributions to her support, the value and time of each, and by whom furnished. If the evidence described above is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

§ 404.720 *Evidence of receipt of support by parent.* A parent who applies for monthly benefits based upon the wages and self-employment income of an individual shall submit evidence of receipt of at least one-half of his support from such individual. Such evidence shall be a signed statement by the parent that, at the time of the individual's death, he was receiving at least one-half of his support from such individual. This statement shall set forth, as of the time of the individual's death and for a period of not less than one year prior to such time, the items expended and used for the parent's support and the value of each thereof, the amount of the parent's income, if any, and the items of contributions to the parent's support, the value and time of each, and by whom furnished. If the evidence described above is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value. Proof that a parent was receiving at least one-half of his support from an individual, at the time of such individual's death, must, except as otherwise provided in § 404.1319, be filed within two years after the death of such individual (see § 404.328).

§ 404.721 *When evidence as to dependency of child required.* A child who applies for monthly benefits based upon the wages and self-employment income of an individual shall submit evidence as specified in §§ 404.722 to 404.724, inclusive, as may be appropriate, of his dependency upon such individual. If such evidence is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

§ 404.722 *Evidence as to dependency of child on father or adopting father.* If the individual based upon whose wages and self-employment income the benefits are claimed is the father or adopting father of the child, there shall be submitted a signed statement by a person having personal knowledge thereof that, at the time the child's application was filed or at the time of such individual's death, as the case may be:

(a) Such individual and such child were living together at a common place of abode, giving the address of such place, or, if they were temporarily living apart, giving the reason therefor, the residence of each, the length of such separation, and the expected duration thereof; or

(b) Such individual was contributing to the support of the child, and describing the amount, time or times, and manner of making such contributions; or

(c) The child at the time in question had not been legally adopted by another individual, and either was not living with, or was not receiving more than one-half of his support from, a stepfather. If a stepfather was contributing to the child's support, the statement of contributions described in § 404.723 (b) shall also be submitted.

§ 404.723 *Evidence as to dependency of child on stepfather.* If the individual based upon whose wages and self-employment income the benefits are claimed is the stepfather of the child, there shall be submitted a signed statement by a person having personal knowledge thereof that, at the time the child's application was filed or at the time of such individual's death, as the case may be:

(a) Such individual and such child were living together at a common place of abode, giving the address of such place, or, if they were temporarily living apart, giving the reason therefor, the residence of each, the length of such separation, and the expected duration thereof; or

(b) The child was receiving at least one-half of his support from such individual. If the child was receiving his total support from the individual, a statement to this effect will suffice; if the child was not receiving his total support from the individual, the statement should set forth, as of the time the child's application was filed or the time of the individual's death, as the case may be, and for a period of not less than one year prior to such time, the items expended and used for the support of the child and the value of each thereof, the amount of the child's income, if any, and the items of contributions to the support of the child, the value and time of each, and by whom furnished.

§ 404.724 *Evidence as to dependency of child on mother, adopting mother, or stepmother.* If the individual based upon whose wages and self-employment income the benefits are claimed is the mother or adopting mother of the child,

and such individual was a currently insured individual at the time the child's application was filed or at the time of such individual's death, as the case may be, no evidence as to dependency of the child upon such individual shall be required. If the individual based upon whose wages and self-employment income the benefits are claimed is the child's mother or adopting mother, who was not currently insured as described above, or is the stepmother of the child, there shall be submitted by a person having personal knowledge thereof, as of the time the child's application was filed or as of the time of such individual's death, as the case may be:

(a) A signed statement, as of such time and for a period of not less than one year prior thereto, setting forth the items expended and used for the child's support and the value of each thereof, the amount of the child's income, if any, and the items of contributions to such support, the value and time of each, and by whom furnished, and

(b) A signed statement setting forth with whom such child was living, giving the address of such place, and, if the child was not living with the individual based upon whose wages and self-employment income application was filed, whether the separation was temporary, the reason therefor, the residence of each, the length of such separation, and the expected duration thereof.

§ 404.725 *Evidence as to wife under 65 having care of child.* A wife under age 65 who applies for monthly benefits based upon the wages and self-employment income of her husband shall file statements signed by her and the husband as to whether she has in her care, individually or jointly with him, a child entitled to a child's insurance benefit based upon such wages and self-employment income. If the child is living with the wife, this shall appear in the statements. If the child is not living with the wife, the statements of the wife and husband shall disclose the reason for the separation, the present length and expected duration thereof, with whom the child is living, the sources of the child's support, and the extent of each such source, and how and to what extent, if any, the wife cares for the child. If the child is not living with the wife or the husband, the wife shall also submit a signed statement by the individual with whom the child is living (or official of the institution where the child is living), which states the sources of the child's support and the extent of each such source, and how and to what extent, if any, the wife cares for the child. If there is a court order or written agreement as to the custody of the child, the wife shall also file a certified copy of such court order or the agreement. If any of the evidence described above is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

§ 404.726 *Evidence as to widow or former wife divorced having care of child.* An applicant for mother's insurance benefits shall file a signed statement as to whether she has in her care a child of her deceased husband, or of her deceased divorced husband, as the case may be, based upon whose wages and self-employment income she claims benefits. If the child is living with such mother, this shall appear in the statement. If the child is not living with such mother, her statement shall disclose the reason for the separation, the present length and expected duration thereof, with whom the child is living, and how and to what exent, if any, she cares for and supports the child. If the child is not living with the mother, she shall also submit a signed statement by the individual with whom the child is living (or official of the institution where the child is living), which states the sources of the child's support and the extent of each such source, and how and to what exent, if any, the mother cares for the child. If the evidence described above is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

§ 404.727 *Evidence as to payment of burial expenses.* If a condition of entitlement to a lump-sum death payment is that the applicant shall have paid part or all of the burial expenses of the individual based upon whose wages and self-employment income the lump-sum death payment is claimed, the applicant shall file an itemized and receipted statement or statements of the person or persons who supplied goods or services for the burial of the individual. Such statement or statements shall show the total cost of all goods or services furnished, the amount remaining unpaid, if any, the name of each person who paid any portion of such costs, and the amount and date of each payment. The applicant shall also submit his own signed statement as to his relationship or other connection with the individual, the total amount of the burial expense, the amount of the burial expenses paid from his own funds, the amount of burial expenses unpaid, and the amount in cash or property which he has received or will receive as reimbursement for his payment of burial expenses. If the evidence above described is not obtainable, the reason therefor shall be stated and the applicant may submit other evidence of probative value.

SUBPART I—MAINTENANCE AND REVISION OF RECORDS OF WAGES AND SELF-EMPLOYMENT INCOME

NOTE: §§ 404.801 to 404.813 interpret or apply secs. 205, 49 Stat. 624, as amended; 42 U. S. C. 405.

§ 404.801 *Meaning of terms.* For the purposes of this subpart—

(a) The term "earnings" means wages paid to, and self-employment income derived by an individual.

(b) The term "record of earnings" means the Administration's records of the amounts of wages paid to and the self-employment income derived by an individual and the periods in which such wages were paid and such income was derived.

§ 404.802 *Maintenance of records of earnings.* The Administration shall maintain records of earnings for each individual. Such records may be revised to correct errors or omissions subject to the limitations prescribed by the act and by the regulations in this subpart.

§ 404.803 *Request for earnings information.* Any individual, his legal representative, or after his death his survivor or the legal representative of his estate may obtain a statement of the earnings of such individual and the periods in which the wages were paid and the self-employment income was derived as shown by the records of earnings at the time the request for information is received. Such statement shall also contain in general terms suitable information concerning the right to request revision of such records in accordance with this subpart.

§ 404.804 *Records to be evidence.* For the purpose of proceedings before the Administrator or any court, such records shall, as provided in this subpart, be evidence of the earnings of such individual and the periods of such earnings. The absence of an entry as to an individual's earnings with respect to any period shall be evidence that the individual had no earnings in such period. After the expiration of the time limitation, as defined in section 205 (c) (1) (B) of the Social Security Act, as amended, following any year:

(a) The Administration's records (with revisions, if any, made pursuant to § 404.805) of the earnings of an individual during any period in such year shall be conclusive,

(b) The absence of an entry in the Administration's records as to the wages alleged to have been paid by an employer during any period in such year shall be presumptive evidence that no such alleged wages were paid to such individual in such period, and

(c) The absence of an entry in the Administration's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive that no such income was derived in such year unless it is shown that he filed a tax return of his self-employment income for such year before the expiration of the time limitation following such year.

§ 404.805 *Revision of records of earnings prior to expiration of time limitation.* Prior to the expiration of the time limitation following any year the Administration may correct on its own motion or pursuant to a request for revision filed under § 404.810 any erroneous entry of earnings or include omitted earnings for such year.

§ 404.806 *Revision of records of earnings after expiration of time limitation.* After the expiration of the time limitation following any year in which an individual had earnings or is alleged to have had earnings the Administration may change or delete any entry of earnings in his records of such year for such individual or include in its records for such year an individual's earnings which had been omitted but only:

(a) If an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no

such change, deletion, or inclusion may be made pursuant to this paragraph after a final decision upon the application for monthly benefits or lump-sum death payment; or

(b) If within the time limitation following such year or such additional time provided for in § 404.810 an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item (§ 404.810) and alleges in writing that the Administration's record of earnings of such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this paragraph after a final decision upon such request.

(c) To correct errors apparent on the face of such records; or

(d) To transfer items to the records of the Railroad Retirement Board if such items were credited under this title when they should have been credited under the Railroad Retirement Act, or to enter items transferred by the Railroad Retirement Board which have been credited under the Railroad Retirement Act when they should have been credited under this title; or

(e) To delete or reduce the amount of any entry which is erroneous as a result of fraud; or

(f) To conform his records to tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code, or under regulations made under authority of such title or subchapter, and to information returns filed by a State pursuant to an agreement under section 218 or regulations of the Administrator thereunder, except as provided in § 404.807; or

(g) To correct errors made in the allocation, to individuals or periods, of earnings entered in the records of the Administrator; or

(h) To include wages paid during any period in such year to an individual by an employer if there is an absence of an entry in the Administration's records of wages having been paid by such employer to such individual in such period; or

(i) To enter items which constitute remuneration for employment under section 205 (c) of the act, such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 5 (k) (3) of the Railroad Retirement Act of 1937; or

(j) To include in the Administration's wage records for any period, the amount allocable to such period of any award paid prior to April 1, 1946, pursuant to an act of Congress or a State statute which as a means of making an individual whole, evidences an intent to create an employment relationship by law or to confer upon him all the ordinary incidents of an employment relationship, notwithstanding his discharge or the employer's refusal to hire him or which indicates an intent to protect an individual's right to wages.

§ 404.807 *Tax returns filed after expiration of time limitation.* (a) Where action is taken to conform a record of wages with a tax return or portion of a tax return, pursuant to § 404.806 (f), and prior to the incorporation of such return into the record, the Administrator has information that such return is incorrect, the record of wages may be revised to incorporate the return or some portion thereof only insofar as such incorporation would make the record of wages more nearly correct.

(b) The Administrator shall not include in his records, pursuant to § 404.806 (f), the amount of self-employment income of an individual for any taxable year (if the tax return or portion thereof was filed after the expiration of the time limitation following the taxable year) in excess of the amount which has been deleted pursuant to § 404.806 (f) as payments erroneously included in such records as wages paid to such individual in such taxable year.

§ 404.808 *Notice of adverse revision of self-employment income.* Written notice of any revision of self-employment income under §§ 404.805 and 404.806 adverse to an individual shall be given to the individual whose record is involved. Such notice shall be given to such individual's survivor if he or the individual whose record is involved has previously been notified by the Administration of the amount of such individual's earnings for the period involved.

§ 404.809 *Notice of adverse revision of wages.* Written notice of any revision of wages under §§ 404.805 and 404.806 adverse to an individual shall be given to such individual only if he has previously been notified by the Administration of the amount of his wages for the period involved or to such survivor only if he or the individual whose record is involved has previously been notified by the Administration of the amount of such individual's earnings for the period involved.

§ 404.810 *Request for revision.* Any individual to whom wages have allegedly been paid or by whom self-employment income has allegedly been derived or after his death his survivor may, within the time limitation following any year with respect to any part of which he claims that the Administration's records of earning are erroneous or within such further time as is provided in Subpart G of this part, file at any office of the Bureau a request for the revision of the records to correct such error, or may, within 6 months after the date of an adverse revision of an entry made on the Administration's own motion or the date of mailing of notice of such revision in cases in which notice must be given, whichever is later, or within such further time as is provided within Subpart G, file a request to correct such revision.

§ 404.811 *Information to be furnished on a request for revision of earnings.* (a) *Wages.* In the case in which wages are involved, the request shall be in writing and shall, for the calendar quarter or quarters as to which the records are believed to be in error, set forth the amount and time of payment of all wages alleged to have been paid, the name and address of the employer or employers who paid such wages, the nature of the services rendered, and the place or places where such services were rendered.

(b) *Self-employment income.* In the case in which self-employment income is involved the request shall be in writing and shall for the taxable year or years as to which the records are believed to be in error set forth the amount of self-employment income allegedly derived by such individual, the nature of the individual's trade or business, and the place or places where such trade or business was conducted. If the individual was also paid wages during such taxable year or years, such statement shall include the information provided for in paragraph (a) of this section.

§ 404.812 *Revision of wage records for service performed in the employ of the United States*—(a) *Service for United States or a wholly owned instrumentality of the United States.* Notwithstanding the provisions of §§ 404.805 and 404.806, there shall be no revision of wage records based upon service included as employment under section 210 of the act which is performed in the employ of the United States or in the employ of any instrumentality wholly owned by the United States, except as such revision is necessitated by a determination of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 1420 (e) of the Internal Revenue Code and certifications made pursuant to this subsection.

(b) *Service for Army and Air Force Motion Picture Service and Exchanges, Navy and Marine Exchanges.* The provisions of paragraph (a) of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of paragraph (a) of this section the Secretary of Defense shall be deemed to be the head of such instrumentality.

§ 404.813 *Preservation of wage records because of definition of "employee" (act of June 14, 1948, 62 Stat. 438).* Notwithstanding the provisions of §§ 404.805 and 404.806, there shall be no deletion because of the provisions of section 2 (a) of the act of June 14, 1948 (62 Stat. 438) from the records maintained by the Administration, of any wage credits reported to the Bureau of Internal Revenue with respect to service performed prior to June 14, 1948, other than to conform such records with tax returns or portions thereof as provided in section 205 (c) (5) (F) of the act (see § 404.806 (f)); nor shall there be any deletion because of the

provisions of section 2 (a) of the act of June 14, 1948 (62 Stat. 438) of any wage credits for service performed prior to October 1, 1948, in the case of individuals who attained age 65 or who have died prior to such date and with respect to whom prior to June 14, 1948, wage credits were established which would not have been established had the amendments made by section 2 (a) of the act of June 14, 1948 (62 Stat. 438) been in effect on and after August 14, 1935.

SUBPART J—PROCEDURES, PAYMENT OF BENEFITS, AND REPRESENTATION OF PARTIES

NOTE: § 404.901 interprets or applies secs. 205, 206, 207, 49 Stat. 624, as amended; 42 U. S. C. 405, 406, 407.

§ 404.901 *Procedures, payment of benefits, and representation of parties.* The regulations appearing in §§ 403.705–403.713 of this chapter (Regulations 3) and the appendix to Subpart G of part 403 of this chapter (Regulations 3), to the extent that they apply to the Social Security Act, as amended in 1950, govern this subpart.

SUBPART K—DEFINITIONS

NOTE: §§ 404.1001 to 404.1057 interpret or apply secs. 209, 210, 211, 49 Stat. 625, as amended, 60 Stat. 979, as amended, 64 Stat. 492, as amended; 42 U. S. C. 409, 410, 411.

§ 404.1001 *General definitions and use of terms.* As used in the regulations in this part—

(a) The terms defined in sections 209, 210, and 211 of the act shall have the meanings therein assigned to them.

(b) "Social Security Act" means the act approved August 14, 1935 (49 Stat. 620).

(c) "Social Security Act Amendments of 1950" means the act approved August 28, 1950 (64 Stat. 477).

(d) "Act" means the Social Security Act, as amended, effective January 1, 1951.

(e) "Section" means a section of these regulations unless the context clearly indicates otherwise.

(f) "Internal Revenue Code" means the act approved February 10, 1939 (53 Stat., part 1), entitled "An act to consolidate and codify the internal revenue laws of the United States," as amended.

(g) "Bureau" means the Bureau of Old-Age and Survivors Insurance of the Social Security Administration.

(h) "Benefit" means an old-age insurance benefit, wife's insurance benefit, husband's insurance benefit, child's insurance benefit, widow's insurance benefit, widower's insurance benefit, mother's insurance benefit, or parent's insurance benefit under title II of the act. (Lump sums, which are benefits under title II of the act, except as the context of such title may indicate otherwise, are excluded from the term "benefit" as defined in this part, to permit greater clarity in the regulations.)

(i) "Lump sum" means a lump-sum death payment under title II of the act or any person's share of such a lump-sum death payment.

(j) "Wage earner" means an individual who has been paid wages.

(k) "Attainment of age." An individual attains a given age on the first moment of the day preceding the anniversary of his birth corresponding to such age.

(l) "Wages paid" means wages actually or constructively paid. Wages are constructively paid when they may be drawn upon by the employee at any time although not then actually reduced to possession. In such a case, a constructive payment can be found to have been made only where (1) the wages have been credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made and are available to him so that they may be drawn at any time, and their receipt brought within his own control and disposition, or (2) there is an intention by the employer to pay or to set apart or credit, and ability to pay wages when due, and failure of the employer to credit or set apart the wages is due to clerical error or inadvertence in the mechanics of payment and because of such clerical error or inadvertence, the wages are not actually available at that time. However, where the employee has authority to withhold wages from himself in the interest of the employer, his failure to reduce any of his wages to possession shall be deemed to be in the interest of his employer and to establish the employer's intent not to pay such wages, unless there is a clear showing that such withholding was exclusively in the employee's interest.

(m) "Certify," when used in connection with the duty imposed on the Administration by section 205 (i) of the act, means that action taken by the Administration in the form of a written statement addressed to the Managing Trustee, setting forth the name and address of the person to whom payment of a benefit or lump sum, or any part thereof, is to be made, the amount to be paid, and the time at which payment should be made.

(n) "Regulations 2" (20 CFR, 1938 ed., Part 402) means the regulations approved July 20, 1937, as amended from time to time, relating to Federal old-age benefits under title II of the Social Security Act and amendments to such title effective prior to January 1, 1940.

(o) "Masculine gender" includes the feminine, unless otherwise clearly indicated.

(p) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

(q) "Commissioner" means the Commissioner for Social Security as provided by section 701 of the act.

(r) "Administration," except where the context clearly indicates otherwise, means the Social Security Administration created by Federal Security Agency Order 3, dated July 16, 1946 (11 F. R. 7942).

(s) "Appeals Council" means the Office of Appeals Council in the Social Security Administration as provided by Federal Security Agency Order 57, dated July 16, 1946 (11 F. R. 7943).

(t) "Railroad Retirement Act" means the Railroad Retirement Act of 1937 (50 Stat. 307), as amended by the act approved July 31, 1946 (60 Stat. 722).

(u) "Regulations 3" (Part 403 of this chapter) means the regulations approved May 21, 1940, as amended and supplemented from time to time, relating to Federal old-age benefits under title II of the Social Security Act and amendments to such title effective prior to January 1, 1951.

§ 404.1002 *Employment prior to January 1, 1951.* Under the provisions of section 210 (a) of the Social Security Act as amended, effective January 1, 1951, by section 104 (a) of the Social Security Act Amendments of 1950, services performed after December 31, 1936, and prior to January 1, 1951, constitute employment if such services were employment under the law applicable to the period in which they were performed. Whether services performed after December 31, 1936, and prior to January 1, 1940, constitute employment within the meaning of the regulations in this part shall be determined in accordance with the applicable provisions of law and of Regulations 2 (20 CFR, 1938 ed., Part 402). Whether services performed after December 31, 1939, and prior to January 1, 1951, constitute employment within the meaning of the regulations in this part shall be determined in accordance with the applicable provisions of law and Part 403 of this chapter (Regulations 3).

§ 404.1003 *Employment after December 31, 1950*—(a) *In general.* Whether services performed on or after January 1, 1951, constitute employment is determined under section 210 (a) of the act. This section of the regulations in this part, and §§ 404.1004 and 404.1005 (relating to who are employees and employers), § 404.1006 (relating to excepted services in general), § 404.1007 (relating to included and excluded services), and §§ 404.1008 to 404.1025, inclusive (relating to certain classes of excepted services), apply with respect only to services performed on or after January 1, 1951. (For provisions relating to the circumstances under which services which do not constitute employment are nevertheless deemed to be employment, and relating to the circumstances under which services which constitute employment are nevertheless deemed not to be employment, see § 404.1007. For provisions relating to services performed prior to January 1, 1951, see § 404.1002.)

(b) *Services performed within the United States.* (1) Services performed on or after January 1, 1951, within the United States, that is, within any of the several States, the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico, by an employee for his employer, unless specifically excepted by section 210 (a) of the act, constitute employment within the meaning of the act. Services performed outside the United States, that is, outside the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico (except certain services performed on or in connection with an American vessel or American aircraft, or services performed by a citizen of the United States as an employee for an American

employer—see paragraph (c) of this section), do not constitute employment.

(2) With respect to services performed within the United States, the place where the contract of service is entered into and the citizenship or residence of the employee or of the employer are immaterial. Thus, the employee and the employer may be citizens and residents of a foreign country and the contract of service may be entered into in a foreign country, and yet, if the employee under such contract performs services within the United States, there may be to that extent employment within the meaning of the act.

(c) *Services performed outside the United States*—(1) *On or in connection with an American vessel or American aircraft.* (i) Services performed on or after January 1, 1951, by an employee for an employer "on or in connection with" an American vessel or American aircraft outside the United States (that is, the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico) constitute employment, if:

(*a*) The employee is also employed "on and in connection with" such vessel or aircraft when outside the United States; and

(*b*) The services are performed under a contract of service, between the employee and the employer, which is entered into within the United States; or during the performance of the contract under which the services are performed and while the employee is employed on the vessel or aircraft it touches at a port within the United States; and

(*c*) The services are not excepted under section 210 (a) of the act. (See particularly § 404.1023 relating to fishing.)

(ii) An employee performs services on and in connection with the vessel or aircraft if he performs services on such vessel or aircraft which are also in connection with the vessel or aircraft. Services performed on the vessel by employees as officers or members of the crew, or as employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Similarly, services performed on the aircraft by employees as officers or members of the crew of the aircraft are performed on and in connection with such aircraft. Services may be performed on the vessel or aircraft, however, which have no connection with it, as in the case of services performed by an employee while on the vessel or aircraft merely as a passenger in the general sense. For example, the services of a buyer in the employ of a department store while he is a passenger on a vessel are not in connection with the vessel.

(iii) If services are performed by an employee "on and in connection with" an American vessel or American aircraft when outside the United States and conditions in subdivision (i) (*b*) and (*c*) of this subparagraph are met, then the services of that employee performed on or in connection with the vessel or aircraft constitute employment. The expression "on or in connection with" refers not only to services performed on the vessel or aircraft but also to services connected with the vessel or aircraft which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

(iv) Services performed by a member of the crew or other employee whose contract of service is not entered into within the United States, and during the performance of which and while the employee is employed on the vessel or aircraft it does not touch at a port within the United States, do not constitute employment within this subparagraph, notwithstanding services performed by other members of the crew or other employees on or in connection with the vessel or aircraft may constitute employment.

(v) A vessel includes every description of watercraft, or other contrivance, used as a means of transportation on water. The term "American vessel" means any vessel which is documented (that is, registered, enrolled, or licensed) or numbered in conformity with the laws of the United States. It also includes any vessel which is neither documented nor numbered under the laws of the United States, nor documented under the laws of any foreign country, if the crew of such vessel is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State (including the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico). As used in this part, a citizen of the United States includes a citizen of the Virgin Islands or of Puerto Rico.

(vi) An aircraft includes every description of craft, or other contrivance, used as a means of transportation through the air. The term "American aircraft" means any aircraft registered under the laws of the United States.

(vii) In the case of an aircraft, the term "port" means an airport. An airport means an area on land or water used regularly by aircraft for receiving or discharging passengers or cargo.

(viii) With respect to services performed outside the United States on or in connection with an American vessel or American aircraft, the citizenship or residence of the employee is immaterial, and the citizenship or residence of the employer is material only in case it has a bearing in determining whether a vessel is an American vessel.

(2) *By a citizen of the United States as an employee for an American employer.* (i) Services performed on or after January 1, 1951, outside the United States by a citizen of the United States as an employee for an American employer constitute employment provided the services are not specifically excepted under section 210 (a) of the act.

(ii) The term "citizen of the United States" includes a citizen of the Virgin Islands or of Puerto Rico.

(iii) The term "American employer" means an employer which is

(*a*) The United States or any instrumentality thereof,

(*b*) A State or any political subdivision thereof,

(*c*) An individual who is a resident of the United States (that is, the several States, the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico),

(*d*) A partnership, if two-thirds or more of the partners are residents of the United States,

(*e*) A trust, if all of the trustees are residents of the United States, or

(*f*) A corporation organized under the laws of the United States or of any State (including the District of Columbia, the Territory of Alaska or Hawaii, the Virgin Islands, or Puerto Rico).

§ 404.1004 *Who are employees*—(a) *In general.* (1) The statutory definition of the term "employee" applicable with respect to services performed on or after January 1, 1951, contains three separate and independent tests for determining who are employees. Paragraphs (b), (c), and (d) of this section relate to the respective tests. Paragraph (b) of this section relates to the test for determining whether an officer of a corporation is an employee of the corporation. Paragraph (c) of this section relates to the test for determining whether an individual is an employee under the usual common-law rules. Paragraph (d) of this section relates to the test for determining which individuals in certain occupational groups who are not employees under the usual common-law rules are included as employees. If an individual is an employee under any one of the tests, he is to be considered an employee for purposes of the regulations in this part whether or not he is an employee under any other of the tests.

(2) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

(3) All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, and other superior employees are employees.

(4) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act (see § 404.1003).

(b) *Corporation officers.* Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services or performs only minor services and who neither receives nor is entitled to receive, directly or indirectly, any remuneration is not considered to be an employee of the corporation. A director of a corporation in his capacity as such is not an employee of the corporation.

(c) *Common-law employees.* (1) Every individual is an employee if under the usual common-law rules the relationship between him and the person for whom he performs services is the

legal relationship of employer and employee.

(2) Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common-law rules. Individuals such as physicians, lawyers, dentists, veterinarians, construction contractors, public stenographers, and auctioneers, engaged in the pursuit of an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

(3) Whether the relationship of employer and employee exists under the usual common-law rules will in doubtful cases be determined upon an examination of the particular facts of each case.

(d) *Special classes of employees.* (1) In addition to individuals who are employees under paragraph (b) or (c) of this section, other individuals are employees if they perform services for remuneration under certain prescribed circumstances in the following occupational groups:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services for his principal;

(ii) As a full-time life insurance salesman;

(iii) As a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him, if the performance of such services is subject to licensing requirements under the laws of the State in which such services are performed; or

(iv) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(2) In order for an individual to be an employee under this paragraph, the individual must perform services in an occupation falling within one of the enumerated groups. If the individual does not perform services in one of the designated occupational groups, he is not an employee under this paragraph. An individual who is not an employee under this paragraph may nevertheless be an employee under paragraph (b) or (c) of this section. The language used to designate the respective occupational groups relates to fields of endeavor in which particular designations are not necessarily in universal use with respect to the same service. The designations are addressed to the actual services without regard to any technical or colloquial labels which may be attached to such services. Thus, a determination whether services fall within one of the designated occupational groups depends upon the facts of the particular situation.

(3) The factual situations set forth below are illustrative of some of the individuals falling within each of the above enumerated occupational groups. The illustrative factual situations are as follows:

(i) *Agent-driver or commission-driver.* This occupational group includes agent-drivers or commission-drivers who are engaged in distributing meat or meat products, vegetables or vegetable products, fruit or fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services for their principals. An agent-driver or commission-driver includes an individual who operates his own truck or the truck of the person for whom he performs services, serves customers designated by such person as well as those solicited on his own, and whose compensation is a commission on his sales or the difference between the price he charges his customers and the price he pays to such person for the products or service.

(ii) *Full-time life insurance salesman.* An individual whose entire or principal business activity is devoted to the solicitation of life insurance or annuity contracts, or both, primarily for one life insurance company is a full-time life insurance salesman. Such a salesman ordinarily uses the office space provided by the company or its general agent, and stenographic assistance, telephone facilities, forms, rate books, and advertising materials are usually made available to him without cost. An individual who is engaged in the general insurance business under a contract or contracts of service which do not contemplate that the individual's principal business activity will be the solicitation of life insurance or annuity contracts, or both, for one company, or any individual who devotes only part time to the solicitation of life insurance contracts, including annuity contracts, and is principally engaged in other endeavors, is not a full-time life insurance salesman.

(iii) *Home workers.* This occupational group includes a worker who performs services off the premises of the person for whom the services are performed, according to specifications furnished by such person, on materials or goods furnished by such person, which are required to be returned to such person or a person designated by him, if the performance of such services is subject to licensing requirements under the laws of the State (including the District of Columbia, the Territory of Alaska and Hawaii, the Virgin Islands, or Puerto Rico) in which such services are performed. The requirement that the performance of services by a home worker be subject to licensing laws in the State in which the services are performed is met by such State requiring either a home work license on the part of the person for whom the services are performed or a home work certificate on the part of the individual who performs the services. For provisions relating to remuneration which constitutes wages in the case of a home worker, see § 404.1027 (j).

(iv) *Traveling or city salesman.* This occupational group includes a city or traveling salesman who is engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person or persons) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations. An agent-driver or commission-driver is not within this occupational group. City or traveling salesmen who sell to retailers or to the others specified, operate off the premises of their principals, and are generally compensated on a commission basis, are within this occupational group. Such salesmen are generally not controlled as to the details of their services or the means by which they cover their territories, but in the ordinary case they are expected to call on regular customers with a fair degree of regularity.

(4) In order for a city or traveling salesman to be included within this occupational group, his entire or principal business activity must be devoted to the solicitation of orders for one principal Thus, the multiple-line salesman generally will not be within this occupational group. However, if the salesman solicits orders primarily for one principal, he is not excluded from this occupational group solely because of side-line sales activities on behalf of one or more other persons. In such a case, the salesman is within this occupational group only with respect to the services performed for the person for whom he primarily solicits orders and not with respect to the services performed for such other persons. The following examples illustrate the application of the foregoing provisions:

Example (1). Salesman A's principal business activity is the solicitation of orders from retail pharmacies on behalf of the X Wholesale Drug Company. A also occasionally solicits orders for drugs on behalf of the Y and Z Companies. A is within this occupa-

tional group with respect to his services for the X Company but not with respect to his services for either the Y Company or the Z Company.

Example (2). Salesman B's principal business activity is the solicitation of orders from retail hardware stores on behalf of the R Tool Company and the S Cooking Utensil Company. B regularly solicits orders on behalf of both companies. B is not within this occupational group with respect to the services performed for either the R Company or the S Company.

Example (3). Salesman C's principal business activity is the house-to-house solicitation of orders on behalf of the T Brush Company. C occasionally solicits such orders from retail stores and restaurants. C is not within this occupational group.

(5) The fact that an individual falls within one of the enumerated occupational groups, however, does not make such individual an employee under this paragraph unless (i) the contract of service contemplates that substantially all the services to which the contract relates in the particular designated occupation are to be performed personally by such individual, (ii) such individual has no substantial investment in the facilities used in connection with the performance of such services (other than in facilities for transportation), and (iii) such services are part of a continuing relationship with the person for whom the services are performed and are not in the nature of a single transaction.

(6) The term "contract of service," as used in this paragraph, means an arrangement, formal or informal, under which the particular services are performed. The requirement that the contract of service shall contemplate that substantially all the services to which the contract relates in the particular designated occupation are to be performed personally by the individual means that it is not contemplated that any material part of the services to which the contract relates in such occupation will be delegated to any other person by the individual who undertakes under the contract to perform such services.

(7) The facilities to which reference is made in this paragraph include equipment and premises available for the work or enterprise as distinguished from education, training, and experience, but do not include such tools, instruments, equipment, or clothing, as are commonly or frequently provided by employees. An investment in an automobile by an individual which is used primarily for his own transportation in connection with the performance of services for another person has no significance under this paragraph, since such investment is comparable to outlays for transportation by an individual performing similar services who does not own an automobile. Moreover, the investment in facilities for the transportation of goods or commodities to which the services relate is to be excluded in determining the investment in a particular case. If an individual has a substantial investment in facilities of the requisite character, he is not an employee within the meaning of this paragraph, since a substantial investment of the requisite character standing alone is sufficient to exclude the individual from the employee concept under this paragraph.

(8) If the services are not performed as part of a continuing relationship with the person for whom the services are performed, but are in the nature of a single transaction, the individual performing such services is not an employee of such person within the meaning of this paragraph. The fact that the services are not performed on consecutive workdays does not indicate that the services are not performed as part of a continuing relationship.

§ 404.1005 *Who are employers.* (a) Every person is an employer if he employs one or more employees. Neither the number of employees employed nor the period during which any such employee is employed is material for the purpose of determining whether the person for whom the services are performed is an employer.

(b) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

(c) Although a person may be an employer under this section, services performed in his employ may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act (see § 404.1003).

§ 404.1006 *Excepted services in general.* (a) Services performed on or after January 1, 1951, by an employee for an employer do not constitute employment if they are specifically excepted from employment under any of the numbered paragraphs of section 210 (a) of the act. Services so excepted do not constitute employment even though they are performed within the United States, or are performed outside the United States on or in connection with an American vessel or American aircraft, or are performed outside the United States by a citizen of the United States for an American employer.

(b) The exception attaches to the services performed by the employee and not to the employee as an individual; that is, the exception applies only to the services in an excepted class rendered by the employee.

Example. A is an individual who is employed part time by B to perform services in connection with the ginning of cotton (see § 404.1008 (b)). A is also employed by C part time to perform services as a clerk in a feed store owned by him. While A's services performed in the employ of B are excepted from employment the exception does not embrace the services performed by A in the employ of C which constitute employment.

(c) Section 404.1007 (relating to included and excluded services), and §§ 404.1008 to 404.1025, inclusive (relating to the several classes of excepted services), apply with respect only to services performed on or after January 1, 1951. (For provisions relating to the circumstances under which services which are excepted are nevertheless deemed to be employment, and relating to the circumstances under which services which are not excepted are nevertheless deemed not to be employment, see § 404.1007. For provisions relating to services performed prior to January 1, 1951, see § 404.1002.)

§ 404.1007 *Included and excluded services.* (a) If a portion of the services performed by an employee for an employer during a pay period constitutes employment, and the remainder does not constitute employment, all the services performed by the employee for the employer during the period shall be treated alike, that is, either all as included or all as excluded. The time during which the employee performs services which under section 210 (a) of the act (as modified by section 205 (o) of the act) constitute employment, and the time during which he performs services which under such section do not constitute employment, within the pay period, determine whether all the services during the pay period shall be deemed to be included or excluded.

(b) If one-half or more of the employee's time in the employ of a particular person in a pay period is spent in performing services which constitute employment, then all the services of that employee for that person in that pay period shall be deemed to be employment.

(c) If less than one-half of the employee's time in the employ of a particular person in a pay period is spent in performing services which constitute employment, then none of the services of that employee for that person in that pay period shall be deemed to be employment.

Example. Employee A is employed by B who operates a cotton gin and a store. A's services in connection with the ginning of cotton do not constitute employment, and his services in the store constitute employment. He is paid at the end of each month. During a particular month A works 120 hours at the cotton gin and 80 hours in the store. None of A's services during the month are deemed to be employment, since less than one-half of his services during the month constitutes employment. During another month A works 75 hours at the cotton gin and 120 hours in the store. All of A's services during the month are deemed to be employment, since one-half or more of his services during the month constitutes employment.

(d) For purposes of this section, a "pay period" is the period (of not more than 31 consecutive calendar days) for which a payment of remuneration is ordinarily made to the employee by the employer. Thus, if the periods for which payments of remuneration are made to the employee by the employer are of uniform duration, each such period constitutes a "pay period." If, however, the periods occasionally vary in duration, the "pay period" is the period for which a payment of remuneration is ordinarily made to the employee by the employer, even though that period does not coincide with the actual period for which a particular payment of remuneration is made. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but the employee re-

ceives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the "pay period" is still the calendar week; or if, instead, that employee is sent on a trip by such employer and receives at the end of the third week a single remuneration payment for three weeks' services, the "pay period" is still the calendar week.

(e) If there is only one period (and such period does not exceed 31 consecutive calendar days) for which a payment of remuneration is made to the employee by the employer, such period is deemed to be a "pay period" for the purposes of this section.

(f) The rules set forth in this section do not apply (1) with respect to any services performed by the employee for the employer if the periods for which such employer makes payments of remuneration to the employee vary to the extent that there is no period "for which a payment of remuneration is ordinarily made to the employee," or (2) with respect to any services performed by the employee for the employer if the period for which a payment of remuneration is ordinarily made to the employee by such employer exceeds 31 consecutive calendar days, or (3) with respect to any service performed by the employee for the employer during a pay period if any of such service is excepted by section 210 (a) (10) of the act (except as modified by section 205 (o) of the act) (see § 404. 1017).

(g) If during any period for which a person makes a payment of remuneration to an employee only a portion of the employee's services constitutes employment, but the rules prescribed in this section are not applicable, the remuneration for such portion of the services as constitute employment is wages.

§ 404.1008 *Agricultural labor*—(a) *In general.* This section relates to services performed by an employee for an employer which constitute "agricultural labor" as defined in section 210 (f) of the act. Paragraph (b) of this section relates to agricultural labor which is categorically excepted from employment under section 210 (a) (1) (B) of the act. Paragraph (c) of this section relates to agricultural labor which is excepted from employment under section 210 (a) (1) (A) of the act unless performed under the conditions therein prescribed. Paragraph (d) of this section relates to the definition of the term "agricultural labor."

(b) *Services excepted under section 210 (a) (1) (B) of the act.* (1) The following services are excepted from employment under section 210 (a) (1) (B) of the act:

(i) Services performed in connection with the production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum; and

(ii) Services performed in connection with the ginning of cotton.

(2) The amount of the remuneration paid for such services and the circumstances under which the services are performed are immaterial for the purposes of the exception under section 210 (a) (1) (B).

(c) *Services excepted under section 210 (a) (1) (A) of the act.* (1) As used in this paragraph, the term "agricultural labor" does not include services performed in connection with the ginning of cotton or in connection with the production or harvesting of those oleoresinous products described in paragraph (b) of this section.

(2) Agricultural labor performed by an employee for an employer in a calendar quarter is excepted from employment under section 210 (a) (1) (A) of the act unless

(i) The cash remuneration paid for agricultural labor performed for the employer by the employee in the calendar quarter is $50 or more; and

(ii) Such employee is regularly employed in the calendar quarter by such employer to perform such agricultural labor. Unless the tests set forth in both subdivisions (i) and (ii) of this subparagraph are met, the services are excepted from employment under section 210 (a) (1) (A).

(3) The test relating to cash remuneration of $50 or more is based on the remuneration earned during a calendar quarter rather than on remuneration paid in a calendar quarter. However, for purposes of determining whether the test is met, it is also required that the remuneration be paid, although it is immaterial when the remuneration is paid. Furthermore, in determining whether $50 or more has been paid for agricultural labor performed in a calendar quarter, only cash remuneration for agricultural labor shall be taken into account. (Since services performed in connection with the ginning of cotton or in connection with the production or harvesting of those oleoresinous products described in paragraph (b) of this section do not constitute agricultural labor for the purposes of this paragraph, any remuneration paid for such services is disregarded in determining whether the cash-remuneration test is met.) The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, clothing, farm products, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met. For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for agricultural labor, see § 404.1027 (g).

(4) For the purposes of this paragraph, an individual is deemed to be regularly employed by an employer during a calendar quarter (including the first quarter of 1951) if:

(i) Such individual performs agricultural labor for such employer on a full-time basis on at least 60 days (whether or not consecutive) during such calendar quarter; and

(ii) The calendar quarter was immediately preceded by a qualifying quarter.

An individual shall also be deemed to be regularly employed by an employer during a calendar quarter if such individual was regularly employed (upon application of subdivisions (i) and (ii) of this subparagraph) by such employer during the preceding calendar quarter.

(5) A qualifying quarter is (i) any calendar quarter during all of which the individual was continuously employed by the employer, or (ii) any subsequent calendar quarter during which such individual performs agricultural labor for such employer on a full-time basis on at least 60 days during such quarter if, after the last calendar quarter during which such individual was continuously employed by such employer, such individual performs agricultural labor for such employer on a full-time basis on at least 60 days during each intervening calendar quarter. A calendar quarter prior to the last calendar quarter of 1950 may not be a qualifying quarter.

(6) The requirement that an employee be continuously employed by an employer during all of a calendar quarter is met by the existence of the employer-employee relationship throughout an entire calendar quarter, whether or not the employee does any work for the employer during the calendar quarter. Moreover, a calendar quarter in which the employee is continuously employed by the employer is a qualifying quarter, irrespective of whether the employee is employed to perform agricultural labor. For example, the calendar quarter in which the employee is continuously employed by the employer to perform services in connection with the ginning of cotton or any business conducted by the employer is a qualifying quarter.

(7) In order to satisfy the requirement of the performance of agricultural labor on a full-time basis on at least 60 days during a calendar quarter, the arrangement under which an employee performs agricultural labor for an employer must contemplate the performance of such labor on a full-time basis, and the employee must perform agricultural labor for the employer on at least 60 days during the calendar quarter. Thus, the requirement of the performance of agricultural labor on a full-time basis relates to the arrangement under which the employee is engaged to perform agricultural labor, whereas the requirement of the performance of agricultural labor on at least 60 days during a calendar quarter relates to the performance of agricultural labor by the employee on the required number of days during such calendar quarter.

(8) An arrangement for the performance of agricultural labor on a full-time basis means an arrangement under which an employee is engaged to perform agricultural labor for a single employer on the basis of a full workday. The term "full workday" as used in the preceding sentence has reference to the full workday prevailing in the particular locality for the type of agricultural occupation in which the employee is engaged. The fact that an employee who performs agricultural labor primarily for one employer also performs other services of an incidental character for such employer or any incidental services for some other person does not prevent such employee from being engaged on a full-time basis in the performance of agricultural labor for such employer.

Example. A, the operator of a dairy farm, employs B, a schoolboy, for two hours each morning before school and two hours each afternoon after school to assist him in the operation of the dairy farm. In addition, B works for A ten hours each Saturday in the performance of the same type of work. The full workday in the particular locality for a dairy farm worker is a period of eight hours.

Each full calendar quarter B remains in the employ of A constitutes a qualifying quarter for the reason that B is continuosly employed by A in each such quarter. Since under the arrangement B is engaged to perform agricultural labor for A on the basis of a full workday only on Saturdays, only the Saturdays constitute days on which B performs agricultural labor for A on a full-time basis. The other days of the week do not constitute days on which B performs agricultural labor for A on a full-time basis, since the arrangement contemplates the performance of agricultural labor on such days on less than a full workday.

(9) In determining whether an employee has performed agricultural labor on at least 60 days during a calendar quarter, there shall be counted as one day—

(i) Any day or portion thereof on which the employee actually performs such labor; and

(ii) Any day or portion thereof on which the employee does not perform agricultural labor but with respect to which cash remuneration is paid or payable to the employee for such labor, such as a day on which the employee is sick or on vacation. An employee who on a particular day reports for work and, at the direction of his employer, holds himself in readiness to perform agricultural labor shall be considered to be engaged in the actual performance of such labor on that day. For the purposes of this section, a day is a period of 24 hours commencing at midnight and ending at midnight.

(10) An individual who is regularly employed in a calendar quarter under the test set forth in subparagraph (4) (i) and (ii) of this paragraph is also considered to be regularly employed in the next succeeding calendar quarter, irrespective of whether he performs any service during such succeeding quarter. Thus, such individual will continue to be regularly employed until the end of such succeeding calendar quarter, even though he does not perform agricultural labor on a full-time basis on 60 days during such quarter. If in such succeeding calendar quarter such individual does not perform agricultural labor on a full-time basis on at least 60 days, such individual must meet the test set forth in subparagraph (4) (i) and (ii) of this paragraph in order to qualify as regularly employed in any subsequent calendar quarter.

(11) The application of certain of the provisions of paragraph (c) of this section may be illustrated by the following example:

Example. C, who operates a truck and a general store, hired D on September 15, 1950, to work in his store for the remainder of the year.

The calendar quarter, October 1 through December 31, 1950, is a qualifying quarter by virtue of the existence of the employer-employee relationship throughout the entire calendar quarter. The fact that the quarter was before January 1, 1951, the effective date of the inclusion of certain agricultural labor as employment, does not prevent such quarter from being a qualifying quarter. (The last calendar quarter of 1950 is the first calendar quarter which may constitute a qualifying quarter.) The nature of the work performed by D in the qualifying quarter is immaterial. D might have worked on C's farm or in any other business conducted by C during that period. In fact, the quarter would constitute a qualifying quarter even though D did not work for C during the quarter, if the employer-employee relationship existed throughout the calendar quarter.

On January 1, 1951, D was transferred from C's store to his farm to perform general farm work. The arrangement contemplates that D will devote eight hours on each workday to the performance of agricultural labor for C. An 8-hour day constitutes the full workday prevailing in the locality for general farm work. In the calendar quarter, January 1 through March 31, 1951, D performs agricultural labor for C on 65 days. D is paid $390 in cash for agricultural labor performed for C in the calendar quarter.

D is regularly employed by C in the first calendar quarter of 1951 in that he performed agricultural labor on a full-time basis on at least 60 days during such calendar quarter and such quarter was immediately preceded by a qualifying quarter. The services performed by D during the calendar quarter constitute employment (unless excepted under some provision of section 210 of the act other than section 210 (a) (1)) because D is regularly employed by C in the calendar quarter and is paid $50 or more for agricultural labor performed for C in the calendar quarter. The cash remuneration paid D for services performed during the calendar quarter would constitute wages unless such remuneration is excluded from wages under some provision of section 209 of the act.

In the next calendar quarter, April 1 through June 30, 1951, D performs agricultural labor for C on 45 days and is paid $270 in cash for the labor performed on those days.

D is regularly employed by C in the second calendar quarter of 1951, even though he worked on less than 60 days in the quarter, by reason of the fact that D was regularly employed by C in the preceding calendar quarter. The services performed in the second calendar quarter also constitute employment unless excepted under some other provision of section 210 of the act. The cash remuneration paid for such services is likewise wages unless excluded from wages by virtue of some provision of section 209 of the act.

In the quarter, July 1 through September 30, 1951, D performs agricultural labor for C on a full-time basis on 60 days and is paid $360 in cash for the labor performed in that quarter.

The determination whether D is regularly employed by C in the third calendar quarter of 1951 depends upon whether the employer-employee relationship continued throughout the calendar quarter, April 1 through June 30, 1951. If the employer-employee relationship did not continue throughout the second calendar quarter of 1951, D lost his standing as regularly employed for the third calendar quarter of 1951 when he worked on less than 60 days in the preceding calendar quarter. In that case, D will not be regularly employed until after he serves another qualifying quarter, by being continuously employed for a full calendar quarter, and performs agricultural labor for the same employer on a full-time basis on at least 60 days during the next succeeding calendar quarter. However, if the employer-employee relationship existed between C and D throughout the second calendar quarter of 1951, such quarter would constitute a qualifying quarter and D would be regularly employed by C in the third calendar quarter of 1951 by reason of the fact that he performed agricultural labor for C on a full-time basis on 60 days during such third calendar quarter. In that case, D's services for C in the third calendar quarter of 1951 would constitute employment, unless otherwise excepted, by reason of the fact that he was regularly employed to perform agricultural labor in such quarter and was paid $50 or more for agricultural labor performed in the quarter. Moreover, the cash remuneration paid for such services would be wages unless such remuneration is excluded from wages.

(d) *Definition*—(1) *In general.* (i) The term "agricultural labor" as defined in section 210 (f) of the act includes services of the character described in subparagraphs (2), (3), (4), (5), and (6) of this paragraph. In general, however, the term does not include services performed in connection with forestry, lumbering, or landscaping.

(ii) The term "farm" as used in the regulations in this part includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets) do not constitute "farms."

(2) *Services described in section 210 (f) (1) of the act.* (i) Services performed on a farm by an employee of any person in connection with any of the following activities constitute agricultural labor:

(*a*) The cultivation of the soil;

(*b*) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, fur-bearing animals, or wildlife; or

(*c*) The raising or harvesting of any other agricultural or horticultural commodity.

(ii) Services performed in connection with the production or harvesting of maple sap, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry constitute agricultural labor only if such services are performed on a farm. Thus, services performed in connection with the operation of a hatchery, if not operated as part of a poultry or other farm, do not constitute agricultural labor. Services performed in the processing (as distinguished from the gathering) of maple sap into maple sirup or maple sugar do not constitute agricultural labor, even though such services are performed on a farm.

(3) *Services described in section 210 (f) (2) of the act.* (i) The following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms constitute agricultural labor, provided the major part of such services is performed on a farm:

(*a*) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(b) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane.

(ii) The services described in subdivision (i) (a) of this subparagraph may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semi-skilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

(iii) Since the services described in this subparagraph must be performed in the employ of the owner or tenant or other operator of the farm, the term "agricultural labor" does not include services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(4) *Services described in section 210 (f) (3) of the act.* Services performed by an employee in the employ of any person in connection with any of the following operations constitute agricultural labor without regard to the place where such services are performed:

(i) The ginning of cotton;

(ii) The operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying or storing water for farming purposes; or

(iii) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(5) *Services described in section 210 (f) (4) of the act.* (i) Services performed by an employee in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity constitute agricultural labor if:

(a) Such services are performed by the employee in the employ of an operator of a farm or in the employ of a group of operators of farms (other than a cooperative organization);

(b) Such services are performed with respect to the commodity in its unmanufactured state; and

(c) (1) Such operator produced more than one-half of the commodity with respect to which such services are performed during the pay period, or (2) such group of operators produced all of the commodity with respect to which such services are performed during the pay period.

(ii) The term "operator of a farm" as used in this subparagraph means an owner, tenant, or other person, in possession of a farm and engaged in the operation of such farm.

(iii) The services described in this subparagraph do not constitute agricultural labor if performed in the employ of a cooperative organization. The term "organization" includes corporations, joint-stock companies, and associations which are treated as corporations under the Internal Revenue Code. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar quarter in which the services involved are performed.

(iv) Processing services which change the commodity from its raw or natural state do not constitute agricultural labor. For example, the extraction of juices from fruits or vegetables is a processing operation which changes the character of the fruits or vegetables from their raw or natural state and, therefore, does not constitute agricultural labor. On the other hand, services rendered in the cutting and drying of fruits or vegetables are processing operations which do not change the character of the fruits or vegetables and, therefore, constitute agricultural labor, if the other requisite conditions are met. Services performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation do not constitute agricultural labor.

(v) The term "commodity" refers to a single agricultural or horticultural product, for example, all apples are to be treated as a single commodity, while apples and peaches are to be treated as two separate commodities. The services with respect to each such commodity are to be considered separately in determining whether the condition set forth in subdivision (i) (c) of this subparagraph has been satisfied. The portion of the commodity produced by an operator or group of operators with respect to which the services described in this subparagraph are performed by a particular employee shall be determined on the basis of the pay period in which such services were performed by such employee.

(vi) The services described in this subparagraph do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in this subparagraph must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of subparagraph (3) of this paragraph.

(6) *Services described in section 210 (f) (5) of the act.* (i) Services not in the course of the employer's trade or business (see § 404.1010) or domestic services in a private home of the employer (see § 404.1027 (h)) constitute agricultural labor if such services are performed on a farm operated for profit. The determination whether such services performed on a farm operated for profit constitute employment is to be made under this section rather than under § 404.1010 or § 404.1027 (h).

(ii) Generally, a farm is not operated for profit if it is occupied by the employer primarily for residential purposes, or is used primarily for the pleasure of the employer or his family such as for the entertainment of guests or as a hobby of the employer or his family.

§ 404.1009 *Domestic service performed by a student in a local college club, etc.* (a) Services of a household nature performed in or about the club rooms or house of a local college club, or in or about the club rooms or house of a local chapter of a college fraternity or sorority, by a student who is enrolled and regularly attending classes at a school, college, or university are excepted from employment. For the purposes of this exception, the statutory tests are the type of services performed by the employee, the character of the place where the services are performed, and the status of the employee as a student enrolled and regularly attending classes at a school, college, or university.

(b) In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

(c) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter. If the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for the purpose of supplying board or lodging to students or the public as a business enterprise, the services performed therein are not within the exception.

(d) The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

(e) Services of a household nature are not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs), hotels, or commercial establishments.

(f) For provisions relating to domestic service in a private home of the employer, see § 404.1027 (h).

§ 404.1010 *Services not in the course of employer's trade or business.* (a) Services not in the course of the employer's trade or business performed by an employee for an employer in a calendar quarter are excepted from employment unless—

(1) The cash remuneration paid for such services performed by the employee for the employer in the calendar quarter is $50 or more; and

(2) Such employee is regularly employed in the calendar quarter by such employer to perform such services. Unless the tests set forth in subparagraphs (1) and (2) of this paragraph are met the services are excepted from employment.

(b) The term "services not in the course of the employer's trade or business" includes services that do not promote or advance the trade or business of the employer. Services performed for a corporation do not come within the exception.

(c) The test relating to cash remuneration of $50 or more is based on the remuneration earned during a calendar quarter rather than on remuneration paid in a calendar quarter. However, for purposes of determining whether the test is met, it is also required that the remuneration be paid, although it is immaterial when the remuneration is paid. Furthermore, in determining whether $50 or more has been paid for services not in the course of the employer's trade or business, only cash remuneration for such services shall be taken into account. The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met.

(d) For the purposes of this exception, an individual is deemed to be regularly employed by an employer during a calendar quarter only if:

(1) Such individual performs services not in the course of the employer's trade or business for such employer for some portion of the day on at least 24 days (whether or not consecutive) during such calendar quarter; or

(2) Such individual was regularly employed (as determined under subparagraph (1) of this paragraph) by such employer in the performance of services not in the course of the employer's trade or business during the preceding calendar quarter (including the last calendar quarter of 1950).

(e) In determining whether an employee has performed services not in the course of the employer's trade or business on at least 24 days during a calendar quarter, there shall be counted as one day—

(1) Any day or portion thereof on which the employee actually performs such services; and

(2) Any day or portion thereof on which the employee does not perform services of the prescribed character but with respect to which cash remuneration is paid or payable to the employee for such services, such as a day on which the employee is sick or on vacation.

An employee who on a particular day reports for work and, at the direction of his employer, holds himself in readiness to perform services not in the course of the employer's trade or business shall be considered to be engaged in the actual performance of such services on that day. For the purposes of this exception, a day is a period of 24 hours commencing at midnight and ending at midnight.

(f) Services not in the course of the employer's trade or business performed on a farm operated for profit, domestic service in a private home of the employer performed on a farm operated for profit, and domestic service in a private home of the employer performed other than on a farm operated for profit are not within the exception. For provisions relating to services not in the course of the employer's trade or business performed on a farm operated for profit and domestic service in a private home of the employer performed on a farm operated for profit, see § 404.1008. For provisions relating to domestic service in a private home of the employer performed other than on a farm operated for profit, see § 404.1027 (h).

(g) For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, see § 404.1027 (g).

§ 404.1011 *Family employment.* (a) Certain services are excepted from employment because of the existence of a family relationship between the employee and the individual employing him. The exceptions are as follows:

(1) Services performed by an individual in the employ of his or her spouse;

(2) Services performed by a father or mother in the employ of his or her son or daughter; and

(3) Services performed by a son or daughter under the age of 21 in the employ of his or her father or mother.

(b) Under paragraph (a) (1) and (2) of this section, the exception is conditioned solely upon the family relationship, between the employee and the individual employing him. Under paragraph (a) (3) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that such son or daughter is under the age of 21.

(c) Services performed in the employ of a corporation are not within the exception. Services performed in the employ of a partnership are not within the exception unless the requisite family relationship exists between the employee and each of the partners comprising the partnership.

§ 404.1012 *Non-American vessel or aircraft.* (a) Certain services performed within the United States "on or in connection with" a vessel not an American vessel, or "on or in connection with" an aircraft not an American aircraft, are excepted from employment. In order to be excepted, the services must be performed by an employee who is also employed "on and in connection with" the vessel or aircraft when outside the United States.

(b) An employee performs services on and in connection with the vessel or aircraft if he performs services on such vessel or aircraft when outside the United States which are also in connection with the vessel or aircraft. Services performed on the vessel outside the United States by employees as officers or members of the crew, or as employees of concessionaires, of the vessel, for example, are performed under such circumstances, since such services are also connected with the vessel. Similarly, services performed on the aircraft outside the United States by employees as officers or members of the crew of the aircraft are performed on and in connection with such aircraft. Services may be performed on the vessel or aircraft, however, which have no connection with it, as in the case of services performed by an employee while on the vessel or aircraft merely as a passenger in the general sense. For example, the services of a buyer in the employee of a department store while he is a passenger on a vessel are not in connection with the vessel.

(c) The expression "on or in connection with" refers not only to services performed on the vessel or aircraft but also to services connected with the vessel or aircraft which are not actually performed on it (for example, shore services performed as officers or members of the crew, or as employees of concessionaires, of the vessel).

(d) Services performed outside the United States on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, by a citizen of the United States as an employee for an American employer are excepted from employment, if the employee is employed on and in connection with such vessel or aircraft when outside the United States. Services performed outside the United States on or in connection with a vessel not an American vessel, or on or in connection with an aircraft not an American aircraft, either by an employee who is not a citizen of the United States or for an employer who is not an American employer do not constitute employment in any event. (For provisions relating to services performed outside the United States which constitute employment, see § 404.1003 (c).)

(e) The citizenship or residence of the employee and the place where the contract of service is entered into are immaterial for purposes of this exception. The citizenship or residence of the employer is material only in case it has a bearing in determining whether the vessel is an American vessel. (For definitions of "vessel," "American vessel," "aircraft," "American aircraft," "citizen of the United States," and "American employer," see § 404.1003 (c).)

§ 404.1013 *United States and instrumentalities thereof*—(a) *In general.* This section relates to services performed in the employ of the United States Government or in the employ of any instrumentality of the United States. Paragraphs (b) and (c) of this section relate to services performed either in the employ of the United States or in the employ of any instrumentality thereof. Paragraph (b) of this section relates to services which are excepted from employment by virtue of the fact that the services are covered by a retirement system established by a law of the United States. Paragraph (c) of this section relates to services which are excepted from employment by virtue of the fact that the services are of the character described in any one of 13 special classes of excepted services. Paragraphs (d) and (e) of this section relate solely to services performed in the employ of an instrumentality of the United States. Paragraph (d) of this section relates to

services which are excepted from employment by virtue of the fact that the services are performed in the employ of an instrumentality which has been granted a specific statutory exemption from the tax imposed by section 1410 of the Internal Revenue Code. Paragraph (e) of this section relates to services which are excepted from employment by virtue of the fact that the services are performed in the employ of an instrumentality which either was exempt on December 31, 1950, from the tax imposed by section 1410 of the Internal Revenue Code or would have been exempt on that date from such tax had it then been in existence. Particular services which are not excepted from employment under one rule set forth in this section may nevertheless be excepted under another rule set forth in this section. Moreover, services performed in the employ of the United States or of any instrumentality thereof which are not excepted from employment under paragraph (6) or (7) of section 210 (a) of the act may nevertheless be excepted under some other paragraph of such section.

(b) *Services covered under a retirement system.* Services performed in the employ of the United States or in the employ of any instrumentality thereof are excepted from employment if such services are covered under a law enacted by the Congress of the United States which specifically provides for the establishment of a retirement system for employees of the United States or of such instrumentality. Determinations as to whether services are covered by a retirement system of the requisite character are to be made as of the time such services are performed. Services of an employee who has an option to have his services covered under a retirement system are not covered under such retirement system unless and until he exercises such option. The test is whether particular services performed by an employee are covered by a retirement system of the requisite character rather than whether the position in which such services are performed is covered by such retirement system.

(c) *Special classes of services.* The following classes of services performed either in the employ of the United States or in the employ of any instrumentality thereof are excepted from employment:

(1) Services performed as the President or Vice President of the United States or as a Member, Delegate, Resident Commissioner, of or to the Congress of the United States;

(2) Services performed in the legislative branch of the United States Government;

(3) Services performed in the field service of the Post Office Department unless performed by an individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act (act of May 29, 1930, as amended, 5 U. S. C. 691 et seq.) because he is serving under a temporary appointment pending final determination of eligibility for permanent or indefinite appointment;

(4) Services performed in or under the Bureau of the Census of the Department of Commerce by temporary employees employed for the actual taking of any census (exclusive of clerical or other employees employed for work other than in the actual taking of the census);

(5) Services performed by an individual as an employee who is excluded by Executive order from the operation of the Civil Service Retirement Act because of payment on a contract or fee basis;

(6) Services performed by an individual as an employee for nominal compensation of $12 or less per annum;

(7) Services performed in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(8) Services performed by an individual as a consular agent appointed under the authority of section 551 of the Foreign Service Act of 1946 (22 U. S. C. 951);

(9) Services performed by student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, or student occupational therapists, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by any department, agency, or instrumentality of the United States Government, or by certain other student employees described in section 2 of the act of August 4, 1947 (15 U. S. C. 1052);

(10) Services performed by an individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(11) Services performed by an individual as an employee who is employed under a Federal relief program to relieve him from unemployment;

(12) Services performed as a member of a State, county, or community committee under the Production and Marketing Administration or of any other board, council, committee, or other similar body, unless such board, council, committee, or other similar body is composed exclusively of individuals otherwise in the full-time employ of the United States; and

(13) Services performed by an individual to whom the Civil Service Retirement Act does not apply because he is, with respect to such services, subject to another retirement system established either by a law of the United States or by the agency or instrumentality of the United States for which such services are performed.

(d) *Services performed for instrumentality specifically exempted from tax.* Services performed in the employ of an instrumentality of the United States are excepted from employment if such instrumentality is exempt from the employer tax imposed by section 1410 of the Internal Revenue Code by virtue of any other provision of law which specifically refers to such section 1410 in granting exemption from the tax imposed by such section. This exception does not operate to exclude from employment services performed in the employ of an instrumentality of the United States unless and until the Congress grants to such instrumentality a specific exemption from the tax imposed by section 1410 of the Internal Revenue Code. Section 1412 of the Internal Revenue Code makes ineffectual as to the employer tax imposed by section 1410 of the Internal Revenue Code those provisions of law which grant to an instrumentality of the United States an exemption from taxation, unless such provisions grant a specific exemption from the tax imposed by such section 1410 by an express reference to such section. Thus, the general exemptions from Federal taxation granted by various statutes to certain instrumentalities of the United States without specific reference to tax imposed by section 1410 of the Internal Revenue Code are rendered inoperative insofar as such exemptions relate to the tax imposed by such section 1410. For provisions relating to services performed for an instrumentality exempt on December 31, 1950, from the employer tax, see paragraph (e) of this section.

(e) *Services performed for an instrumentality not subject to employer tax on December 31, 1950.* Services performed in the employ of an instrumentality of the United States are excepted from employment if the particular instrumentality was not subject on December 31, 1950, to the employer tax imposed by section 1410 of the Internal Revenue Code. If the particular instrumentality was not in existence on December 31, 1950, but is created thereafter under a law which was in effect on December 31, 1950, services performed in the employ of such instrumentality are excepted from employment if the instrumentality had it been in existence on December 31, 1950, would not have been subject on that date to the employer tax imposed by section 1410 of the Internal Revenue Code. It is immaterial, for the purposes of this exception, whether the exemption from the employer tax on December 31, 1950, resulted, or would have resulted, from a tax exemption as such in effect on December 31, 1950, or from the provisions of section 1426 (b) (6) of the Internal Revenue Code in effect on that date, relating to the exception from employment of services performed in the employ of certain instrumentalities of the United States. This exception, however, has no application with respect to any of the following classes of services:

(1) Services performed in the employ of a corporation which is wholly owned by the United States;

(2) Services performed in the employ of a national farm loan association, a production credit association, a Federal Reserve Bank, or Federal credit union;

(3) Services performed in the employ of a State, county, or community committee under the Production and Marketing Administration; or

(4) Services performed by a civilian employee, who is not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department.

§ 404.1014 *States and their political subdivisions and instrumentalities*—(a) *In general.* Services other than services included under an agreement under section 218 of the act (see subpart M of these regulations), and other than covered transportation service as defined in section 210 (l) of the act (see paragraph (b) of this section), performed in the employ of any State, or of any political subdivision thereof, are excepted from employment. Services, other than services included under an agreement under section 218 of the act and covered transportation service, performed in the employ of an instrumentality of one or more States or political subdivisions thereof are excepted from employment if the instrumentality is wholly owned by one or more of the foregoing. The term "State" includes the District of Columbia, the Territories of Alaska and Hawaii, the Virgin Islands, and Puerto Rico.

(b) *Covered transportation service*—(1) *Transportation systems acquired in whole or in part after 1936 and prior to 1951*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, all service performed after December 31, 1950, in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if any part of the transportation system was acquired from private ownership after 1936 and prior to 1951. For the purposes of this subdivision, it is immaterial whether any part of the transportation system was acquired prior to 1937 or after 1950, whether the employee was hired before, during, or after 1950, or whether the employee had been employed by the employer from whom the State or political subdivision acquired its transportation system or any part thereof.

(ii) *General retirement system protected by State constitution.* Except as provided in subdivision (iii) of this subparagraph, service performed after December 31, 1950, in the employ of a State or political subdivision in connection with its operation of a public transportation system acquired in whole or in part from private ownership after 1936 and prior to 1951 does not constitute covered transportation service, if substantially all service in connection with the operation of the transportation system was, on December 31, 1950, covered under a general retirement system providing benefits which are protected from diminution or impairment under the State constitution by reason of an express provision, dealing specifically with retirement systems established by the State or political subdivisions of the State, which forbids such diminution or impairment.

(iii) *Additions to certain transportation systems by acquisition after 1950.* This subdivision is applicable only in case of an acquisition after 1950 from private ownership of an addition to an existing public transportation system which was acquired in whole or in part by a State or political subdivision thereof from private ownership after 1936 and prior to 1951 and then only in case service for such existing transportation system did not constitute covered transportation service by reason of the provisions of subdivision (ii) of this subparagraph. Service in connection with the operation of such transportation system (including any additions acquired after 1950) constitutes covered transportation service commencing with the first day of the third calendar quarter following the calender quarter in which the addition to the existing transportation system was acquired, if such service is performed by an employee who became an employee of the State or political subdivision in connecton with and at the time of its acquisition from private ownership of such addition and who prior to the acquisition of such addition rendered service in employment in connection with the operation of the addition so acquired by such State or political subdivision. However, service performed by such employee in connection with the operation of the transportation system does not constitute covered transportation service if, on the first day of the third calendar quarter following the calendar quarter in which the addition was acquired, such service is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees who became employees of the State or political subdivision in connection with and at the time of its acquisition of such addition.

(2) *Transportation systems in operation on December 31, 1950, no part of which was acquired after 1936 and prior to 1951*—(i) *In general.* Except as provided in subdivision (ii) of this subparagraph, no service performed in the employ of a State or a political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if no part of such transportation system operated by the State or political subdivision on December 31, 1950, was acquired from private ownership after 1936 and prior to 1951.

(ii) *Additions acquired after 1950.* This subdivision is applicable only in case of an acquisition after 1950 from private ownership of an addition to an existing public transportation system which was operated by a State or political subdivision on December 31, 1950, but no part of which was acquired from private ownership after 1936 and prior to 1951. Service in connection with the operation of such transportation system (including any additions acquired after 1950) constitutes covered transportation service commencing with the first day of the third calendar quarter following the calendar quarter in which the addition to the existing transportation system was acquired, if such service is performed by an employee who became an employee of the State or political subdivision in connection with and at the time of its acquisition from private ownership of such addition and who prior to the acquisition of such addition rendered service in employment in connection with the operation of the addition so acquired by such State or political subdivision. However, service performed by such employee in connection with the operation of the transportation system does not constitute covered transportation service if, on the first day of the third calendar quarter following the calendar quarter in which the addition was acquired, such service is covered by a general retirement system which does not, with respect to such employee, contain special provisions applicable only to employees who became employees of the State or political subdivision in connection with and at the time of its acquisition of such addition.

(3) *Transportation systems acquired after 1950.* All service performed in the employ of a State or political subdivision thereof in connection with its operation of a public transportation system constitutes covered transportation service if the transportation system was not operated by the State or political subdivision prior to 1951 and, at the time of its first acquisition after 1950 from private ownership of any part of its transportation system, the State or political subdivision did not have a general retirement system covering substantially all service performed in connection with the operation of the transportation system.

(4) *Definitions.* For the purposes of this paragraph—

(i) The term "general retirement system" means any pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof for employees of the State, political subdivision, or both; but such term does not include such a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

(ii) A transportation system or a part thereof is considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or an acquired part thereof constituted employment under the act or was covered by an agreement entered into between a State and the Federal Security Administrator pursuant to section 218 of the act, and some of such employees became employees of the State or political subdivision in connection with and at the time of such acquisition.

(iii) The term "political subdivision" includes an instrumentality of a State, of one or more political subdivisions of a State, or of a State and one or more of its political subdivisions.

(iv) The term "employment" includes service covered by an agreement entered into between a State and the Federal Security Administrator pursuant to section 218 of the act.

§ 404.1015 *Ministers of churches and members of religious orders.* Services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, are excepted from employment. The duties of ministers include the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under

the authority of a religious body constituting a church or church denomination.

§ 404.1016 *Religious, charitable, educational or other organizations exempt from income tax under section 101 (6) of the Internal Revenue Code.* Services performed by an employee in the employ of a religious, charitable, educational, or other organization exempt from income tax under section 101 (6) of the Internal Revenue Code are excepted from employment. However, this exception does not apply to services performed during the period for which a certificate, filed pursuant to section 1426 (l) of the Internal Revenue Code, is in effect if such services are performed by an employee (a) whose signature appears on the list filed by such organization under section 1426 (l) of the Internal Revenue Code, or (b) who became an employee of such organization after the calendar quarter in which the certificate was filed.

(See § 404.1015, relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; § 404.1018 relating to services performed in the employ of an organization exempt from income tax under section 101 of the Internal Revenue Code; § 404.1019 relating to services performed in the employ of a school, college, or university by certain students; and § 404.1022, relating to services performed by certain student nurses and hospital interns. See Treasury Regulations 128, § 408.216 (b) (16 F. R. 12470) relating to waiver under section 1426 (l) of the Internal Revenue Code of exemption from taxes.)

§ 404.1017 *Railroad industry; employees and employee representatives under section 1532 of the Internal Revenue Code*—(a) *When services are excepted from employment.* Except as particularly set forth in paragraph (b) of this section, services performed by an individual as an "employee" or as an "employee representative," as those terms are defined in section 1532 of subchapter B of chapter 9 of the Internal Revenue Code, are excepted from employment.

(b) *When services are not excepted from employment.* If there is no person who would be entitled, upon application therefor, to an annuity under section 5 of the Railroad Retirement Act or to a lump-sum death payment under subsection (f) (1) of such section with respect to the death of an employee (as defined in such act) then, not withstanding section 210 (a) (10) of the act, remuneration for services described in paragraph (a) of this section constitutes wages for purposes of determining entitlement to and the amount of any lump-sum death payment under title II on the basis of such employee's wages and self-employment income, and entitlement to and the amount of any monthly benefit under title II for the month in which such employee died or for any month thereafter on the basis of such wages and self-employment income. This paragraph shall not be applicable to remuneration for services described in paragraph (a) of this section to the extent that such remuneration is attributable to payments as having been made during any month on account of military services creditable under section 4 of the Railroad Retirement Act if wages are deemed to have been paid to such employee during such month under section 217 (a) of the act (see § 404.1305).

§ 404.1018 *Organizations exempt from income tax; remuneration less than $50 for calendar quarter.* Services performed by an employee in a calendar quarter in the employ of an organization exempt from income tax under section 101 of the Internal Revenue Code are excepted from employment, if the remuneration for the services is less than $50. The exception applies separately with respect to each organization for which the employee renders services in a calendar quarter. The type of services performed by the employee and the place where the services are performed are immaterial; the statutory tests are the character of the organization in the employ of which the services are performed and the amount of the remuneration for services performed by the employee in the calendar quarter.

Example (1). X is a local lodge of a fraternal organization and is exempt from income tax under section 101 (3) of the Internal Revenue Code. X has two paid employees, A, who serves exclusively as recording secretary for the lodge, and B, who performs services for the lodge as janitor of its clubhouse. For services performed during the first calendar quarter of 1951 (that is, January 1, 1951, through March 31, 1951, both dates inclusive) A earns a total of $30. For services performed during the same calendar quarter B earns $180. Since the remuneration for the services performed by A during such quarter is less than $50, all of such services are excepted from employment, and none of the remuneration for such services constitutes wages. Since the remuneration for the services performed by B during such quarter, however, is not less than $50, none of such services are excepted from employment, and all of the remuneration for such services (that is, $180) constitutes wages, as and when paid.

Example (2). The facts are the same as in example (1), above, except that on April 1, 1951, A's salary is increased and, for services performed during the calendar quarter beginning on that date (that is, April 1, 1951, through June 30, 1951; both dates inclusive), A earns a total of $60. Although all of the services performed by A during the first quarter were excepted from employment, none of A's services performed during the second quarter are excepted since the remuneration for such services is not less than $50. All of the remuneration for services performed during the second quarter (that is, $60) constitutes wages, as and when paid.

Example (3). The facts are the same as in example (1), above, except that A earns $120 for services performed during the year 1951, and such amount is paid to him in a lump sum at the end of the year. The services performed by A in any calendar quarter during the year are excepted if the portion of the $120 attributable to services performed in that quarter is less than $50. If, however, the portion of the $120 attributable to services performed in any calendar quarter during the year is not less than $50, the services during that quarter are not excepted, and that portion of the remuneration attributable to his services in that quarter constitutes wages. The test is the amount earned in a calendar quarter and not the amount paid in a calendar quarter.

(See § 404.1016, relating to services performed in the employ of religious, charitable, educational, and other organizations exempt from income tax under section 101 (6) of the Internal Revenue Code; § 404.1015, relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; § 404.1019, relating to services performed in the employ of a school, college, or university by certain students; and § 404.1022 relating to services performed by certain student nurses and hospital internes.)

§ 404.1019 *Students employed by schools, colleges, or universities.* (a) Services performed in the employ of a school, college, or university (whether or not such organization is exempt from income tax under section 101 of the Internal Revenue Code) are excepted from employment, if the services are performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

(b) For purposes of this exception, the amount of remuneration for services performed by the employee in the calendar quarter, the type of services performed by the employee, and the place where the services are performed are immaterial; the statutory tests are the character of the organization in the employ of which the services are performed, and the status of the employee as a student enrolled and regularly attending classes at the school, college, or university in the employ of which he performs the services.

(c) The status of the employee as a student performing the services shall be determined on the basis of the relationship of such employee with the organization for which the services are performed. An employee who performs services in the employ of a school, college, or university as an incident to and for the purpose of pursuing a course of study at such school, college, or university has the status of a student in the performance of such services.

(d) The term "school, college, or university" within the meaning of this exception is to be taken in its commonly or generally accepted sense.

(For provisions relating to domestic service performed by a student in a local college club, or local chapter of a college fraternity or sorority see § 404.1009.)

§ 404.1020 *Foreign governments.* (a) Services performed by an employee in the employ of a foreign government are excepted from employment. The exception includes not only services performed by ambassadors, ministers, and other diplomatic officers and employees but also services performed as a consular or other officer or employee of a foreign government, or as a nondiplomatic representative thereof.

(b) For purposes of this exception, the citizenship or residence of the employee is immaterial. It is also immaterial whether the foreign government grants an equivalent exemption with respect to similar services performed in the foreign country by citizens of the United States.

§ 404.1021 *Wholly owned instrumentalities of a foreign government.* Services performed by an employee in the employ of certain instrumentalities of a foreign government are excepted from employment. The exception includes all services performed in the employ of an instrumentality of the government of a foreign country, if:

(a) The instrumentality is wholly owned by the foreign government;

(b) The services are of a character similar to those performed in foreign countries by employees of the United States Government or of an instrumentality thereof; and

(c) The Secretary of State certifies to the Secretary of the Treasury that the foreign government, with respect to whose instrumentality and employees thereof exemption is claimed, grants an equivalent exemption with respect to services performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

For purposes of this exception, the citizenship or residence of the employee is immaterial.

§ 404.1022 *Student nurses and hospital internes.* (a) Services performed as a student nurse in the employ of a hospital or a nurses' training school are excepted from employment, if the student nurse is enrolled and regularly attending classes in a nurses' training school, and such nurses' training school is chartered or approved pursuant to State law.

(b) Services performed as an interne (as distinguished from a resident doctor) in the employ of a hospital are excepted from employment, if the interne has completed a four years' course in a medical school chartered or approved pursuant to State law.

§ 404.1023 *Fishing*—(a) *In general.* Subject to the limitations prescribed in paragraphs (b) and (c) of this section, the services described in this paragraph are excepted from employment. Services performed by an individual in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish (for example, oysters, clams, and mussels), crustacea (for example, lobsters, crabs, and shrimps), sponges, seaweeds, or other aquatic forms of animal and vegetable life are excepted from employment. The exception extends to services performed as an officer or member of the crew of a vessel while the vessel is engaged in any such activity whether or not the officer or member of the crew is himself so engaged. In the case of an individual who is engaged in any such activity in the employ of any person, the services performed, by such individual in the employ of such person, as an ordinary incident to any such activity are also excepted from employment. Similarly, for example, the shore services of an officer or member of the crew of a vessel engaged in any such activity are excepted if such services are an ordinary incident to any such activity. Services performed as an ordinary incident to any such activity may include, for evample, services performed in such cleaning, icing, and packing of fish as are necessary for the immediate preservation of the catch.

(b) *Salmon and halibut fishing.* Services performed in connection with the catching or taking of salmon or halibut, for commercial purposes, are not within the exception. Thus, neither the services of an officer or member of the crew of a vessel (irrespective of its tonnage) which is engaged in the catching or taking of salmon or halibut, for commercial purposes, nor the services of any other individual in connection with such activity, are within the exception.

(c) *Vessels of more than 10 net tons.* Services described in paragraph (a) of this section performed on or in connection with a vessel of more than 10 net tons are not within the exception. For purposes of the exception, the tonnage of the vessel shall be determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States.

§ 404.1024 *Delivery and distribution of newspapers, shopping news, and magazines*—(a) *In general.* Subparagraph (A) of section 210 (a) (16) of the act excepts from employment certain services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news. This exception is dealt with in paragraph (b) of this section. Subparagraph (B) of section 210 (a) (16) excepts from employment certain services in the sale of newspapers or magazines without regard to the age of the individual performing the services. Such exception is dealt with in paragraph (c) of this section.

(b) *Services of individuals under age 18.* Services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution (as, for example, by a regional distributor) to any point for subsequent delivery or distribution, are excepted from employment. Thus, the services performed by an employee under the age of 18 in making house-to-house delivery or sale of newspapers or shopping news, including handbills and other similar types of advertising material, are excepted from employment. The services are excepted irrespective of the form or method of compensation. Incidental services by the employee who makes the house-to-house delivery, such as services in assembling newspapers, are considered to be within the exception. The exception continues only during the time that the employee is under the age of 18.

(c) *Services of individuals of any age.* Services performed by an employee in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, are excepted from employment. The services are excepted whether or not the employee is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back. Moreover, the services are excepted without regard to the age of the employee. Services performed other than at the time of sale to the ultimate consumer are not within the exception. Thus, the services of a regional distributor which are antecedent to but not immediately part of the sale to the ultimate consumer are not within the exception. However, incidental services by the employee who makes the sale to the ultimate consumer, such as services in assembling newspapers or in taking newspapers or magazines to the place of sale, are considered to be within the exception.

§ 404.1025 *International organizations.* Services performed by an employee in the employ of an organization of the class specified in section 210 (a) (17) of the act are excepted. For an organization to be within the statutory classification the following conditions must be met:

(a) It must be a public international organization in which the United States participates pursuant to treaty or authority of an act of Congress authorizing, or making an appropriation for, such participation;

(b) It must have been designated by executive order to be entitled to enjoy the privileges, exemptions, and immunities provided in the International Organizations Immunities Act;

(c) The designation must be in effect, and all conditions and limitations thereof must be met.

Such services will not be excepted if any of the foregoing conditions are not met. Nor will they be excepted after such designation is withheld or withdrawn by executive order from the employing organization.

§ 404.1026 *Wages*—(a) *In general.* (1) Whether remuneration paid on or after January 1, 1951, for employment performed after December 31, 1936, constitutes wages is determined under section 209 of the act. This section and § 401.1027 (relating to exclusions from wages) apply with respect only to remuneration paid on or after January 1, 1951, for employment performed after December 31, 1936. Whether remuneration paid after December 31, 1936, and prior to January 1, 1940, for employment performed after December 31, 1936, constitutes wages shall be determined in accordance with the applicable provisions of Regulations 2 (20 CFR, 1938 ed., Part 402). Whether remuneration paid after December 31, 1939, and prior to January 1, 1951, for employment performed after December 31, 1936, constitutes wages shall be determined in accordance with the applicable provisions of Part 403 of this chapter (Regulations 3).

(2) The term "wages" means all remuneration for employment unless specifically excepted under section 209 of the act (see § 404.1027).

(3) The name by which the remuneration for employment is designated is immaterial. Thus, salaries, fees, bonuses, and commissions on sales or on insurance premiums, are wages within the meaning of the act if paid as compensation for employment.

(4) The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and it may be paid hourly, daily, weekly, monthly, or annually.

(5) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, goods, lodging, food, or clothing. Remuneration paid in items other than cash shall be computed on the basis of the fair value of such items at the time of payment. See, however, paragraphs (g) and (j) of § 404.1027, relating to the treatment of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, for domestic service in a private home of the employer, for agricultural labor, or for services described in section 209 (j) of the act (relating to home workers).

(6) Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as remuneration for employment if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees. The term "facilities or privileges," however, does not ordinarily include the value of meals or lodging furnished, for example, to restaurant or hotel employees, or to seamen or other employees aboard vessels, since generally these items constitute an appreciable part of the total remuneration of such employees.

(7) Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

(8) Remuneration for employment, unless such remuneration is specifically excepted under section 209 of the act, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example. A is employed by B during the month of January 1951 in employment and is entitled to receive remuneration of $100 for the services performed for B, the employer, during the month. A leaves the employ of B at the close of business on January 31, 1951. On February 15, 1951 (when A is no longer an employee of B), B pays A the remuneration of $100 which was earned for the services performed in January. The $100 is wages within the meaning of the act.

(b) *Certain items included as wages—*(1) *Vacation allowances.* Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(2) *Deductions by an employer from wages of an employee.* The amount of any tax which is required by section 1401 (a) of the Internal Revenue Code to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages, and is deemed to be paid to the employee as wages at the time that the deduction is made. Other amounts deducted from wages of an employee by an employer also constitute wages paid to the employee at the time of the deduction. It is immaterial that the act, or any act of Congress, or the law of any State, requires or permits such deductions and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

§ 404.1027 *Exclusions from wages—*(a) *$3,600 limitation.*

(1) The term "wages" does not include that part of the remuneration paid within any calendar year beginning after December 31, 1950, by an employer to an employee which exceeds the first $3,600 of remuneration (exclusive of remuneration excepted from wages in accordance with paragraphs (b) through (k) of this section) paid within such calendar year by such employer to such employee for employment performed for him at any time after December 31, 1936.

(2) The $3,600 limitation applies only if the remuneration received during any one calendar year by an employee from the same employer for employment performed after 1936 exceeds $3,600. The limitation in such case relates to the amount of remuneration received during any one calendar year for employment after 1936 and not to the amount of remuneration for employment performed in any one calendar year.

Example (1). Employee A, in 1951, receives $3,000 from employer B on account of $3,500 due him for employment performed in 1951. In 1952 A receives from employer B the balance of $500 due him for employment performed in the prior year (1951), and thereafter in 1952 also receives $3,500 for employment performed in 1952 for employer B. The $3,000 received in 1951 is wages in 1951. The balance of $500 received in 1952 for employment during 1951 is wages in 1952, as is also the first $3,100 paid of the $3,500 for employment during 1952 (this $500 for 1951 employment added to the first $3,100 paid for 1952 employment constitutes the maximum remuneration which could be creditable as wages to A in 1952). The final $400 received by A from B in 1952 is not included as wages.

(b) *Employers' plans providing for payments on account of retirement, sickness or accident disability, medical or hospitalization expenses, or death.* (1) The term "wages" does not include the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of:

(i) An employee's retirement,

(ii) Sickness or accident disability of an employee or any of his dependents,

(iii) Medical or hospitalization expenses in connection with sickness or accident disability of an employee or any of his dependents, or

(iv) Death of an employee or any of his dependents.

(2) The plan or system established by an employer need not provide for payments on account of all of the specified items, but such plan or system may provide for any one or more of such items. Payments for any one or more of such items under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from wages.

(3) Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family.

(4) It is immaterial for purposes of this exclusion whether the amount or possibility of such benefit payments is taken into consideration in fixing the amount of an employee's remuneration or whether such payments are required, expressly or impliedly, by the contract of service.

(c) *Retirement payments.* The term "wages" does not include any payment made by an employer to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of the employee's retirement. Thus, payments made to an employee on account of his retirement are excluded from wages under this exception even though not made under a plan or system.

(d) *Payments on account of sickness or accident disability, or medical or hospitalization expenses.* The term "wages" does not include any payment made by an employer to, or on behalf of, an employee on account of the employee's sickness or accident disability or the medical or hospitalization expenses in connection with the employee's sickness or disability, if such payment is made after the expiration of six or more calendar months following the last calendar month in which such employee worked for such employer. Such payments are excluded from wages under this exception even though not made under a plan or system. If the employee does not actually perform services for the employer during the requisite period, the existence of the employer-employee relationship during that period is immaterial.

(e) *Payments from or to certain tax-exempt trusts or under or to certain annuity plans.* The term "wages" does not include—

(1) Any payment made by an employer, on behalf of an employee or his beneficiary, into a trust or annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) of the Internal Revenue Code or the annuity plan meets the requirements of

section 165 (a) (3), (4), (5), and (6) of the Internal Revenue Code; or

(2) Any payment made to, or on behalf of, an employee or his beneficiary from a trust or under an annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) of the code or the annuity plan meets the requirements of section 165 (a) (3), (4), (5), and (6) of the code.

A payment made to an employee of a trust exempt from tax under section 165 (a) of the code for services rendered as an employee of such trust and not as a beneficiary of the trust is not within this exclusion from wages.

(f) *Payment by an employer of employees' tax or employees' contributions under a State law.* The term "wages" does not include any payment by an employer (without deduction from the remuneration of, or other reimbursement from the employee) of either (1) the employee tax imposed by section 1400 of the Internal Revenue Code or (2) any payment required from an employee under a State unemployment compensation law.

(g) *Payments other than in cash for certain types of services.* The term "wages" does not include remuneration paid in any medium other than cash (1) for services not in the course of the employer's trade or business, (2) for domestic service in a private home of the employer, or (3) for agricultural labor. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, clothing, car tokens, transportation passes, farm products, or other goods or commodities, for services of the prescribed character does not constitute wages. Remuneration paid in any medium other than cash for services other than those mentioned in subparagraphs (1), (2), and (3) of this paragraph does not come within this exclusion from wages.

For provisions relating to the circumstances under which services not in the course of the employer's trade or business or agricultural labor does not constitute employment, see §§ 404.1010 and 404.1008, respectively. For provisions relating to the circumstances under which cash remuneration for domestic service in a private home of the employer or for industrial home work does not constitue wages, see paragraphs (h) and (j) of this section, respectively.

(h) *Cash payments for domestic service.* (1) The term "wages" does not include cash remuneration paid in any calendar quarter by an employer to an employee for domestic service in a private home of the employer unless—

(i) The cash remuneration paid by the employer to the employee in the calendar quarter for such service is $50 or more; and

(ii) Such employee is regularly employed by such employer in the calendar quarter in which the payment is made.

Unless the tests set forth in both subdivisions (i) and (ii) of this subparagraph are met, cash remuneration for domestic service in a private home of the employer is excluded from wages.

(2) Services of a household nature performed by an employee in or about a private home of the person by whom he is employed constitute domestic service in a private home of the employer. A private home is a fixed place of abode of an individual or family. A separate and distinct dwelling unit maintained by an individual in an apartment house, hotel, or other similar establishment may constitute a private home. If a dwelling house is utilized primarily as a boarding or lodging house for the purpose of supplying board or lodging to the public as a business enterprise, it is not a private home. In general, services of a household nature in or about a private home include services performed by cooks, waiters, butlers, housekeeprs, governesses, maids, valets, baby sitters, janitors, laundresses, furnacemen, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. Remuneration for the services above enumerated is not within this exclusion from wages unless performed in or about a private home of the employer. Remuneration for services not of a household nature, such as services performed as a private secretary, tutor, or librarian, even though performed in the employer's home, is not within this exclusion from wages.

(3) The test relating to cash remuneration of $50 or more is based on remuneration paid in a calendar quarter rather than on remuneration earned during a calendar quarter. Furthermore, in determining whether $50 or more has been paid for domestic service in a private home of the employer, only cash remuneration for such service shall be taken into account. The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met.

(4) For purposes of this exclusion, an individual is deemed to be regularly employed by an employer during a calendar quarter only if:

(i) Such individual performs domestic service in a private home of such employer for some portion of the day on at least 24 days (whether or not consecutive) during such calendar quarter; or

(ii) Such individual was regularly employed (as determined under subdivision (i) of this subparagraph) in the performance of domestic service in a private home of such employer during the preceding calendar quarter (including the last calendar quarter of 1950).

(5) In determining whether an employee has performed domestic service in a private home of the employer on at least 24 days during a calendar quarter, there shall be counted as one day—

(i) Any day or portion thereof on which the employee actually performs such service; and

(ii) Any day or portion thereof on which employee does not perform domestic service in a private home of the employer but with respect to which cash remuneration is paid or payable to the employee for such service, such as a day on which the employee is sick or on vacation.

An employee who on a particular day reports for work and, at the direction of his employer, holds himself in readiness to perform domestic service in a private home of the employer shall be considered to be engaged in the actual performance of such service on that day. For purposes of this exclusion, a day is a period of 24 hours commencing at midnight and ending at midnight.

(6) An employer may, for purposes of the act, elect to compute to the nearest dollar any payment of cash remuneration for domestic service in a private home of the employer which is more or less than a whole-dollar amount. For the purpose of the computation to the nearest dollar, the payment of a fractional part of a dollar shall be disregarded unless it amounts to one-half dollar or more, in which case it shall be increased to one dollar. For example, any amount actually paid between $4.50 and $5.49, inclusive, may be treated as $5 for purposes of the act. If an employer elects this method of computation with respect to any payment of cash remuneration made in a calendar quarter for domestic service in his private home, he must use the same method in computing each payment of cash remuneration of more or less than a whole-dollar amount made to each of his employees in such calendar quarter for domestic service in his private home. Moreover, if an employer elects this method of computation with respect to payments of the prescribed character made in any calendar quarter, the amount of each payment of cash remuneration so computed to the nearest dollar shall, in lieu of the amount actually paid, he deemed to constitute the amount of cash remuneration for purposes of the regulations in this part. Thus, the amount of cash payments so computed to the nearest dollar shall be used for purposes of determining whether such payments constitute wages; for purposes of applying the employee and employer tax rates to the wage payments; for purposes of any required record keeping; and for purposes of reporting and paying the employee tax and employer tax with respect to such wage payments.

(7) Domestic service in a private home of the employer performed on a farm operated for profit and services not in the course of the employer's trade or business are not within this exclusion from wages. For provisions relating to domestic service in a private home of the employer performed on a farm operated for profit and services not in the course of the employer's trade or business, see §§ 404.1008 and 404.1010, respectively.

(8) For provisions relating to the exclusion from wages of remuneration paid in any medium other than cash for domestic service in a private home of the employer, see paragraph (g) of this section.

(i) *Payments to stand-by employees.* The term "wages" does not include any payment (other than vacation or sick pay) made by an employer to an employee after the calendar month in which the employee attains age 65, if:

(1) Such employee does no work (other than being subject to call for the performance of work) for such employer in the period for which such payment is made; and

(2) The employer-employee relationship exists between the employer and employee throughout the period for which such payment is made.

Vacation or sick pay is not within this exclusion from wages. If the employee does any work for the employer in the period for which the payment is made, no remuneration paid by such employer to such employee with respect to such period is within this exclusion from wages. For example, if employee A is employed by the X Company on a standby basis and, after he has attained the age of 65, is paid $200 by the X Company for being subject to call during the month of January 1951 and an additional $25 for work performed for the X Company on one day during that month, then none of the $225 is excluded from wages under this exception.

(j) *Payments to certain home workers.* (1) The term "wages" does not include remuneration paid by an employer in any calendar quarter to an employee for services performed as a home worker who is an employee by reason of the provisions of section 210 (k) (3) (C) of the act (see § 404.1004 (d)), unless the cash remuneration paid in such quarter by the employer to the employee for such services is $50 or more. In the event an employee receives remuneration in any one calendar quarter from more than one employer for services performed as a home worker of the aforementioned character, this provision is to be applied with respect to the remuneration received by the employee from each employer in such calendar quarter for such services. This exclusion from wages has no application to remuneration for services performed by a home worker who is an employee by reason of the provisions of section 210 (k) (2) of the act (see § 404.1004 (c)).

(2) The test relating to cash remuneration of $50 or more is based on remuneration paid in a calendar quarter rather than on remuneration earned during a calendar quarter. If $50 or more of cash remuneration is paid in a particular calendar quarter, it is immaterial whether the $50 is in payment for services performed during the quarter of payment or during any previous quarter. Furthermore, the test requires that cash remuneration of $50 or more be paid for services performed by an employee as defined in section 210 (k) (3) (C) of the act. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met. If the cash remuneration paid by an employer in any calendar quarter for services performed by an employee as defined in section 210 (k) (3) (C) of the act is $50 or more then no remuneration, whether in cash or in any medium other than cash, paid by the employer to the employee in such calendar quarter for such services is excluded from wages under this exception.

(k) *Miscellaneous.* In addition to the exclusions specified in paragraphs (a) through (j) of this section, the following types of payments are excluded from wages:

(1) Remuneration for services which do not constitute employment under section 210 (a) of the act;

(2) Remuneration for services which are deemed not to be employment under section 210 (b) of the act;

(3) Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer.

§ 404.1050 *Net earnings from self-employment defined.* Subject to the special rules discussed in § 404.1052 and to the exclusions discussed in § 404.1057, the term "net earnings from self-employment" means—

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

(b) His distributive share (whether or not distributed) of the ordinary net income or (or minus the ordinary net loss) the ordinary net loss from any trade or business, as computed under section 183 of the Internal Revenue Code, carried on by any partnership of which he is a member.

§ 404.1051 *Income included in net earnings from self-employment.* (a) The gross income and deductions of an individual attributable to a trade or business, for the purpose of ascertaining his net earnings from self-employment, are to be determined by reference to the provisions of law and regulations applicable with respect to the taxes imposed by sections 11 and 12 of the Internal Revenue Code. Thus, if an individual uses the accrual method of accounting in computing net income from a trade or business for the purpose of the taxes imposed by sections 11 and 12 of the Internal Revenue Code, he must use the same method in determining net earnings from self-employment. Likewise, if a taxpayer engaged in a trade or business of selling property on the installment plan elects, under the provisions of section 44 of the Internal Revenue Code, to use the installment basis in computing income for the purpose of the taxes under sections 11 and 12 of such code, he must use the same basis in determining net earnings from self-employment.

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

(c) Where an individual is engaged in more than one trade or business within the meaning of section 211 (c) of the act and § 404.1057, his net earnings from self-employment consists of the aggregate of the net income and losses (computed subject to the special rules provided in this section) of all such trades or business carried on by him. Thus, a loss sustained in one trade or business carried on by an individual will operate to offset the income derived by him from another trade or business.

(d) The net earnings from self-employment of an individual include, in addition to the earnings from a trade or business carried on by him, his distributive share of the ordinary net income or ordinary net loss from any trade or business carried on by each partnership of which he is a member. An individual's distributive share of the ordinary net income or ordinary net loss of a partnership shall be computed under section 183 of the Internal Revenue Code subject to the special rules set forth in section 211 (a) of the act and in this section and to the exclusions provided in section 211 (c) of the act and in § 404.1057.

(e) If the taxable year of a partner differs from that of the partnership, the partner shall include, in computing net earnings from self-employment, his distributive share of the ordinary net income or ordinary net loss of the partnership for its taxable year (even through beginning prior to January 1, 1951) ending with or within the taxable year of the partner.

(f) For the purpose of determining net earnings from self-employment, a partnership is one which is recognized as such for income tax purposes. For income tax purposes, the term "partnership" includes not only a partnership as known at common law, but, also, a syndicate, group, pool, joint venture, or other unincorporated organization which carries on any trade or business, financial operation, or venture, which is not, within the meaning of the Internal Revenue Code, a trust, estate, or a corporation.

(g) The net earnings from self-employment of a partner include his distributive share of the ordinary net income or ordinary net loss of the partnership of which he is a member, irrespective of the nature of his membership. Thus, in determining his net earnings from self-employment, a limited or inactive partner includes his distributive share of the ordinary net income or ordinary net loss of the partnership.

§ 404.1052 *Income excluded from net earnings from self-employment.* For the purpose of computing net earnings from self-employment, the gross income derived by an individual from a trade or business carried on by him, the allowable deductions attributable to such trade or business, and the individual's distributive share of the ordinary net income or ordinary net loss from any trade or business carried on by a partnership of which he is a member shall be computed in accordance with the following special rules:

(a) *Rentals from real estate.* (1) Rentals from real estate (including personal property leased with the real estate), and the deductions attributable thereto, unless such rentals are received by an individual in the course of a trade

or business as a real estate dealer, are excluded. Whether or not an individual is engaged in the trade or business of a real estate dealer is determined by the application of the principles followed in respect of the taxes imposed by sections 11 and 12 of the Internal Revenue Code. In general, an individual who is engaged in the business of selling real estate to customers with a view to the gains and profits that may be derived from such sales is a real estate dealer. On the other hand, an individual who merely holds real estate for investment or speculation and receives rentals therefrom is not considered a real estate dealer. Where a real estate dealer holds real estate for investment or speculation in addition to real estate held for sale to customers in the ordinary course of his trade or business as a real estate dealer, only the rentals from the real estate held for sale to customers in the ordinary course of his trade or business as a real estate dealer, and the deductions attributable thereto, are included in determining net earnings from self-employment; the rentals from the real estate held for investment or speculation, and the deductions attributable thereto, are excluded.

(2) Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple-housing units are generally rentals from real estate. Except in the case of real estate dealers, such payments are excluded in determining net earnings from self-employment even though such payments are in part attributable to personal property furnished under the lease.

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

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

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

(b) *Income from agricultural activity.* (1) Income derived from any trade or business in which, if the trade or business were carried on exclusively by employees, the major portion of the services would constitute agricultural labor as defined in section 210 (f) of the act, and all deductions attributable to such income, are excluded. In case the services are in part agricultural and in part nonagricultural, the time devoted to the performance of each type of service is the test to be used to determine whether the major portion of the services would constitute agricultural labor. If more than half of the time spent in performing all the services is spent in performing services which would constitute agricultural labor under section 210 (f) of the act, all income; and the deductions attributable to the income, shall be excluded. If only half, or less, of the time spent in performing all the services is spent in performing services which would constitute agricultural labor under section 210 (f) of the act, all income, and the deductions attributable to the income, shall be included. In every case the time spent in performing the services will be computed by adding the time spent in the trade or business during the deductions attributable to the including the individual carrying on such trade or business and the members of his family) in performing such services. The operation of this special rule is not affected by section 210 (b) of the act, relating to the included-excluded rule for determining employment.

(2) This rule has no application where the nonagricultural services are performed in connection with an enterprise which constitutes a trade or business separate and distinct from the trade or business conducted as an agricultural enterprise. Thus, the operation of a roadside automobile service station on farm premises constitutes a trade or business separate and distinct from the agricultural enterprise, and the gross income derived from such service station, together with the deductions attributable thereto, are included in determining net earnings from self-employment.

(c) *Dividends and interest.* (1) All dividends on shares of stock are excluded unless they are received by an individual in the course of his trade or business as a dealer in stocks or securities.

(2) Interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), is excluded unless such interest is received in the course of a trade or business as a dealer in stocks or securities. However, interest which is exempt under section 25 (a) of the Internal Revenue Code from the normal tax imposed by section 11 of such Code, that is, interest on certain obligations of the United States and its instrumentalities, is not included in net earnings from self-employment even though received in the course of a trade or business as a dealer in stocks or securities. Only interest on bonds, debentures, notes, or certificates, or other evidence of indebtedness, issued with interest coupons or in registered form by a corporation, is excluded in the case of all persons other than dealers in stocks or securities; other interest received in the course of any trade or business (such as interest received by a pawnbroker on his loans or interest received by a merchant on his accounts or notes receivable) is not excluded.

(3) Dividends and interest of the character excludible under the preceding paragraphs received by an individual on stocks or securities held for speculation or investment are excluded whether or not the individual is a dealer in stocks or securities.

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

(d) *Gain or loss from disposition of property.* There is excluded any gain or loss: (1) Which is considered as gain or loss from the sale or exchange of a capital asset; (2) from the cutting or disposal of timber, even though held primarily for sale to customers, if section 117 (j) of the Internal Revenue Code is applicable to such gain or loss; and (3) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither (i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor (ii) property held primarily for sale to customers in the ordinary course of a trade or business. For the purpose of the special rule in this subparagraph, it is immaterial whether a gain or loss is treated as a capital gain or loss or as an ordinary gain or loss for purposes other than determining net earnings from self-employment. For instance, where the character of a loss is governed by the provisions of section 117 (j) of the Internal Revenue Code, such loss is excluded in determining net earnings from self-employment even though such loss is treated under section 117 (j) of such code as an ordinary loss. For the purposes of this special rule, the term

"involuntary conversion" means a compulsory or involuntary conversion of property into other property or money as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof; and, the term "other disposition" includes the destruction or loss, in whole or in part, of property by fire, storm, shipwreck, or other casualty, or by theft, even though there is no conversion of such property into other property or money.

Example. During the taxable year 1951, A, who owns a grocery store, realized a net profit of $1,500 from the sale of groceries and a gain of $350 from the sale of a refrigerator case. During the same year, he sustained a loss of $2,000 as a result of damage by fire to the store building. In computing net income, all of these items are taken into account. In determining net earnings from self-employment, however, only the $1,500 of profit derived from the sale of groceries is included. The $350 gain and the $2,000 loss are excluded.

(e) *Net operating loss deduction.* The deduction provided by section 23 (s) of the Internal Revenue Code, relating to net operating losses sustained in years other than the taxable year, is excluded.

(f) *Community income*—(1) *In case of an individual.* If any of the income derived by an individual from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, all of the gross income, and the deductions attributable to such income, shall be treated as the gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife. For the purpose of this special rule, the term "management and control" means management and control in fact, not the management and control imputed to the husband under the community property laws. For example, a wife who operates a beauty parlor without any appreciable collaboration on the part of her husband will be considered as having substantially all of the management and control of such business despite the provision of any community property law vesting in the husband the right of management and control of community property; and the income and deductions attributable to the operation of such beauty parlor will be considered the income and deductions of the wife.

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

(g) *Puerto Rico*—(1) *Residents.* In the case of any taxable year beginning on or after January 1, 1951, a resident of Puerto Rico, whether or not a bona fide resident thereof during the entire taxable year, and whether or not an alien, a citizen of the United States, or a citizen of Puerto Rico, shall compute his net earnings from self-employment in the same manner as would a citizen of the United States residing in the United States. For the purpose of the tax on self-employment income, the gross income of such a resident of Puerto Rico also includes income from Puerto Rican sources. Thus, under this special rule, income from Puerto Rican sources will be included in determining net earnings from self-employment of a resident of Puerto Rico engaged in the active conduct of a trade or business in Puerto Rico despite the fact that, under section 116 (1) of the Internal Revenue Code, such income may not be taken into account for the purpose of the taxes under sections 11 and 12.

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

§ 404.1053 *Self-employment income defined.* Except for the exclusions in § 404.1054 and § 404.1055 and the exception in § 404.1056, the term "self-employment income" means the net earnings from self-employment derived by an individual during any taxable year beginning after December 31, 1950.

§ 404.1054 *Maximum self-employment income.* The maximum self-employment income of an individual for any taxable year (whether a period of 12 months or less) is $3,600. If an individual is paid wages as defined in section 209 of the act, the maximum is the excess of $3,600 over the amount of such wages. For example, if during the taxable year no such wages are paid and the individual has $5,000 of net earnings from self-employment, he has $3,600 of self-employment income for such taxable year. If, in addition to having $5,000 of net earnings from self-employment, such individual is paid $1,000 of such wages, he has only $2,600 of self-employment income for the taxable year. For the purpose of this limitation, the term "wages" includes remuneration paid to an employee for services covered by an agreement entered into pursuant to section 218 of the act, which section provides for extension of the Federal old-age and survivors insurance system to State and local government employees under voluntary agreements between the States and the Federal Security Administrator.

§ 404.1055 *Minimum net earnings from self-employment.* Self-employment income does not include the net earnings from self-employment of an individual when the amount of such earnings for the taxable year is less than $400. Thus, an individual having only $300 of net earnings from self-employment for the taxable year would not have any self-employment income. However, an individual having net earnings from self-employment of $400 or more for the taxable year may have less than $400 of self-employment income. This would occur in a case in which the amount of the individual's net earnings from self-employment is $400 or more for a taxable year and the individual also receives more than $3,200 but less than $3,600 of wages during that taxable year. For example, if an individual has net earnings from self-employment of $1,000 for a taxable year and also receives wages of $3,400 during that taxable year, his self-employment income for that taxable year is $200.

§ 404.1056 *Income of nonresident aliens.* A nonresident alien individual never has self-employment income. For the purpose of the tax on self-employment income, an individual who is not a citizen of the United States but who is a resident of the Virgin Islands or of Puerto Rico is not considered to be a nonresident alien individual. While a nonresident alien individual who derives income from a trade or business carried on within the United States, Puerto Rico, or the Virgin Islands (whether by agents or employees, or by a partnership of which he is a member) may be subject to the applicable income tax provisions on such income, such nonresident alien individual will not be subject to the tax on self-employment income, since any net earnings which he may have from self-employment do not constitute self-employment income.

§ 404.1057 *Trade or business*—(a) *In general.* It is necessary for an individual to carry on a trade or business, either as an individual or as a member of a partnership, in order for him to have net earnings from self-employment. Except for the exclusions discussed in paragraphs (b), (c), (d), (e), and (f) of this section, the term "trade or business," for the purpose of the tax on self-employment income, shall have the same meaning as when used in section 23 of the Internal Revenue Code. An individual engaged in one of the excluded activities specified in this section may also be engaged in carrying on a nonexcluded trade or business. Whether or not he is also engaged in an included trade or business will be dependent upon all of the facts and circumstances in the particular case.

(b) *Public office.* The performance of the functions of a public office does not constitute a trade or business. The term "public office" includes any elective or appointive office of the United States or any possession thereof, or of a State or its political subdivision, or of a wholly owned instrumentality of any one or more of the foregoing. For example, the President, the Vice President, a governor, a mayor, the Secretary of State, a Member of Congress, a State representative, a county commissioner, a judge, a county or city attorney, a marshal, a

sheriff, a register of deeds, or a notary public performs the functions of a public office.

(c) *Employees.* The performance of service by an individual as an employee, as defined in section 210 (k) of the act, with one exception, does not consitute a trade or business. The exception is as follows: Service performed by an individual, who has attained the age of 18, in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back, does constitute a trade or business. As to when an individual is an employee see § 404.1004.

(d) *Individuals under Railroad Retirement System.* The performance of service by an individual as an employee or employee representative as defined in section 1532 of the Internal Revenue Code, that is, an individual covered under the railroad retirement system, does not constitute a trade or business. As to when an individual is an employee or employee representative under section 1532 of the Internal Revenue Code, see the applicable regulations under the Railroad Retirement Tax Act.

(e) *Ministers or members of religious orders.* The performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order does not constitute a trade or business. The duties of ministers include the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations), under the authority of a religious body constituting a church or church denomination.

(f) *Members of certain professions.* (1) The performance of service by an individual in the exercise of his profession as a physician, lawyer, dentist, osteopath, veterinarian, chiropractor, naturopath, optometrist, Christian Science practitioner, architect, certified public accountant, accountant registered or licensed as an accountant under State or municipal law, full-time practicing public accountant, funeral director, or professional engineer does not constitute a trade or business. This exclusion applies only if the individual meets the legal requirements, if any, for practicing his profession in the place where he performs the service. Thus, an accountant who is neither certified, registered, nor licensed but who is publicly engaged in the practice of accountancy on a full-time basis in a jurisdiction which requires that an individual engaged in such practice be certified, registered, or licensed is not within the exclusion.

(2) These designations are to be given their commonly accepted meaning. Thus, the term "physician" means an individual who is legally qualified to practice medicine; the term "lawyer" means an individual who is legally qualified to practice law; and the term "professional engineer" means an engineer legally qualified to practice before the public in a consulting capacity.

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

SUBPART L—FAMILY RELATIONSHIPS

NOTE: §§ 404.1101 to 404.1111 interpret or apply secs. 202, 216, 49 Stat. 623, as amended, 64 Stat. 510; 42 U. S. C. 402, 416.

§ 404.1101 *Determination of relationship of applicant to individual.* Whether an applicant for benefits or a lump sum is the wife, husband, widow, widower, child, or parent of the individual upon whose wages and self-employment income the application is based, or has the the status of such relative of such individual for the purpose of sharing in the latter's intestate personal property, is determined by "applicable State law." By this is meant the law the courts of the State of the domicile of such individual would apply in deciding who is a wife, husband, widow, widower, child, or parent of such individual, when determining the devolution of such individual's intestate personal property. The domicile of such a deceased individual is determined as of the date of his death. The domicile of such a living individual is determined as of the date the applicant files application for benefits. If such individual was not domiciled in any State at the appropriate date, "applicable State law" is the law the courts of the District of Columbia would apply when determining the devolution of such property.

§ 404.1102 *Status under applicable State law.* An applicant who is not the wife, husband, widow, widower, child, or parent of the individual upon whose wages and self-employment income his or her application is based, but is treated under applicable State law as such, has the status of such relative.

Example. H dies domiciled in the State of K. For ten years before his death, he had lived with W, holding her out to the public as his wife, and she has been generally reputed to be such, although they were never married. Under the law of X, H's legal representatives, heirs, and next of kin are estopped to deny in proceedings for the administration of H's estate that W is H's widow. Accordingly, W is entitled to share as a widow in the distribution of H's intestate personalty, and has the status of H's widow.

§ 404.1103 *Definition of wife.* The term "wife" means an applicant who under applicable State law has the status of wife of the individual upon whose wages and self-employment income her application is based, and either

(a) Is the mother of such individual's son or daughter; or

(b) Was married to such individual for a period of not less than three years immediately preceding the day on which her application is filed.

§ 404.1104 *Definition of widow.* The term "widow" means an applicant who under applicable State law has the status of widow of the individual upon whose wages and self-employment income her application is based and (except for the purpose of entitlement to lump-sum death payments) either:

(a) Is the mother of such individual's son or daughter; or

(b) Legally adopted such individual's son or daughter while she was married to such individual and such son or daughter was under age eighteen; or

(c) Was married to such individual at the time both of them legally adopted a child under age eighteen; or

(d) Was married to such individual for a period of not less than one year immediately prior to the day on which such individual died.

§ 404.1105 *Definition of former wife divorced.* The term "former wife divorced" means a woman applicant whose marriage to the individual upon whose wages and self-employment income her application is based has been absolutely and finally terminated by divorce and who either

(a) Is the mother of such individual's son or daughter; or

(b) Legally adopted such individual's son or daughter while she was married to such individual and such son or daughter was under age eighteen; or

(c) Was married to such individual at the time both of them legally adopted a child under age eighteen.

For the purposes of this section, "divorce" includes a final divorce a vinculo matrimonii, an interlocutory divorce a vinculo matrimonii, and a divorce a mensa et thoro.

§ 404.1106 *Definition of husband.* The term "husband" means an applicant who under applicable State law has the status of husband of the individual upon whose wages and self-employment income his application is based and either

(a) Is the father of such individual's son or daughter; or

(b) Was married to such individual for a period of not less than three years immediately preceding the day on which his application is filed.

§ 404.1107 *Definition of widower.* The term "widower" means an applicant

who under applicable State law has the status of widower of the individual upon whose wages and self-employment income his application is based and (except for the purpose of entitlement to lump-sum death payments) either

(a) Is the father of such individual's son or daugher; or

(b) Legally adopted such individual's son or daughter while he was married to such individual and such son or daughter was under age eighteen; or

(c) Was married to such individual at the time both of them legally adopted a child under age eighteen; or

(d) Was married to such individual for a period of not less than one year immediately prior to the day on which such individual died.

§ 404.1108 *Father or mother of individual's son or daughter.* For the purposes of §§ 404.1103 (a), 404.1104 (a), 404.1105 (a), 404.1106 (a), and 404.1107 (a), an applicant is the father or mother, as the case may be, of a son or daughter of the individual upon whose wages and self-employment income his or her application is based if a son or daughter was born to the applicant and such individual even though he or she was born posthumously, and even though he or she died prior to the determination of any claim for benefits based upon the wages and self-employment income of such individual.

§ 404.1109 *Definition of child.* The term "child" means an applicant who:

(a) Is the legally adopted child of the individual upon whose wages and self-employment income his application is based, and, in the case of such a living individual, has been such for not less than three years prior to the date of filing application for child's benefits. In determining whether a legally adopted child has met this three-year time requirement, time spent in the relationship of stepchild as defined in paragraph (b) of this section shall be counted as time spent in the relationship of legally adopted child; or

(b) Is the stepchild of such individual by reason of a valid marriage of his parent (as defined in § 404.1110 (c)) or adopting parent with such individual and has been such

(1) In the case of such a living individual, for a period of not less than three years prior to the date of filing application for child's benefits,

(2) In the case of such a deceased individual, for a period of not less than one year prior to the date of such individual's death; or

(c) Is neither the stepchild nor legally adopted child of such individual, but has the status of child of such individual under applicable State law.

§ 404.1110 *Definition of parent.* The term "parent" means an applicant who:

(a) Is the adopting parent of the individual upon whose wages and self-employment income his application is based by reason of legal adoption of such individual before such individual attained age sixteen; or

(b) Is the stepparent of such individual by reason of a valid marriage with a parent (as defined in paragraph (c) of this section) or adopting parent of such individual, contracted before such individual attained age sixteen; or

(c) Is neither the adopting parent nor the stepparent of such individual, but has the status, under applicable State law, of parent of such individual.

§ 404.1111 *Definition of "living with."* The wife or husband, as the case may be, of the individual upon whose wages and self-employment income her or his application is based is deemed to be "living with" such individual at the time application for a wife's or husband's benefit is filed, and such individual's widow or widower is deemed to have been living with such individual at the time of such individual's death, if, at such time, any one of the following conditions is met:

(a) *The husband and wife were at such time members of the same household.* A husband and wife who customarily lived together in the same place of abode but who were not actually doing so at such time, may nevertheless be members of the same household if they were apart only temporarily and intended to resume living together in the same place of abode.

(b) *The applicant was at such time receiving regular contributions from such individual toward his or her support.* Contributions must be substantial, and may be made in cash or other medium. In determining the sufficiency of contributions under this section, the surrounding circumstances with respect to both the time when contributions were received by the applicant for his or her support and the amount thereof shall be taken into consideration.

(c) *Such individual had at such time been ordered by any court to contribute to the applicant's support.* This condition is met if such individual is legally compelled to contribute to the support of the applicant at the particular time by reason of any order, judgment, or decree of a court of competent jurisdiction, regardless of whether he or she actually made by such contribution. In determining the existence of such legal compulsion, any such order, judgment, or decree shall be considered as in full force and effect unless it has expired or has been vacated.

SUBPART M—COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

NOTE: §§ 404.1201 to 404.1266 interpret or apply sec. 218, 64 Stat. 514; 42 U. S. C. 418.

§ 404.1201 *General effect of section 218 of the act—(a) States.* Under the provisions of section 218 of the act a State may request the Federal Security Administrator to enter into an agreement with the State for the purpose of extending to certain employees of the State and its political subdivisions protection accorded other employees by the old-age and survivors insurance system embodied in the Social Security Act. Each State may signify its intention to extend the benefits of the system to certain groups of its employees and to certain groups of employees of its political subdivisions by requesting the Federal Security Administrator to enter into an agreement with the State to provide for coverage under the old-age and survivors insurance system of any one or more groups of such employees.

(b) *Instrumentalities of two or more States.* The system may be extended also to services performed by individuals as employees of any instrumentality of two or more States if such instrumentality requests the Federal Security Administrator to enter into an agreement with it to provide for the extension of the system to such employees. For the purposes of the regulations in this subpart and to the extent not inconsistent therewith, the provisions herein, when they refer to a State, shall apply, as well, to an instrumentality of two or more States.

§ 404.1210 *Scope of Subpart M of this part—(a) Contribution with respect to wages paid after 1950.* The regulations in this subpart relate to contributions on wages paid and received on and after January 1, 1951, with respect to employment covered under agreements made pursuant to section 218 of the act.

(b) *Adjustments, settlements, and claims.* The regulations in this subpart also relate to adjustments, settlements, and claims made in connection with the contributions paid on wages paid and received on or after January 1, 1951, with respect to employment covered under agreements made pursuant to section 218 of the act.

(c) *Identification of States, political subdivisions, and employees thereof.* The regulations in this subpart also relate to the use after December 31, 1950, of account numbers assigned to employees, identification numbers assigned to States and to political subdivisions thereof included in agreements made pursuant to section 218 of the act, and to applications for and assignments of such numbers under agreements made pursuant to section 218 of the act.

§ 404.1220 *Measure of contribution.* The State's contribution is measured by the amount of wages actually or constructively paid on or after the effective date of an agreement entered into between the State and the Administrator with respect to services performed in employment by an employee in a coverage group included in such agreement. (See § 404.1003 relating to employment and §§ 404.1026 and 404.1027 relating to wages.)

§ 404.1221 *Rate and computation of contributions.* The rates of taxes imposed on employees by section 1400 of the Internal Revenue Code for the respective calendar years are as follows:

	Percent
For the calendar years 1951 to 1953, both inclusive	1½
For the calendar years 1954 to 1959, both inclusive	2
For the calendar years 1960 to 1964, both inclusive	2½
For the calendar years 1965 to 1969, both inclusive	3
For the calendar years 1970 and subsequent years	3¼

The tax is computed by applying to the wages received by the employee the rate in effect at the time such wages are received.

Example. During 1953 A is engaged in the performance of service in employment. In

the following year, 1954. A receives $250 from his employer as remuneration for services which he performed in the preceding year. The applicable rate is the rate for the year 1954 (the year in which the wages are received), and not 1½ percent, the rate for the calendar year 1953 (the year in which the services were performed).

The rates of taxes imposed on employers by section 1410 of the Internal Revenue Code for the respective calendar years are as follows:

	Percent
For the calendar years 1951 to 1953, both inclusive	1½
For the calendar years 1954 to 1959, both inclusive	2
For the calendar years 1960 to 1964, both inclusive	2½
For the calendar years 1965 to 1969, both inclusive	3
For the calendar year 1970 and subsequent years	3¼

The tax is computed by applying to the wages actually or constructively paid to an employee the rate in effect at the time such wages are actually or constructively paid.

§ 404.1222 *Liability of State for contributions.* The State is liable for contributions with respect to the wages paid to individuals performing services in employment as employees in any coverage group included in the agreement. The amount of the State's liability is equal to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Internal Revenue Code if the services of the employees covered by the agreement constituted employment as defined in section 1426 of such code. The liability of the State attaches at the time that wages are either actually or constructively paid to individuals performing service in employment as employees in any coverage group included in the agreement, notwithstanding the fact that the wages are paid in media other than money (for example, wages paid in board or lodging; see § 404.1026 (a)).

§ 404.1223 *Manner and time of payment of contributions by State.* Federal Reserve Banks are authorized to receive the contributions required to be paid to the Secretary of the Treasury by an agreement made pursuant to the Social Security Act, as amended. The contributions shall be paid in money to the Federal Reserve Bank, or any branch thereof, serving the district in which the State is located, without notice, at the time fixed for filing of its contribution returns. (For provisions relating to the filing of contribution returns, see § 404.1255.)

§ 404.1224 *When fractional part of a cent may be disregarded.* In payment of contributions to a Federal Reserve bank, a State may disregard a fractional part of a cent unless it amounts to one-half cent or more, in which case it shall be increased to one cent. Fractional parts of a cent shall not be disregarded in the computation of contributions.

§ 404.1225 *Rate of interest.* If the contribution is not paid to the Federal Reserve bank, or branch thereof, when due and is not adjusted under § 404.1261, interest accrues at the rate of 6 percent per annum.

§ 404.1226 *Addition of interest to contributions for delinquent contribution returns.* If a State fails to make and file any of the contribution returns required by the regulations in this subpart within the prescribed time, interest accrues at the rate of 6 percent per annum.

§ 404.1227 *Failure to make payments.* If any State which has entered into an agreement with the Federal Security Administrator pursuant to section 218 of the Social Security Act, as amended, does not pay the contributions at the time or times such contributions are due, the Federal Security Administrator may deduct the amounts of such unpaid contributions plus interest from any amounts certified by him to the Secretary of the Treasury for payment to such State under title I, title IV, title V, title VI, or title X of the Social Security Act, as amended. The Federal Security Administrator will notify the Secretary of the Treasury of the amounts so deducted and request him to credit such amounts to the Trust Fund. Amounts so deducted shall be deemed to have been paid to the State under such other provision of the Social Security Act, as amended. (See § 404.1223 relating to time of payment; see § 404.1225 relating to rate of interest.)

§ 404.1230 *Statements for employees.* Every State shall furnish or cause to be furnished to each individual performing services in employment as an employee in a coverage group included in an agreement, a written statement or statements, in a form suitable for retention by the employee, showing with respect to wages paid to the employee for such services on or after the effective date of the agreement: (a) The name and identification number of the State or political subdivision, as the case may be, in the employ of which such service was performed; (b) the name and account number of the employee; (c) the period covered by the statement; (d) the total amount of wages subject to contributions under section 218 of the Social Security Act, as amended, paid during such period; and (e) if the State collects or causes to be collected contributions from such employees, the amount of employees' contributions with respect to such wages not in excess of the amount of the tax which would be imposed by section 1400 of the Internal Revenue Code if the services performed by such employees constituted employment as defined in section 1426 of such code. If an adjustment of employees' contributions is made in accordance with § 404.1266, the amount set forth in (e) in this section shall be the adjusted amount of such contribution. If the State collects or causes to be collected employees' contributions from any individual performing services in employment as an employee in a coverage group included in an agreement, a statement (Internal Revenue Form W–2) furnished by a State or any political subdivision thereof in accordance with the provisions of section 1633 of the Internal Revenue Code to such employee shall constitute the statement required for purposes of this section, if there is included in such statement all of the information required by this section. The statement shall be furnished to the employee not later than January 31 of the year following the calendar year covered by the statement, except that, if the employee leaves the employ of the State or of the political subdivision, so that he no longer performs services in employment as an employee in a coverage group included in an agreement, the final statement shall be furnished on the day on which the last payment of wages is made to the employee. (See § 404.1250 (b) relating to the performance of services in more than one coverage group.)

§ 404.1240 *Identification numbers—* (a) *Identification number for State and political subdivision.* Every State requesting the Federal Security Administrator to enter into an agreement pursuant to section 218 of the act shall furnish a list of the political subdivisions included or to be included in the agreement. Such list shall indicate the title of the official responsible for preparing the report on Form OAR–S3 for the State and the title of each official responsible for filing with the State the report on Form OAR–S3 for each such political subdivision and the business address of each such official. Every State shall file such list with the regional office of the Federal Security Agency for the region in which the State is located at the time of requesting the Federal Security Administrator to enter into an agreement pursuant to section 218 of the act. An identification number will be assigned to each State and to each political subdivision included in the list. If an identification number has been assigned to any State or to any of its political subdivisions for purposes of reporting covered transportation services, the State shall nevertheless obtain a separate identification number and shall obtain a separate identification number for each political subdivision included in the list for purposes of reporting services covered under an agreement.

(b) *Coverage group number for coverage groups.* If a State or any political subdivision thereof shall designate the coverage groups of its employees to be included in the agreement, the list referred to in paragraph (a) of this section shall identify each coverage group under the listing of the State, with regard to individuals who perform services as employees of the State in each such coverage group, or of the political subdivision, with regard to the individuals who perform services as employees in each such coverage group of such political subdivision. Such list shall also indicate the title of the official responsible for preparing the report on Form OAR–S3 for each such coverage group and the business address of each such official. A coverage group number will be assigned to each coverage group of the State and each coverage group of such political subdivisions upon the basis of information furnished on the list.

(c) *Unit numbers for pay roll record units.* If a State or any political subdivision thereof maintains more than one pay roll record unit, the list referred to in paragraph (a) of this section shall also indicate the agencies, departments,

or other branches of the State and of such political subdivisions, the records for which are maintained in each such pay roll unit, the title of the official in charge of such pay roll unit and the business address of such official. A unit number will be assigned to each separate pay roll record unit within a State or within any political subdivision thereof.

(d) *Use.* The identification number (including coverage group numbers assigned to coverage groups and unit numbers assigned to pay roll record units) shall be shown on the State's records, reports, returns, and claims to the extent required by §§ 404.1254, 404.1255 (a), 404.1256, and 404.1263 and by the instructions relating to Forms OAR–S1, OAR–S2, OAR–S3, OAR–S4, and Treasury Form 201 to be used by States for reporting wages, adjustments, and contributions.

§ 404.1241 *Employees' account numbers*—(a) *Assignment.* Every individual who performs services in employment as an employee in a coverage group included in an agreement, and who previously has neither secured an account number nor made application therefor, shall make an application on Form SS–5 with any field office of the Social Security Administration on or before the seventh day after the date on which he first performs services in employment for wages as an employee in a coverage group included in an agreement, except that the application shall be made on or before the date the employee leaves the employ of the State or its political subdivision if such date of leaving precedes such seventh day. Copies of Form SS–5 may be obtained from any field office of the Social Security Administration or from any collector of internal revenue. An account number will be assigned to the employee on the basis of information reported on the application required under this section.

(b) *Change.* An employee may have his account number changed at any time by applying to a field office of the Social Security Administration and showing good reason for a change. With that exception, only one account number will be assigned to an employee. Any employee whose name is changed by marriage or otherwise, or who has stated incorrect information on Form SS–5 should report such change or correction to a field office of the Social Security Administration. Copies of the Form OAAN–7003 for making such reports may be obtained from any field office of the Social Security Administration.

§ 404.1242 *Duties of employee with respect to his account number*—(a) *Employee required to show his account number card.* Every individual who performs services in employment as an employee in a coverage group included in an agreement shall show his account number card to the State or political subdivision thereof by which he is employed so that his account number and his name can be recorded exactly as they are shown on his account number card as issued to him by the Social Security Administration. The employee shall show his account number card as soon as he first performs services in employment as an employee in a coverage group included in an agreement entered into by any State. The account number originally assigned to an employee (or the number as changed in accordance with § 404.1241 (b)) shall be used by him even though he enters the employ of other employers or performs services in employment as an employee in a coverage group included in an agreement entered into by any other State.

(b) *Duties if employee does not have an account number card in his possession*—(1) *Where employee has receipt for application for account number.* If, when an individual first performs services in employment for wages as an employee in a coverage group included in an agreement, such individual, for any reason, does not have an account number card in his possession, he shall, in every case, show his account number card in accordance with paragraph (a) of this section as soon as he receives it, whether or not at that time he is still performing services in employment for wages as an employee in a coverage group included in an agreement. However, if such individual has available a receipt issued to him by an office of the Social Security Administration, acknowledging that application for account number has been received, the individual shall show such receipt in lieu of an account number card. (For provisions related to the duties of the State when an individual shows such a receipt see § 404.1243 (a).)

(2) *Where employee has no receipt.* If the individual does not have an account number card or a receipt issued to him by an office of the Social Security Administration acknowledging that application for an account number has been received, he shall furnish to the State or political subdivision by which he is employed, as the case may be, an application on Form SS–5 completely filled in and signed by him. If a copy of Form SS–5 is not available, the individual shall in lieu thereof furnish the State or political subdivision by which he is employed, as the case may be, a statement in writing, signed by him setting forth the date of the statement, his full name, present address, date and place of birth, father's full name, mother's full name before marriage, and the individual's sex and color, including a statement as to whether he has previously filed application on Form SS–5, and if so, the date and place of such filing. The furnishing of an executed Form SS–5, or statement in lieu thereof, by the individual to the State or political subdivision, as the case may be, does not relieve such individual of his obligation to make application on Form SS–5 and file it with a field office of the Social Security Administration as required by § 404.1241. (For provisions related to the disposition to be made by the State of an executed Form SS–5 or a statement in lieu thereof furnished by the individual under this subparagraph, see §404.1243.)

§ 404.1243 *Duties of State with respect to employees' account numbers*—(a) *Where employee has account number or receipt.* The State shall enter or cause the entry of the employee's name and account number exactly as shown on his account number card on all records, returns, reports, and claims to the extent required by §§ 404.1254, 404.1256, and 404.1265 of the regulations in this subpart and by the instructions relating to Form OAR–S3, for reporting wages, and Form OAR–S4, for reporting adjustments. Upon failure of an individual to show his account number card when he first performs services in employment as an employee in a coverage group included in an agreement, the State or the political subdivision by which he is employed, as the case may be, shall request the individual for such card. If he does not have an account number card and has not filed application for an account number with a field office of the Social Security Administration, the State or political subdivision, as the case may be, when the individual first performs services in employment as an employee in a coverage group included in an agreement, shall inform the individual of the provisions of §404.1241 and §404.1242. The State or political subdivision, as the case may be, shall also request him to show his account number card as soon as he receives it from the Social Security Administration. If the individual shows, as provided in §404.1242 (b) (1), a receipt issued by the Social Security Administration acknowledging that application for account number has been receive from him, the State or the political subdivision, as the case may be, shall enter in its records with respect to such individual the date of issue of the receipt, its termination date, the address of the issuing office, and the name and address of the individual exactly as shown in the receipt. The receipt shall be retained by the individual.

(b) *Where employee has no account number.* In any case in which the individual has not shown his account number to the State or political subdivision, as the case may be, prior to the time the State's report on Form OAR–S3 is filed for any quarter during which the employee receives wages from such State or political subdivision—

(1) If the individual has shown, as provided in § 404.1242 (b) (1), a receipt of the Social Security Administration acknowledging that application for account number has been received from him, the State shall enter or cause to be entered on the report with the entry with respect to such individual the words "Temporary Receipt" together with the name and address of the individual exactly as shown in the receipt, the date of issue of the receipt, and address of the issuing office; or

(2) If the individual has furnished, as provided in § 404.1242 (b) (2), an executed Form SS–5, or statement in lieu thereof, the State shall attach or cause to be attached a copy of such form or statement to the report. The State shall retain or cause to be retained the copy executed by the individual until he shows his account number card.

If the individual shows his account number card or receipt prior to the time the State's report on Form OAR–S3 is filed and the State enters or causes to be entered such name and number on the

report, the State shall return or cause to be returned to the individual any executed Form SS–5 or statement in lieu thereof furnished by such individual to the State or political subdivision in accordance with § 404.1242 (b) (2).

(c) *Prospective employees.* While not mandatory, it is suggested that the State advise or cause to be advised any prospective employee who does not have an account number card as to the requirements of §§ 404.1241 and 404.1242.

§ 404.1250 *Wage reports and contribution returns*—(a) *In general*—(1) *Wage reports.* (Every State that enters into an agreement shall make or cause to be made, with respect to individuals performing services in employment as employees in a coverage group included in an agreement, a wage report on Form OAR–S3 for each calendar quarter (whether or not wages are paid therein), beginning with the first calendar quarter with respect to which the agreement is effective, until it files a final report as required by the provisions of § 404.1252. Every State shall make such wage report on Form OAR–S3 with respect to employees of the State included in an agreement and shall obtain, with respect to employees in every other coverage group included in the agreement a complete and correct wage report on Form OAR–S3 for the employees of each such coverage group. The State shall prepare a recapitulation report, Form OAR–S2, identifying each political subdivision by the identification number assigned to each political subdivision, in accordance with instructions relating to Form OAR–S2, and shall file the original of the recapitulation report, along with the original of each wage report (Form OAR–S3), with the Federal Security Agency, Social Security Administration, Paca-Pratt Building, Baltimore 1, Maryland.

(2) *Contribution returns.* The State shall also file with the Federal Reserve Bank, or any branch thereof, serving the district in which the State is located, a quarterly contribution return (Form OAR–S1), and shall accompany such return with payment of the amount of contributions due and payable. A certificate of deposit (Treasury Form 201) shall be filed in quadruplicate, the first carbon copy of which shall be signed by the depositing officer of the State, and the third carbon copy of which shall be securely stapled to the Form OAR–S1. Checks for such contributions shall be made payable to the Treasurer of the United States. A copy of the contribution return (Form OAR–S1) shall be attached to the recapitulation report (Form OAR–S2) filed by the State with the Federal Security Agency. For the purposes of reports and returns under the act, the quarters shall each be three calendar months as follows: (i) January 1 to March 31, both dates inclusive; (ii) from April 1 to June 30, both dates inclusive; (iii) from July 1 to September 30, both dates inclusive; and (iv) from October 1 to December 31, both dates inclusive.

(b) *Employees performing services for more than one coverage group*—(1) *Employee of State in more than one coverage group.* Where an individual performs services in employment as an employee of the State in more than one coverage group included in an agreement, the aggregate wages paid to such employee by the State, not in excess of $3,600 paid in a calendar year by the State, shall be reported in the report filed for only one such coverage group, as specified in the agreement.

(2) *Employee of political subdivision in more than one coverage group.* Where an individual performs services in employment as an employee of a political subdivision of the State in more than one coverage group included in an agreement, the aggregate wages paid to such employee by the political subdivision, not in excess of $3,600 paid in a calendar year by the political subdivision, shall be reported in the report filed for only one such coverage group, as specified in the agreement.

(3) *Employee of State and of one or more political subdivisions.* Where an individual performs services in employment as an employee of the State in one or more coverage groups included in an agreement and as an employee of one or more political subdivisions of a State in one or more coverage groups included in an agreement, the aggregate wages paid to such employees by the State, not in excess of $3,600 paid in a calendar year by the State, shall be reported by the State in accordance with subparagraph (1) of this paragraph, and the aggregate wages paid to such employee by each political subdivision of the State, not in excess of $3,600 paid in a calendar year by each such political subdivision, shall be reported by each such political subdivision in accordance with subparagraph (2) of this paragraph.

(4) *Employee of more than one political subdivision.* Where an individual performs services in employment as an employee of one political subdivision in one or more coverage groups included in an agreement and as an employee of one or more other political subdivisions in one or more coverage groups included in an agreement, the aggregate wages paid to such employee by each such political subdivision, not in excess of $3,600 paid in a calendar year by each such political subdivision, shall be reported by each such political subdivision in accordance with subparagraph (2) of this paragraph.

§ 404.1251 *When to report wages.* Wages shall be reported in the wage report (Form OAR–S3) for the calendar quarter in which they are actually paid unless they were constructively paid in a prior calendar quarter, in which case such wages shall be reported in the report for such prior quarter (see §404.1001 (l) relating to constuctive payment of wages).

§ 404.1252 *Final reports*—(a) *Termination of agreement.* A final report can be filed only by a State whose agreement with the Administrator has been terminated. The last report on Form OAR–S3 for each coverage group included in an agreement of any State whose agreement has been terminated shall be marked "final report." Such report shall be filed by the State in accordance with § 404.1250 (a) on or before the 30th day after the date on which the final payment of wages subject to the agreement is made for services in employment performed by an individual as an employee in a coverage group, and shall plainly show the period covered and also the date of the last payment of wages. There shall be executed as a part of each final report a statement giving the title of the official of the State responsible for keeping the records of the State and the title of each official of the State and each official of its political subdivisions responsible for keeping the records of any political subdivision included in an agreement for the periods covered by the agreement in the event that it is necessary to communicate with the State or any of its political subdivisions regarding such records.

(b) *Partial termination of agreement.* If an agreement is not terminated in its entirety, but is terminated only with respect to one or more coverage groups, the last wage report on Form OAR–S3 for each such coverage group shall be marked "final report," and there shall be attached to each such report a statement setting forth the title of the official responsible for keeping the records with respect to such coverage group or groups for the periods covered by the agreement.

§ 404.1253 *Execution of contribution returns and wage reports.* Each contribution return on Form OAR–S1 and wage report on Form OAR–S2 shall be signed by a responsible and duly authorized officer of the State.

§ 404.1254 *Use of prescribed forms*—(a) *Procurement of forms.* Copies of prescribed return and report forms will, as far as possible, be regularly furnished the State by the Federal Security Agency without application therefor. A State will not be excused from making a return, or report, however, by the fact that no return or report form has been furnished to it. States or political subdivisions not supplied with the proper forms should make application therefor to the Federal Security Agency, Social Security Administration, Candler Building, Baltimore 2, Maryland, in ample time to have returns and reports prepared and verified, compiled and filed with the Federal Security Agency and Federal Reserve Banks on or before the due date (see § 404.1255 relating to the place and time for filing returns and reports, see also § 404.1252 relating to final reports).

(b) *Compliance with instructions.* Each contribution return and wage report, together with a copy thereof and any supporting data, shall be filled in and disposed of in accordance with the instructions and regulations applicable thereto. (See § 404.1255 relating to the place and time for filing returns and reports and § 404.1258 (c) and (e) relating to copies of returns, reports, schedules and statements, and to the place and period for keeping records.) The returns and reports should be carefully prepared so as to set forth fully and accurately the data therein called for. Returns and reports which have not been so prepared will not be accepted as

meeting the requirements of the act nor the terms of the agreement under which the State is reporting. Only one wage report for a reporting period with regard to services covered under an agreement shall be filed by or for a State. Any supplemental wage report filed for such period filed in accordance with §§ 404.1261, 404.1262, 404.1263, or 404.1264 of the regulations in this subpart shall constitute a part of such wage report. Individual wage reports of political subdivisions may not be filed directly with the Federal Security Agency by political subdivisions, but must be filed by the State as a part of the State's consolidated report.

(c) *Correction of errors.* If in a wage report or in any other manner the State fails to report or incorrectly reports to the Federal Security Agency the name, account number, or wages of an employee, the State shall fully advise the Federal Security Agency of the omission or error on a report of adjustments (Form OAR–S4). The State shall include in such report the identification number of the political subdivision involved, each calendar quarter for which the data were omitted or for which the incorrect data were furnished, the data incorrectly reported for each period, and the data which should have been reported. The State shall retain or cause to be retained a copy of each such Form OAR–S4 as a part of its records.

§ 404.1255 *Place and time for filing contribution returns and wage reports*—(a) *In general.* Each wage report on Form OAR–S3, together with a recapitulation report (Form OAR–S2) shall be filed with the Federal Security Agency, Social Security Administration, Paca-Pratt Building, Baltimore 1, Maryland. Contribution returns shall be filed, in the manner prescribed in § 404.1250 (a) (2) of the regulations in this subpart, together with the contribution payment, with the Federal Reserve Bank, or branch thereof, serving the district in which the State is located. Such returns shall be filed with respect to contributions for any wage payment or any supplemental wage payment reported on Form OAR–S3. Such returns shall also be filed if contributions are payable with respect to any adjustment of wages reported on Form OAR–S4. Except as provided in § 404.1252 and subparagraph (b) of this section, the contribution return and wage report for any calendar quarter any part of which is in the first 12-month period following the date of acceptance of an agreement by the Federal Security Administrator (but not including the date of acceptance of any modification thereof) shall be filed on or before the last day of the second month following the calendar quarter for which it is made; the contribution return and wage report for any subsequent calendar quarter shall be filed on or before the last day of the first month following the calendar quarter for which it is made. If wage reports on Form OAR–S3 for the State or for all of the political subdivisions included in the agreement have not been received by the State in time to permit the State to file a completed consolidated wage report and the completed contribution return on or before the due date, the State shall indicate on the recapitulation report (Form OAR–S2) each political subdivision or coverage group with respect to which no report on Form OAR–S3 has been received for the calendar quarter for which the consolidated report is being submitted. The State, upon receipt of the wage report for the delinquent political subdivision, shall file such report, marked "Supplemental," during the month in which received, with the Federal Security Agency and shall file with the Federal Reserve Bank, or branch thereof, a contribution return with respect to wages reported in such report and shall pay the contributions thereon plus one-half of one percent interest for each calendar month or part thereof past the due date of such contributions. If the last day for filing any contribution return or wage report falls on Sunday or a legal holiday, the return or wage report may be filed on the next following business day. If placed in the mails, the contribution return or wage report shall be posted in ample time to reach the Federal Reserve Bank, or branch thereof, or the Federal Security Agency under ordinary handling of the mails on or before the due date.

(b) *For periods prior to date of execution of agreement.* If the agreement provides for the coverage of employees performing services in employment for the State or any of its political subdivisions at the time the agreement is executed for calendar quarters during which such employees were in the employ of the States or any of its political subdivisions prior to the date of execution of the agreement, including the calendar quarter in which the agreement is executed, any contribution returns or wage reports for such prior calendar quarters shall be filed not more than 90 days after date of execution of the agreement. (As to interest assessable for failure to file a contribution return within the prescribed time see section 404.1226.)

§ 404.1256 *Records*—(a) *Records of States.* Every State which enters into an agreement shall keep or cause to be kept accurate records of all remuneration (whether in cash or in a medium other than cash) paid to employees performing services in employment in a coverage group included in an agreement after the effective date of such agreement, for services covered by such agreement. Such records may be maintained by such State, or, with respect to employees in a coverage group of any political subdivision thereof, by such political subdivision. No particular form is prescribed for keeping the records required by this paragraph. Each State shall use or cause to be used such forms and systems of accounting as will enable the Administrator to ascertain whether the contributions for which the State is liable are correctly computed and paid. Such records shall show with respect to each employee:

(1) The name, address, and account number of the employee (see § 404.1243 relating to account numbers) and such additional information with respect to the employee as is required by § 404.1243 (a) when the employee does not show his account number card as issued to him by the Social Security Administration;

(2) The total amount (including any sum withheld therefrom as contribution or for any other reason) and date of each remuneration payment and the period of services covered by such payment;

(3) The amount of such remuneration payment which constitutes wages (see § 404.1026 for wages and § 404.1027 for exclusions from wages); and

(4) The amount of employees' contribution, if any, withheld or collected with respect to such payment, and if collected at a time other than the time such payment was made, the date collected. If the total remuneration payment (subparagraph (2) of this paragraph) and the amount thereof which is subject to contribution (subparagraph (3) of this paragraph) are not equal, the reason therefor shall be made a matter of record. Accurate records of the details of each adjustment or settlement made pursuant to § 404.1261 or § 404.1262 shall also be kept.

(b) *Records of employees.* While not mandatory, it is advisable for each employee to keep permanent, accurate records showing the name and address of the State or political subdivision for which he performs services in employment as an employee in a coverage group included in an agreement, the dates of beginning and termination of such services, the information with respect to himself which the State is required by paragraph (a) of this section to keep or cause to be kept, and the statements furnished in accordance with the provisions of § 404.1230. (See paragraph (d) of this section relating to records of claimants.)

(c) *Copies of returns, reports, schedules, and statements.* Every State which is required, by these regulations or by instructions applicable to any form prescribed under these regulations, to keep or cause to be kept any copy of any return, report, schedule, statement, or other document, shall keep such copy or cause it to be kept as part of its records.

(d) *Records of claims for refund or credit of contributions.* Any State claiming refund or credit of any contribution or interest shall keep or cause to be kept a complete and detailed record with respect to such contribution or interest.

(e) *Place and period for keeping records.* All records required by the regulations in this subpart shall be kept at one or more convenient and safe locations accessible to Social Security Administration officers. Such records shall at all times be open for inspection by such officers. Records required by paragraphs (a) and (c) of this section shall be maintained for a period of at least four years after the date the contributions to which they relate became due or after the date the contributions were paid, whichever is later, whether or not, in the interim, the agreement has been terminated in whole or in part. Records required by paragraph (d) of this section (including any record required by paragraphs (a) or (c) which relates to a claim) shall be maintained for a period of at least four years after the date the

claim is filed, whether or not, in the interim, the agreement has been terminated in whole or in part.

§ 404.1260 *Adjustments in general.* Errors in the payment of contributions must be adjusted in certain cases without interest. Not all corrections of erroneous payments of contributions, however, constitute adjustments within the meaning of the regulations in this subpart. The various situations under which such adjustments shall be made are set forth in §§ 404.1261, 404.1262, 404.1263, and 404.1264, the provisions of which also relate to settlement other than by adjustment under certain circumstances set forth therein. Errors in the payment of contributions must be reported to the Social Security Administration by the State (and not directly by any political subdivision of the State). Likewise, all claims shall be filed by the State. Refunds and credits will be made only to the State (and not directly to any political subdivision of the State).

§ 404.1261 *Adjustment of underpayments of contribution*—(a) *Method of making adjustment.* If no contribution or less than the correct amount of contribution with respect to a payment of wages to an employee is reported on a contribution return and paid to the Federal Reserve Bank, or branch thereof, the State shall adjust the underpayment by reporting the additional amount due by reason of such underpayment either as an adjustment of total contributions due with the first quarterly wage report filed after notification of the underpayment by the Social Security Administration, or as a single adjustment of total contributions due with any contribution return filed prior to the filing of such quarterly wage report. If the underpayment of contribution also involves an underreporting of or a failure to report one or more employees' wages, a Form OAR–S4 shall be filed within 30 days after ascertainment of the error by the State, together with a copy of the Form OAR–S1 prepared in accordance with the instructions contained thereon. The Form OAR–S4 shall show the amount of wages, if any, erroneously reported for the calendar quarter and the correct amount of wages that should have been reported and the identification number of the State or the political subdivision for each employee who was omitted or erroneously reported.

(b) *Payment.* The amount of each underpayment adjusted in accordance with this section shall be paid to the Federal Reserve Bank, or branch thereof, serving the district in which the State is located, without interest, at the time of reporting the adjustment. If an adjustment is reported pursuant to this paragraph but the amount thereof is not paid when due, interest thereafter accrues. (For interest accruing on amounts so reported see § 404.1225.

§ 404.1262 *Adjustment of overpayment of contributions.* If a State pays more than the correct amount of contribution with respect to any payment of remuneration, the adjustment of the State's contribution shall be made in accordance with the following:

(a) If the overpayment of contribution does not involve an overreporting of wages for one or more employees, the State shall cause the adjustment of the overpayment by reporting such amount either as an adjustment of total contributions due with the first quarterly wage report filed after notification of the overpayment by the Social Security Administration, or as a single adjustment of total contributions due with any contribution return filed prior to the filing of such quarterly wage report; or

(b) If the overpayment involves an overreporting of the amount of wages paid to one or more employees during one or more calendar quarters, a report on Form OAR–S4 showing the amount or amounts of wages previously reported for the quarter or quarters and the correct amount or amounts of wages, if any, paid to such employee in such calendar quarter or quarters, shall be filed upon ascertainment of the error, together with a copy of the Form OAR–S1 prepared in accordance with the instructions contained thereon.

§ 404.1263 *Refund or credit of overpayment which are not adjustable*—(a) *Request for recomputation.* If more than the correct amount of contribution or interest is paid to the Federal Reserve Bank, or branch thereof, by any State, such State may file a claim for refund for such overpayment or may take credit for the overpayment on any contribution report on Form OAR–S1 which it subsequently files. (See paragraph (c) of this section, relating in part to overpayments which are adjustable.) If more than the correct amount of contribution or interest is claimed by the Federal Security Agency, but not paid to the Federal Reserve Bank, or branch thereof, the State may file a request for recomputation of such claim.

(b) *Form of claims.* Each claim for refund or recomputation under this section shall be made in accordance with the regulations in this subpart and shall designate the calendar quarter in which the error was ascertained. No special form is required for such claims. If a credit is taken under this section, a claim is not required, but the contribution return on Form OAR–S1 on which such credit is claimed shall have securely attached as a part thereof a statement which shall constitute the claim for credit, setting forth in detail the grounds and facts relied upon in support of the credit, designating the calendar quarter in which the error was ascertained, and showing such other information as is required by the regulations in this subpart or by the instructions relating to the report. Whenever a claim for refund or recomputation is made with respect to remuneration which was erroneously reported on a wage report, such claim shall include a statement showing (1) the identification number of the State or the political subdivision which reported the employee; (2) the name and account number of the employee for whom such remuneration was so reported; (3) the calendar quarter covered by such wage report; (4) the amount of remuneration previously reported as wages paid in such calendar quarter for such employee; and (5) the amount of wages which should have been reported for such employee. This information should be reported on Form OAR–S4.

(c) *Claims improperly made.* Any claim which does not comply with the requirements of this section will not be considered for any purpose as a claim for refund or recomputation.

(d) *Proof of representative capacity.* If a report or return is made by a duly authorized official of the State who thereafter dies, is removed from office, or otherwise ceases to act in such official capacity and a refund claim is made by a successor official, a certified letter attesting such official authorization to make claim for and receive refund of contribution previously paid by such former official must be annexed to the claim to show the authority of such successor official. Such certified letter will not be necessary if such successor official has previously filed one or more reports or returns which contain the signature and official title of such official.

§ 404.1264 *Credit and refund of contributions paid for period during which no liability existed under the Social Security Act.* If any State pays any amount of contribution under an agreement entered into pursuant to section 218 of the act with respect to any period for which it is not liable for such contribution, and such State is liable for a contribution for some other period, the amount paid as contribution under such agreement shall be credited against such contribution for which the State is liable and the balance, if any, shall be refunded. Each claim for refund under this section shall be made in accordance with § 404.1263. Each claim for credit under this section shall be made in accordance with the applicable provisions of § 404.1263 of the regulations in this subpart.

§ 404.1265 *Opportunity to States to adjust underpayment.* If any contribution is not paid to the Federal Reserve Bank, or branch thereof, when due, the Federal Security Agency may afford the State the opportunity to adjust the underpayment pursuant to § 404.1261. Unpaid contributions are chargeable against the State. (See § 404.1225, relating to interest.)

§ 404.1266 *Adjustment of employee contributions.* If a State deducts or causes to be deducted employees' contributions with respect to remuneration paid to employees in coverage groups included in an agreement with the Federal Security Administrator, the amount deducted or caused to be deducted from the remuneration of an employee or any correction in the undercollection or overcollection of such amount, is matter for settlement between the employee and the State or political subdivision, as the case may be. Any correction of an undercollection or overcollection of an employee's contribution shall be shown on statements furnished to the employee in accordance with § 404.1230.

SUBPART N—BENEFITS IN CASE OF WORLD WAR II VETERANS

NOTE: §§ 404.1301 to 404.1324 interpret or apply sec. 217, 64 Stat. 512; 42 U. S. C. 417.

§ 404.1301 *General effect of section 217 of the act.* Section 217 (a) of the act gives World War II veterans wage credits for active service in the armed forces of the United States during World War II. Section 217 (b) of the act gives certain veterans, in the event of their death, a fully insured status and provides their survivors the same insurance rights that would be payable if the veterans had died fully insured individuals. In cases in which the protection provided by the war-service wage credits in section 217 (a) and that provided by the guaranteed insured status under section 217 (b) overlap, the act requires application of the provision that will result in payment of the larger benefit.

§ 404.1302 *Effect of section 217 (a) of the act.* Section 217 (a) of the act provides a World War II veteran with wage credits of $160 for each month of active service during World War II. These war-service wage credits are given even though such veteran died in service (with one minor exception). The wage credits are used in determining the monthly benefits payable for any month after August 1950 to such veteran and his dependents, or to his survivors, even though death of the veteran occurred before September 1950, and in determining the lump-sum death payment in case of his death after August 1950. Claims will not be adjudicated under section 217 (a) of the act if larger benefits or payments under title II are payable without the application of the provisions of such section, or if the veteran's World War II active service in whole or in part has been credited toward another "Federal benefit" (see § 404.1307). The provisions of §§ 404.1304–404.1310 deal exclusively with cases in which benefits or a lump sum are payable on the basis of the provisions of section 217 (a) of the act.

§ 404.1303 *Effect of section 217 (b) of the act.* Section 217 (b) of the act gives survivors of a World War II veteran who died within 3 years following his discharge or release from the active military or naval service of the United States the same insurance rights to which they would be entitled had the veteran died fully insured. Any such veteran is deemed to have died fully insured, and, for the purpose of computing benefits, to have an average monthly wage of not less than $160, and to have been paid wages of not less than $200 in each calendar year in which he had 30 days or more of active military or naval service after September 16, 1940, and prior to January 1, 1951. The benefits provided pursuant to section 217 (b) of the act are not available where death occurs in the active military or naval service of the United States, or where the veteran is separated from such active service after July 26, 1951. Survivors otherwise eligible for such benefits are barred from receiving benefits or a lump sum where pension or compensation under veterans' laws is determined by the Veterans' Administration to be payable by it with respect to the death of the veteran, but this does not preclude payment of benefits or a lump sum based on the veteran's covered employment or self-employment. Claims of survivors will not be adjudicated under section 217 (b) of the act if a larger benefit or payment under title II is payable without the application of the provisions of such section. The provisions of §§ 404.1311–404.1318 deal exclusively with cases in which benefits or a lump sum are payable on the basis of the provisions of section 217 (b) of the act.

§ 404.1304 *Purposes of crediting war-service wages.* War-service wages are creditable to the wage record of a World War II veteran, to the extent provided for in § 404.1305, for purposes of determining entitlement to, and the amount of, any monthly benefit for months after August 1950, and any lump-sum death payment in case of a death after August 1950, payable under the provisions of Subpart D of this part on the basis of the wages and self-employment income of such veteran.

§ 404.1305 *Amount of war-service wages and period for which creditable.* In addition to the wages, if any, actually paid to a World War II veteran, such veteran shall be deemed to have been paid and shall be credited with wages of $160 for each calendar month or part of a month after September 15, 1940, and before July 25, 1947, during which he was in the active military or naval service of the United States, subject however, to the limitations on creditability under § 404.1306.

§ 404.1306 *Limitations on creditability of war-service wages.* War-service wages shall not be credited to the account of a World War II veteran:

(a) If a larger monthly benefit or lump-sum death payment would be payable without the crediting of such wages; or

(b) If any part of the World War II active service of such veteran has been credited toward another "Federal benefit" (see § 404.1307).

§ 404.1307 *Meaning of "Federal benefit."* For purposes of this subpart, a "Federal benefit" means any benefit (other than a lump-sum payment which is not a commutation of or substitute for periodic payments) under the civil service, railroad retirement, military, or other Federal program which provides for retirement on account of age, length of service, or disability, or for survivors insurance, where the amount of such benefit is based in whole or in part upon active military or naval service during World War II and such benefit is determined by any agency or wholly owned instrumentality of the United States (other than the Veterans' Administration) to be payable by it under any other law of the United States or under a system established by such agency or instrumentality.

§ 404.1308 *Determination and certification of payments based on war-service wages.* Where the limitation on creditability of war-service wages specified in § 404.1306 (a) is not applicable, the rights of an individual applying for payment of benefits or a lump sum on the basis of the wages and self-employment income of a World War II veteran shall be determined on the basis of the provisions of § 404.1305, and certification of payment may be made pursuant to such determination, subject, however, to the effect of the receipt of notice by the Administrator from another department, agency or wholly owned instrumentality of the United States that a "Federal benefit" (see § 404.1307) has been determined by it to be payable (§ 404.1309).

§ 404.1309 *Effect of notice of determination that a "Federal benefit" is payable.* If the Administrator has been notified by a department, agency or wholly owned instrumentality of the United States that a "Federal benefit" (see § 404.1307) has been determined by it to be payable (even though later terminated) to anyone (including dependents or survivors) on the basis of the active service during World War II of a World War II veteran, any benefits, or a lump sum payable under title II with respect to the wages and self-employment income of such veteran shall be determined without regard to the provisions in § 404.1305 for the crediting of war-service wages. If, prior to the receipt of such notification, the Administrator has made a determination and pursuant to such determination has certified a benefit for payment to the veteran, his dependents or survivors, or has certified for payment a lump-sum death payment, as provided by § 404.1308, the Administrator, upon the receipt of such notification, shall certify no further benefits for payment or shall recompute the amount of any further benefits as may otherwise be payable under title II, and shall also determine the existence and amount of any erroneous payment (see § 404.1310).

§ 404.1310 *Overpayment in connection with existence of "Federal benefit."* Any payment certified to an individual in accordance with § 404.1308 shall, upon receipt of notification by the Administrator that a "Federal benefit" is determined to be payable, constitute an overpayment (see Subpart F of this part) to the extent that such payment was based upon the inclusion of war-service wages (see § 404.1305). Thereupon, such overpayment shall be subject to the provisions of Subpart F of this part.

§ 404.1311 *Guaranteed benefits to survivors of veterans.* In the case of an individual who is a World War II veteran, and who died within 3 years after his discharge or separation from the active military or naval service of the United States, and with respect to whom none of the conditions of limitation stated in § 404.1312 exists, the amount of any monthly benefit or lump-sum death payment payable to his survivors under Subpart D of this part shall be not less than the amount determined by application of the provisions of §§ 404.1313, 404.1314, and 404.1315.

§ 404.1312 *Conditions of limitation upon the guarantee of benefits.* Monthly benefits or a lump-sum death payment

are not payable with respect to a deceased World War II veteran on the basis of the provisions of §§ 404.1313, 404.1314, and 404.1315 if any of the following conditions exist:

(a) A larger such benefit or payment would be payable without the application of the provisions of such sections; or

(b) The Veterans' Administration has determined that pension or compensation is payable by it on the basis of the death of such veteran (see § 404.1316); or

(c) Such veteran died while in the active military or naval service of the United States, whether such death occurred during his period of active service as a member of a regular or reserve component of the armed forces; or

(d) Such veteran was first separated from such active service after July 26, 1951.

§ 404.1313 *Deemed fully insured status.* A veteran who meets the requirements of § 404.1311 shall be deemed to have a fully insured status (see § 404.108) when he died.

§ 404.1314 *Basis for computation of benefits on guaranteed insured status.* The amount of the monthly benefit or the lump-sum death payment payable to a person with respect to the death of a veteran with respect to whom § 404.1313 applies, shall be based on the primary insurance amount of such veteran as determined for him by use of the "conversion table" (see § 404.203) and for such purposes his primary insurance benefit shall be determined in accordance with the provisions of § 404.204 (c). In applying that section, the veteran shall be deemed

(a) To have an average monthly wage of not less than $160, and

(b) For purposes of section 209 (e) (2) of the act in effect prior to the Social Security Act Amendments of 1950 (see § 403.301 of this chapter (Regulations 3)), to have been paid not less than $200 in wages in each calendar year in which he had 30 days or more of active service after September 16, 1940, and before 1951 (see § 404.1315.)

§ 404.1315 *Increment years.* The years on which the computation provided for in section 209 (e) (2) of the act in effect prior to the Social Security Act Amendments of 1950 (see § 404.1314 (b)) is based, are referred to as "increment years." If a veteran who meets the requirements of § 404.1311 was fully or currently insured on his record of wages (without regard to the war-service wages provided for in § 404.1305) and self-employment income, and entitlement to benefits or payments could have been established without reference to § 404.1313, the "increment years" based on the record of wages will be combined with those provided under § 404.1314 (b). Not more than 1 "increment year" will be allowed for any calendar year.

Example. V worked in covered employment during the years 1943, 1944, 1945 and 1948. He served in the army from November 1, 1945, until his honorable discharge in October 1947. He died in March 1950. On his wage record V was fully insured with an average monthly wage of $100 and 4 "increment years."

Benefits or a lump sum may be payable computed on the basis of the average monthly wage of $160 provided under § 404.1314 (a) and 4 "increment years" shown on the wage record plus 2 "increment years" for military service provided under § 404.1314 (b). V is not allowed an "increment year" for military service in 1945 because an "increment year" was allowed based on his wage record.

§ 404.1316 *Determination of benefits payable on guaranteed insured status and certification of payments.* Where none of the conditions stated under § 404.1312 (a), (c), and (d) exists, the rights of an individual applying for payment of benefits or a lump sum with respect to the death of an individual who is a World War II veteran and who died within 3 years after his separation from active service shall be determined without regard to the existence of a determination by the Veterans' Administration as to the payment of pension or compensation (see § 404.1312 (b)), and certification of payment may be made pursuant to such determination, subject, however, to the effect of the receipt of a notice by the Administrator of a determination by the Veterans' Administration that pension or compensation is payable by it by reason of the death of such veteran (see § 404.1317). National Service or United States Government Life Insurance payments or burial allowance payments made by the Veterans' Administration are not considered pension or compensation.

§ 404.1317 *Effect of receipt of notice of determination that pension or compensation is payable by Veterans' Administration.* If the Veterans' Administration notifies the Administrator that it has made a determination that pension or compensation is payable (even though later terminated) under any law administered by it to anyone (including the dependents or survivors of a veteran) on the basis of the death of a World War II veteran, any benefits or a lump sum payable under title II with respect to the wages and self-employment income of such veteran shall be determined without regard to the provisions in this subpart relating to the payment of benefits on the guaranteed insured status of a veteran. If prior to the receipt of such notification from the Veterans' Administration the Administrator has made a determination and certification as provided by § 404.1316, the Administrator, upon the receipt of such notification, shall certify no further benefits for payment or shall recompute the amount of any further benefits as may otherwise be payable under title II.

§ 404.1318 *When payment of benefits on guaranteed insured status is not deemed erroneous.* Prior to receipt by the Administrator of notification from the Veterans' Administration that pension or compensation is determined to be payable by it on the basis of the military or naval service of a veteran, any payments certified to any individual in accordance with § 404.1316 but not in excess of the amount of any accrued pension or compensation payable to such individual by the Veterans' Administration, shall be deemed to have been paid to him by such Administration on account of such accrued pension or compensation. No such payment certified by the Administrator and no payment certified by him for any month prior to the first month for which any pension or compensation is paid by the Veterans' Administration is an erroneous payment.

Example. Based on the death of V, monthly benefits computed as provided in § 403.1314 were certified to W beginning in January 1951. The Veterans' Administration notified the Administrator in July that pension has been determined to be payable by it on the basis of V's death.

The amounts certified prior to receipt of notice are not recoverable by the Administrator but are reported to the Veterans' Administration for such adjustment as it may direct against accrued pension or compensation, if any, payable by the Veterans' Administration.

However, if any payments were made to W for months when deductions or reductions should have been imposed (see Subpart E of this part) such payments will be considered erroneous and recovery or adjustment thereof may be made (see Subpart F of this part).

§ 404.1319 *Filing proof of support.* In the case of the death of a World War II veteran, proof of support required of a parent under Subpart D of the regulations in this part shall be filed within 2 years of the date of such veteran's death as provided under Subpart H of this part, except that where benefits are payable to such parent on the basis of the provisions of § 404.1305 of this subpart, such proof of support may be filed before July 1951 or before the expiration of 2 years after the death of such veteran, whichever is the later.

§ 404.1320 *Supporting evidence as to right to receive benefits and lump sums.* In addition to such evidence of eligibility as is required by Subpart H of this part or as may be otherwise expressly required in connection with an application, an applicant for benefits or a lump sum on the basis of the service of a World War II veteran pursuant to any of the provisions of this subpart shall file supporting evidence as to such veteran's period of active military or naval service and his discharge or release from the active military or naval service. Such evidence shall be of the following character:

(a) An original certificate of discharge, or an original certificate of service, from a branch of the armed forces or from the United States Public Health Service; or a certified copy of such a certificate made by the State, county or municipal agency or department in which the original certificate is recorded; or

(b) A certification from a branch of the armed forces or from the United States Public Health Service indicating such veteran's period of active service and type of discharge; or

(c) A certification from a local selective service board indicating such veteran's period of active service and type of discharge; or

(d) Other evidence of probative value.

§ 404.1321 *World War II veteran, defined*—(a) *Included individuals.* The

term "World War II veteran" includes any person who was in the active service of any of the armed forces of the United States, including the Army, Air Force, Navy, Marine Corps, and Coast Guard, or any of the components thereof, during World War II, and including also any member of the commissioned corps of the United States Public Health Service in the active service of the Public Health Service on or after July 29, 1945, and before July 25, 1947, and who, if discharged or released from such active service, was so separated under conditions other than dishonorable (see § 404.1323) after active service of at least 90 days or by reason of a disability or injury incurred or aggravated in service in line of duty (see § 404.1322).

(b) *Excluded individuals.* The term "World War II veteran" does not include any individual who died while in the active service if his death was inflicted as punishment for a military or naval offense under the laws of any country, other than under the laws of Japan, Germany, Austria, Italy, Bulgaria, Hungary and Rumania during such time as the United States was in a state of war with such countries. Neither does it include a member of units such as the Women's Army Auxiliary Corps (WAAC), Coast Guard Auxiliary, Coast Guard Reserve (Temporary) (except those members who served on active full-time duty with military pay and allowances), the Civil Air Patrol, or the Civilian Auxiliary to the Military Police.

§ 404.1322 *Active service of 90 days, defined.* Active service of 90 days means one or more periods totalling at least 90 days (whether or not consecutive) which are served after September 15, 1940, and before July 25, 1947. Where 90 days were not served wholly after September 15, 1940, and before July 25, 1947, but such service began prior to September 16, 1940, and concluded on or after that date, or began prior to July 25, 1947, and concluded on or after that date, the requirement of active service of 90 days is met only if such service of 90 days was continuous. Active service of 90 days is not necessary in the case of a veteran who was in active service on or after September 16, 1940, and before July 25, 1947, and who was separated therefrom by reason of a disability or injury incurred or aggravated in service in line of duty.

Example. V entered the Army on July 25, 1940, and continued in active service until his honorable discharge on October 31, 1940. 46 days of this service was performed beginning September 16, 1940.

V has the requisite number of days of active service since he had more than 90 days of continuous service extending into the period beginning with September 16, 1940.

If V had been discharged on or after September 16, 1940, for a disability incurred in service in line of duty he would meet the service requirement even though his period of service was less than 90 days.

§ 404.1323 *Conditions other than dishonorable, defined.* An honorable discharge or release from the active military or naval service is a separation under "conditions other than dishonorable." Any other discharge or release from the active military or naval service of the United States is under "conditions other than dishonorable" except a discharge or release which is:

(a) A dishonorable discharge or a bad conduct discharge issued pursuant to a sentence of a general court martial of the Army, Air Force, Navy, Marine Corps or Coast Guard, or a dishonorable discharge issued pursuant to the recommendation of a board of investigation of the Public Health Service; or

(b) For desertion; or

(c) In the case of an officer, by resignation accepted for the good of the serice; or

(d) On the ground that the individual was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority; or

(e) By reason of a conviction by a civil court for treason, sabotage, espionage, murder, rape, arson, burglary, robbery, kidnaping, assault with intent to kill, assault with a dangerous weapon, or of an attempt to commit any of these crimes.

§ 404.1324 *World War II; defined.* The term "World War II" means, for the purposes of this subpart, the period beginning with September 16, 1940, and ending at the close of July 24, 1947.

SUBPART O—INTERRELATIONSHIP OF OLD-AGE AND SURVIVORS INSURANCE PROGRAM WITH THE RAILROAD RETIREMENT PROGRAM

NOTE: §§ 404.1401 to 404.1408 interpret or apply secs. 202 and 205, 49 Stat. 623, as amended, 624, as amended; 42 U. S. C. 402, 405.

§ 404.1401 *General relationship of Railroad Retirement Act with the old-age and survivors insurance program of the act.* Section 5 of the Railroad Retirement Act sets up a system of benefits for certain survivors of railroad employees patterned after and integrated with some of the survivor benefit provisions of the act. The act provides, in part, in the case of individuals covered thereunder, for the payment of monthly benefits to survivors of such individuals. It also provides for lump-sum death payments to certain persons. Generally comparable protection is granted under the Railroad Retirement Act to survivors of railroad employees through payment of monthly insurance annuities beginning with January 1947 and lump sums with respect to deaths after 1946. Both acts contain provisions for coordinating survivors' benefits payable under each act so that there will be no duplication of benefits or failure to receive benefits by reason of having a wage record partly under one program and partly under the other. The amount of the payments under the act where both railroad compensation and old-age and survivors insurance wages and self-employment income are involved is on the basis of combined earnings credits, excluding, however, in certain cases, compensation which is attributable to military service. If an individual had a "current connection with the railroad industry" (as defined in section 1 (o) of the Railroad Retirement Act) when he died, his survivors generally would be paid under the railroad retirement program; and if he had no such "current connection" but was fully or currently insured under the act (see Subpart B of this part) his survivors would be paid under the old-age and survivors insurance program.

§ 404.1402 *Eligibiilty to railroad retirement benefits as bar to payment of social security benefits.* If any person, upon filing application therefor, would be entitled to an annuity under section 5 of the Railroad Retirement Act or to a lump-sum payment under subsection (f) (1) of such section with respect to the death of an employee (as defined in the Railroad Retirement Act), no lump-sum death payment with respect to a death occurring after August 1950, or insurance benefit for a month after August 1950, shall be paid under the regulations in this part on the basis of the wages and self-employment income of such individual, except as provided in § 404.1403.

§ 404.1403 *When railroad retirement benefits do not bar payment of social security benefits*—(a) *Eligibility to survivor's benefit before 1947.* If a survivor is, or, upon filing application therefor, would be entitled to an old-age and survivors insurance benefit with respect to the death of an insured individual for a month prior to January 1947, which is greater in amount than would be the survivor's annuity payable to him after 1946 under the railroad retirement program with respect to the death of the same individual, benefits for months after 1946 will be paid under the old-age and survivors insurance program provided all conditions of eligibility have been met.

(b) *Effect of residual lump-sum payment made pursuant to election to waive future annuities.* If the residual lump-sum payment provided by section 5 (f) (2) of the Railroad Retirement Act with respect to the death of an insured individual (who is an employee as defined in the Railroad Retirement Act) is paid by the Railroad Retirement Board in accordance with the provisions of said section 5 (f) (2) and pursuant to an irrevocable election filed with such Board by the widow or parent of such individual to waive all annuities to which such widow or parent might otherwise become entitled, then, notwithstanding the provisions of § 404.1402, widow's or parent's benefits, as the case may be, shall be paid under the regulations in this part solely on the basis of the wages and self-employment income of such individual, provided all conditions of eligibility have been met.

§ 404.1404 *Compensation to be treated as wages.* Where eligibility does not exist to an annuity under section 5 of the Railroad Retirement Act or a lump sum under section 5 (f) (1) of that act, section 205 (o) of the act requires that compensation (as defined in the Railroad Retirement Act) shall be treated as wages (see § 404.1017), except that where war-service wages for any month are credited to the wage record of a World War II veteran (see § 404.1321 (a)) under § 404.1305 for purposes of § 404.1304, compensation shall not be treated as wages to the extent that compensation is attributable as having been

paid during such month on account of military service creditable under section 4 of the Railroad Retirement Act.

§ 404.1405 *Purposes of using compensation.* Compensation which is treated as wages under § 404.1404 shall be used, together with wages (see Subpart K of this part) and self-employment income (see Subpart K of this part), for purposes of determining a deceased individual's insured status (see Subpart B of this part) and for computing such individual's primary insurance amount on the basis of which a survivor's monthly benefit or a lump-sum death payment is payable (see Subpart C of this part).

§ 404.1406 *Presumption on basis of certified compensation record.* Where the Railroad Retirement Board certifies to the Administrator a report of record of compensation, which is treated as wages under § 404.1404, and periods of service which does not identify the months or quarters in which such compensation was paid, the sum of the compensation quarters of coverage (see § 404.1408) will be presumed, in the absence of evidence to the contrary, to represent an equivalent number of quarters of coverage (see §§ 404.103 and 404.104). No more than four quarters of coverage shall be credited to an individual in a single calendar year. However, if such individual also had self-employment income for a taxable year and the sum of such income and wages (including compensation which is treated as wages under § 404.1404) paid to him during such taxable year equals $3,600, each quarter any part of which falls in such year shall be a quarter of coverage.

§ 404.1407 *Allocation of compensation to months of service.* If by means of the presumption under § 404.1406:

(a) A deceased individual does not have an insured status (see Subpart B of this part) on the basis of the quarters of coverage with which he is credited; or

(b) A deceased individual's average monthly wage (see § 404.205) may be affected because he attained age 22 after 1936, the Administration will request the Railroad Retirement Board to furnish a report of the months in which such individual rendered services for compensation which is treated as wages under § 404.1404 if it appears that identification of such months may result in an insured status or if it will affect such average monthly wage.

§ 404.1408 *Compensation quarter of coverage.* As used in this subpart, a compensation quarter of coverage is any quarter of coverage computed with respect to compensation paid to an individual for railroad employment after 1936 in accordance with the provisions for determining such quarters of coverage as contained in section 5 (1) (4) of the Railroad Retirement Act.

[SEAL] ARTHUR J. ALTMEYER,
Commissioner for Social Security.

Approved: December 18, 1951.

OSCAR R. EWING,
Federal Security Administrator.

[F. R. Doc. 51-15191; Filed, Dec. 27, 1951; 8:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter E—Organized Reserves

PART 562—RESERVE OFFICERS' TRAINING CORPS

MISCELLANEOUS AMENDMENTS

Paragraph (a) of § 562.13, the last sentence of § 562.14, and the first sentence of paragraph (b) of § 562.29 are amended to read as follows:

§ 562.13 *Conditions for establishment and retention of units.* (a) Before an ROTC unit may be established at an educational institution, such institution must be accredited by the appropriate national or regional accrediting agency, and there must be insured to each ROTC unit a minimum number of formerly enrolled, physically fit, male students who are citizens of the United States, and who are not less than 14 years of age, except in Alaska (see sec. 40, National Defense Act, 39 Stat. 191; 10 U. S. C. 381), as indicated in subparagraphs (1) and (2) of this paragraph:

(1) Minimum enrollment requirements for certain type ROTC units:

(i) For Infantry, Armored, or Artillery units, the minimum enrollment will be 100 students in each such unit.

(ii) For units of the technical and administrative services (Chemical Corps, Corps of Engineers, Ordnance Corps, Quartermaster Corps, Signal Corps, Military Police Corps, Transportation Corps, Army Security Agency, and all medical units), the minimum enrollment will be 50 students in each such unit.

(2) Minimum ROTC enrollment requirements for certain type institutions:

(i) *Class HS.* 100 students in each school, including each separate school in a multiple junior division ROTC unit.

(ii) *Class MI.* A total of 100 students, irrespective of junior or senior division standing, in each school.

(iii) *Class MJC or MC.* Fifty students in the junior division, and in the senior division as indicated in subparagraph (1) of this paragraph.

(iv) *Class CC.* As indicated in subparagraph (1) of this paragraph.

* * * * *

§ 562.14 *Senior and junior division units at same institutions.* * * * When units of both divisions have been authorized, the required minimum enrollment must be maintained in the unit or units of each division, as required in § 562.13 (a) (1) and (2).

§ 562.29 *Curtailment of courses.* * * * (b) The professor of military science and tactics with the approval of the head of the institution concerned is authorized to approve applications for curtailment of the advanced course when all the following conditions exist:

* * * * *

[C5, AR 145-350, Dec. 11, 1951] (R. S. 161; 5 U. S. C. 22. Interpret or apply 39 Stat. 191, as amended, sec. 34, 41 Stat. 778; 10 U. S. C. 354, 381-388, 441)

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 51-15277; Filed, Dec. 27, 1951; 8:45 a. m.]

PART 564—ENLISTED RESERVE CORPS

INELIGIBILITY; LENGTH OF ENLISTMENT

1. Paragraph (a) of § 564.3 is amended to read as follows:

§ 564.3 *Ineligibility.* * * *

(a) Any person who has been ordered to report for preinduction physical and mental examinations under the Universal Military Training and Service Act, as amended by act of June 19, 1951 (Pub. Law 51, 82d Cong.)

* * * * *

2. Rescind § 564.6 and subsitute the following in lieu thereof:

§ 564.6 *Length of enlistment.* Enlistments and reenlistments in the Enlisted Reserve Corps will be for a period of 3 years. However, any male enlistee without prior military service who has not attained the twenty-sixth anniversary of his birth is subject to the provisions of section 4 (d) (3) Universal Military Training and Service Act, as amended, (Pub. Law 51, 82d Cong.) which impose a service obligation totaling 8 years.

[SR 140-107-1, 10 Dec. 1951] (Pub. Law 51, 82d Cong.)

[SEAL] WM. E. BERGIN,
Major General, USA,
The Adjutant General.

[F. R. Doc. 51-15276; Filed, Dec. 27, 1951; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 30, Amdt. 27]

CPR 30—MACHINERY AND RELATED MANUFACTURED GOODS

MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong., Pub. Law 96, 82nd Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 27 to Ceiling Price Regulation 30, is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment clarifies a number of listings and corrects the item "Metals & Alloys" listed in Appendix A of Ceiling Price Regulation 30.

When Ceiling Price Regulation 30 was originally issued, it was intended to cover "metals and alloys, special, electrical (except steel with less than 6 per cent alloy content) in any fabricated form used for electrical, magnetic, or glass-sealing purposes, including special contact alloys and special coated iron wire". It was not intended to include these metals and alloys in an unfabricated form since such materials are basic steel mill products and not manufactured products. Through error, however, the words "in any fabricated form" were included in the parentheses, thus causing "metals and alloys" to include these ma-

terials in both the fabricated and unfabricated condition. This error has been corrected by placing the words "in any fabricated form" outside the parentheses and thus making those metals and alloys in any fabricated form subject to this regulation.

In issuing Supplementary Regulation 3 to CPR 30, optionally extending the effective date of CPR 30 to certain products, it has been found that certain classifications contained in Appendix A are not sufficiently definite. Different product classifications which conform more closely to industrial usage have also been used in subsequent amendments to SR 3 of CPR 30. This amendment substitutes the new classifications for others being amended and makes for consistency in terminology of these product listings throughout the regulation.

In view of the nature of this amendment, the Director has not found it practicable or necessary to consult with industry representatives.

AMENDATORY PROVISIONS

Appendix "A" of Ceiling Price Regulation 30 is amended in the following respects:

1. The item beginning "Metals and Alloys . . ." is amended to read as follows:

Metals and alloys, special, electrical (except steel with less than 6 percent alloy content and pure tungsten or thoriated tungsten containing not less than 98 percent tungsten, rolled, drawn, ground or swaged, but not further fabricated other than by cutting or bending) in any fabricated form used for electrical, magnetic, or glass-sealing purposes, including special contact alloys and special coated iron wire.

2. The item "Fabricated structural steel shapes, plates, and bars" is amended to read as follows:

Fabricated structural metal shapes, places, and related products. This term includes products which are (i) fabricated from ferrous or non-ferrous structural shapes, plates, bars, sheet, pipe mill products, and/or tubing; (ii) custom engineered; and (iii) custom fabricated to the buyer's specifications. The term does not include any products which are standardized and manufactured on a production-line basis.

3. A new product classification is added to read as follows:

Fabricated standard line structural metal shapes, plates, and related products (excluding tanks, stampings, and sheet metal shop products) which are used in conjunction with construction work or in the manufacture of end-use products. This term includes products which are (1) fabricated or formed from ferrous or non-ferrous structural or bar size shapes, plates, sheets, strips, bars, and/or tubing, (2) made to fabricator's specifications, (3) sold from established price lists, and (4) made with specialized machinery on a production-line basis.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective December 31, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

DECEMBER 27, 1951.

[F. R. Doc. 51-15389; Filed, Dec. 27, 1951; 4:00 p. m.]

[Ceiling Price Regulation 56, Supplementary Regulation 3]

CPR 56—CEILING PRICES FOR CERTAIN PROCESSED FRUITS AND BERRIES OF THE 1951 PACK

SR 3—CEILING PRICE ADJUSTMENT FOR CANNED PRUNES (FRESH)

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738) this supplementary regulation to Ceiling Price Regulation 56 is hereby issued.

STATEMENT OF CONSIDERATIONS

Canners of prunes (fresh) have petitioned the Office of Price Stabilization to increase the ceiling prices established under Ceiling Price Regulation 56 to a level meeting the standards set forth in the first sentence of section 402 (d) (4) of the Defense Production Act of 1950, as amended. They submitted data on prices and costs claimed to be representative for all canners of prunes (fresh) in support of this contention that CPR 56 ceiling prices were below those required by the Act. At the date that this product was added to the coverage of CPR 56, OPS believed that these standards had been met and, in any case, still believes the CPR 56 ceiling prices to be fair and equitable. However, OPS has carefully examined the new data submitted, together with other available data, in order to determine whether the ceiling prices established under the regulation fully meet the standards set forth in either the first or second sentence of section 402 (d) (4) of the act. OPS now finds that neither of these standards have been fully met. Under these circumstances, the Director deems it appropriate to raise the ceiling prices for all items of canned prunes (fresh) by the amount necessary to meet the standard of the second sentence of section 402 (d) (4) of the act. This supplementary regulation, therefore, sets forth a table listing the specific amounts by which canners of prunes (fresh) may increase their previously calculated ceiling prices for the various container sizes. In accordance with trade usage, the term "prunes (fresh)" includes purple-plums, prune-plums, and Italian prunes.

The ceiling prices established by this supplementary regulation meet the standards of the Defense Production Act of 1950, as amended.

The Director of Price Stabilization has consulted with representatives of the industry prior to the issuance of this regulation and has given full consideration to their recommendations. It is the judgment of the Director that the provisions of this supplementary regulation are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Increases in calculated ceiling prices.

AUTHORITY: Sections 1 and 2 issued under section 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110; E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation modifies Ceiling Price Regulation 56 by allowing canners of prunes (fresh) to increase their ceiling prices otherwise calculated under CPR 56 by specified dollar-and-cent amounts.

SEC. 2. *Increases in calculated ceiling prices.* If you are a canner of prunes (fresh), you may increase your ceiling prices for items of canned prunes (fresh), as otherwise calculated under Ceiling Price Regulation 56 without reference to this supplementary regulation by the following amounts:

Container size:	*Increase per dozen containers*
No. 10	0.80
No. 2½	0.25
No. 2	0.20
No. 303	0.15
No. 1 tall	0.15
No. 300	0.15
No. 8 ounce	0.10

All other provisions of Ceiling Price Regulation 56 are unaffected by this supplementary regulation.

Effective date. This supplementary regulation to Ceiling Price Regulation 56 is effective December 31, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

DECEMBER 27, 1951.

[F. R. Doc. 51-15386; Filed, Dec. 27, 1951; 11:00 a. m.]

[General Ceiling Price Regulation, Amdt. 27]

ADJUSTMENT OF CEILING PRICES FOR GOAT'S MILK

Pursuant to the Defense Production Act of 1950, as amended (64 Stat. 798, Pub. Law 96, 82nd Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 27 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This Amendment 27 to the General Ceiling Price Regulation accomplishes two primary objectives. First, it exempts from price control goat's milk when sold by the producer. Second, it accords to subsequent sellers of goat's milk and products processed from goat's milk an adjustment similar to the parity adjustment afforded below parity agricultural products by the provisions of section 11 (a) through (g) of the General Ceiling Price Regulation.

Since the Secretary of Agriculture does not publish a parity price for goat's milk that commodity is not considered an agricultural commodity within the provision of section 14 (s) (1) of the General Ceiling Price Regulation. Consequently prices of goat's milk and products processed from goat's milk have remained at the levels at which they were frozen under the other provisions of the General Ceiling Price Regulation.

The Director of Price Stabilization has deemed it advisable, however, to amend the General Ceiling Price Regulation in a manner necessary to provide treatment for goat's milk similar to that accorded cow's milk under that regulation. Similarity of goat's milk to cow's milk and of the operations necessary to the production and processing of both items has led the Director to this conclusion.

Accordingly, the accompanying amendment to the General Ceiling Price Regulation adds a paragraph to section 14 (s) which exempts goat's milk when sold by the producer. Second, the amendment adds a provision to section 11 of the regulation which permits processors and distributors of goat's milk or of products processed from goat's milk to adjust their ceiling prices for these commodities in the same manner as if the product were a below parity agricultural commodity listed in section 11 of the regulation. The only exception is that section 11 (h) which governs the removal of an agricultural commodity from the list is not made applicable to goat's milk. At such time, however, as the Director determines that the price of goat's milk to the producer has attained a level at which it should be stabilized he will freeze the price at the prevailing level or establish a specific price for goat's milk and will withdraw from processors and distributors the permission to obtain "pass-through" increases.

The Director of Price Stabilization has consulted with members of the goat's milk industry and consideration has been given to information and suggestions received from them. In the judgment of the Director of Price Stabilization, the provisions of this amendment are fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

So far as practicable, the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended, to prices prevailing during the period from May 24, 1950, to June 24, 1950, inclusive, and to relevant factors of general applicability.

AMENDATORY PROVISIONS

The General Ceiling Price Regulation is amended in the following respects:

1. Section 11 is amended by the addition, at the end thereof, of a new subsection as follows:

(i) *Goat's milk.* Processors and distributors of goat's milk or of products processed from goat's milk may adjust their ceiling prices for these commodities in accordance with section 11 (a) through (g) as if goat's milk were a listed commodity. This permission to adjust ceiling prices may be withdrawn by the Director of Price Stabilization at any time.

2. Section 14 (s) is amended by the addition, at the end thereof, of a new paragraph as follows:

(21) Goat's milk when sold by the producer

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective December 31, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

DECEMBER 27, 1951.

[F. R. Doc. 51-15387; Filed, Dec. 27, 1951; 11:00 a. m.]

[General Ceiling Price Regulation, Amdt. 2 to Supplementary Regulation 11, Revision 2, Corr.]

SR 11—SOFT SURFACE FLOOR COVERINGS

CORRECTIONS

Due to clerical error, GCFR, Amdt. 2 to SR 11, Revision 2, issued December 14, 1951, contains two misprints which are corrected as follows:

1. Paragraph 1 is corrected by substituting the words "mill price" for the words "retail prices".

2. Paragraph 5 is corrected by substituting the word "acquired" for the word "require".

MICHAEL V. DISALLE,
Director of Price Stabilization.

DECEMBER 27, 1951.

[F. R. Doc. 51-15388; Filed, Dec. 27, 1951; 11:00 a. m.]

Chapter XVII—Housing and Home Finance Agency

[CR 3, Amdt. 2 to Appendix]

CR 3—RELAXATION OF RESIDENTIAL CREDIT CONTROLS: REGULATION GOVERNING PROCESSING AND APPROVAL OF EXCEPTIONS AND TERMS FOR CRITICAL DEFENSE HOUSING AREAS

ADDITIONAL CRITICAL DEFENSE HOUSING AREAS

This amendment 2 further amends the appendix to CR 3 initially published in the FEDERAL REGISTER November 20, 1951 (16 F. R. 11731) and amended in the FEDERAL REGISTER (Amendment 1) December 7, 1951 (16 F. R. 12355), by adding to the list of designated critical defense housing areas published in the appendix to CR 3 on November 20, 1951 (16 F. R. 11736) and on December 7, 1951 (16 F. R. 12355), the following additional critical defense housing areas:

CRITICAL DEFENSE HOUSING AREAS

Area, Including Geographical Description and Date Designated

102. Parris Island, South Carolina, Area (Beaufort County and that part of the town of Yemassee in Hampton County), December 28, 1951.

103. Herlong, California, Area (the township of Honey Lake in Lassen County), December 28, 1951.

104. Brunswick, Maine, Area (Sagadahoc County; and the towns for Brunswick, Freeport, and Harpswell, all in Cumberland County), December 28, 1951.

105. Pioche, Nevada, Area (the townships of Pioche, Caliente, and Panaca in Lincoln County), December 28, 1951.

106. Umatilla-Hermiston, Oregon, Area (precincts 28, 29, 31, 32, 33 and 34, including the cities of Stanfield, Hermiston, and Umatilla, all in Umatilla County), December 28, 1951.

107. Big Spring, Texas, Area (all of Howard County), December 28, 1951.

108. Utica-Rome, New York, Area (Oneida County; and the towns of Schuyler, Frankfort, Litchfield and Newport in Herkimer County), December 28, 1951.

109. Winter Harbor, Maine, Area (the towns of Gouldsboro and Winter Harbor in Hancock County), December 28, 1951.

110. Hawthorne, Nevada, Area (Hawthorne township in Mineral County), December 28, 1951.

111. Ishpeming-Negaunee, Michigan, Area (the townships of Ishpeming, Negaunee, Humboldt, Tilden, Ely and Richmond, and the cities of Ishpeming and Negaunee, all in Marquette County), December 28, 1951.

112. Palatka, Florida, Area (Putnam County in northeastern Florida), December 28, 1951.

113. Soda Springs, Idaho, Area (the precincts of Grace Springs 1 and 2, and Soda Springs, all in Caribou County), December 28, 1951.

114. Fort Huachuca, Arizona, Area (District 1, including the cities of Bisbee and Tombstone, in Cochise County), December 28, 1951.

115. Salina, Kansas, Area (Salina County), December 28, 1951.

116. Quantico, Virginia, Area (Prince William and Stafford Counties and the independent city of Fredericksburg), December 28, 1951.

117. Kinston, North Carolina, Area (Lenoir County), December 28, 1951.

118. Green Cove Springs, Florida, Area (Clay County), December 28, 1951.

119. Victoria, Texas, Area (Victoria County), December 28, 1951.

[SEAL] B. T. FITZPATRICK,
Acting Housing and Home Finance Administrator.

[F. R. Doc. 51-15331; Filed, Dec. 27, 1951; 8:52 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 20—SPECIAL REGULATIONS

FREDERICKSBURG AND SPOTSYLVANIA COUNTY BATTLEFIELDS MEMORIAL NATIONAL MILITARY PARK

Section 20.12 entitled *Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park,* is revoked.

(39 Stat. 535; 16 U. S. C. 3)

Issued this 19th day of December 1951.

OSCAR L. CHAPMAN,
Secretary of the Interior.

[F. R. Doc. 51-15286; Filed, Dec. 27, 1951; 8:47 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 1—ESTABLISHMENT AND ORGANIZATION OF POST OFFICE DEPARTMENT

PART 8—POSTAGE STAMPS AND OTHER STAMPED PAPER AND SECURITIES

PART 34—CLASSIFICATION AND RATES OF POSTAGE

PART 53—SPECIAL DELIVERY

PART 58—REGISTRATION OF UNOFFICIAL MAIL MATTER

PART 59—TREATMENT OF MATTER AT POST OFFICES OF MAILING AND IN TRANSIT

PART 63—INDEMNITY FOR LOSSES

PART 64—DOMESTIC INSURANCE AND COLLECT-ON-DELIVERY SERVICES: INDEMNITY

PART 71—ISSUE OF DOMESTIC MONEY ORDERS

PART 43—TREATMENT OF DOMESTIC MAIL MATTER AT RECEIVING POST OFFICES

MISCELLANEOUS AMENDMENTS

a. In Part 1, Establishment and Organization of the Post Office Department, insert new sections to read as follows:

§ 1.8a *Fees for special services*—(a) *Authority to issue regulations prescribing fees.* The Postmaster General is authorized to prescribe by regulation from time to time the fees which shall be charged by the postal service:

(1) For the registry of mail matter;

(2) For the insurance of mail matter, or other indemnification of senders thereof for articles damaged or lost;

(3) For securing a signed receipt upon the delivery of registered or insured mail matter and returning such receipt to sender;

(4) For collect-on-delivery service;

(5) For special-delivery service;

(6) For special-handling service;

(7) For the issuance of money orders;

(8) For notice to publishers of undeliverable second-class mail, for notice of change of address, and for notice to addressee or sender of undeliverable third- or fourth-class matter, or of undeliverable second-class matter mailed at the transient rate. (Sec. 12 (a), 65 Stat. 676, 677; 39 U. S. C. 246f)

(b) *Regulations issued under authority of paragraph (a) of this section to supersede existing laws, regulations, and orders.* Regulations issued by the Postmaster General under paragraph (a) of this section shall, to the extent prescribed therein, supersede existing laws, regulations, and orders governing the fees for the services covered thereby. (Sec. 12 (b), 65 Stat. 677; 39 U. S. C. 246f)

§ 1.16 *Joint Committee on Postal Service*—(a) *Established.* (1) There is hereby established a Joint Committee on the Postal Service (hereinafter referred to as the "joint committee"), to be composed of three members of the Committee on Post Office and Civil Service of the Senate, to be appointed by the President of the Senate, and three members of the Committee on Post Office and Civil Service of the House of Representatives, to be appointed by the Speaker of the House of Representatives.

(2) The chairman of the joint committee shall be the chairman of the Post Office and Civil Service Committee of the Senate, and the vice-chairman shall be the chairman of the Committee on Post Office and Civil Service of the House of Representatives. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as the original selection. A majority of the members of the joint committee, or any subcommittee thereof, shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the joint committee, shall constitute a quorum for the purpose of taking sworn testimony. (Sec. 13 (a), 65 Stat. 677; 39 U. S. C. 794g)

(b) *Duties.* The joint committee, acting as a whole or by subcommittee, shall conduct a thorough study and investigation in respect of the following matters:

(1) Postal rates and charges in relation to the reasonable cost of handling the several classes of mail matter and special services, with due allowances in each class for the care required, the degree of preferment, priority in handling, and economic value of the services rendered and the public interest served thereby.

(2) The extent to which expenditures now charged to the Post Office Department for the following items should be excluded in considering costs for the several classes of mail matter and special services:

(i) Expenditures for free postal services;

(ii) Expenditures in excess of revenues for international postal services;

(iii) Expenditures for subsidies for postal services pursuant to law or legislative policy of Congress;

(iv) Expenditures in excess of revenues, pursuant to the act of June 5, 1930 (39 U. S. C. 793), not enumerated in the subdivisions (i), (ii), or (iii) of this subparagraph.

(v) Expenditures for services of any character not otherwise enumerated herein which may be performed for other departments and agencies of the Government; and

(vi) Expenditures which may be justified only on a national welfare basis and not primarily as a business function.

(3) Expenditures for the Post Office Department by other Government agencies which should be considered in connection with the cost for the handling of the several classes of mail matter and special services, such as employees' retirement, use of Government buildings, and maintenance services.

(4) The extent, if any, to which Post Office Department expenditures in excess of revenue, for its various services and for the handling of various classes of mail, are justified as being in the public interest. (Sec. 13 (b), 65 Stat. 677; 39 U. S. C. 794g)

(c) *Powers.* (1) The joint committee, or any duly authorized subcommittee thereof, is authorized (i) to hold such hearings; (ii) to sit and act at such places and times; (iii) to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents; (iv) to administer such oaths; (v) to take such testimony; (vi) to procure such printing and binding; and (vii) to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not exceed 25 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(2) The joint committee is authorized to appoint and fix the compensation of such personnel as it deems necessary to assist it in the performance of its functions. Such compensation shall not be fixed at a rate in excess of the maximum rate payable under section 202 (e) of the Legislative Reorganization Act of 1946, as amended, in the case of employees of standing committees, except that the joint committee may employ part-time consultants, experts, and technicians at a per diem rate not in excess of $50. The joint committee may also contract for the service of accounting and management engineering firms to assist it in the performance of its functions. Insofar as practicable, the joint committee shall employ persons familiar with the operation of the postal service, accounting practices, or problems of public transportation and distribution with special reference to rate making in those fields. The chairman and vice chairman of the joint committee are authorized to assign from time to time the members of the staff of their respective committees to duties and responsibilities in connection with the operation of such joint committee. (Sec. 13 (c), 65 Stat. 678; 39 U. S. C. 794g)

(d) *Reports to Congress.* The joint committee shall report from time to time to the committees of the Senate and House of Representatives from which the membership of the joint committee was appointed, and shall submit its final report to the Senate and the House of Representatives not later than January 15, 1953, of the results of its study and investigation together with such recommendations as to necessary legislation as it may deem advisable. Upon the submission of such final report the joint committee shall cease to exist. (Sec. 13 (d), 65 Stat. 678; 39 U. S. C. 794g)

b. In § 8.8, *Unlawful pledging or sale of stamps,* amend paragraph (a) as follows:

1. Insert "[see Note as to additional charge on single and double postal cards]" before the semicolon following the clause reading: "or sells or disposes of postage stamps or postal cards for any larger or less sum than the values indicated on their faces."

2. Add a note to read as follows:

NOTE: In section 1 (a), 65 Stat. 672; 39 U. S. C. 280, it is provided that "on all single and double postal cards sold in quantities of fifty or more there shall be an additional charge of 10 per centum." See § 8.16 (a) and § 34.11 of this chapter.

c. Section 8.16, *Postal cards*, is amended to read as follows:

§ 8.16 *Postal cards*—(a) *Authorization.* To facilitate letter correspondence, and to provide for the transmission in the mails, at a reduced rate of postage, of messages, orders, notices, and other short communications, either printed or written in pencil or ink, the Postmaster General is authorized and directed to furnish and issue to the public, with postage stamps impressed upon them, "postal cards," manufactured of good stiff paper, of such quality, form, and size as he shall deem best adapted for general use; which cards shall be used as a means of postal intercourse, under rules and regulations to be prescribed by the Postmaster General, and when so used shall be transmitted through the mails at a postage charge of * * * [2 cents] each, including the cost of their manufacture. [On all single postal cards sold in quantities of fifty or more there shall be an additional charge of 10 per centum.] (R. S. 3916, as amended by section 1 (a), 65 Stat. 672; 39 U. S. C. 280)

NOTE: Section 1 (a), 65 Stat. 672; 39 U. S. C. 280, provides as follows:

SECTION 1. (a) The rate of postage on each single postal card issued and sold under the provisions of section 3916 of the Revised Statutes (39 U. S. C., sec. 356), and on each portion of double postal cards issued and sold under the provisions of the act of March 3, 1879 (39 U. S. C., sec. 358), shall be 2 cents: *Provided*, That on all single and double postal cards sold in quantities of fifty or more there shall be an additional charge of 10 per centum. The rate of postage on each private mailing or post card conforming to the conditions prescribed by the act of May 19, 1898 (39 U. S. C., sec. 281), shall be 2 cents.

(b) *Double postal cards.* The Postmaster General may * * * furnish for public use a double postal card, on which shall be placed two * * * [2 cent] stamps, said card to be so arranged for the address that it may be forwarded and returned, and to be sold for * * * [four] cents apiece; * * * said * * * double postal card * * * to be issued under such regulations as the Postmaster General may describe. [On double postal cards sold in quantities of more than twenty-four there shall be an additional charge of 10 per centum.] (Sec. 32, 20 Stat. 362, as amended by section 1 (a), 65 Stat. 672; 39 U. S. C. 280)

NOTE: For provisions of section 1 (a), 65 Stat. 672; 39 U. S. C. 280, see Note to paragraph (a) of this section.

(c) *Old postal and post cards.* (1) Postal cards of the old one-cent variety, to be acceptable for mailing on and after January 1, 1952, must bear one cent additional postage. The additional charge of 10 percent of the postage value applicable to all two-cent postal cards sold in quantities of 50 or more must also be collected on the one-cent cards which are revalued by postmasters by affixing a one-cent stamp thereto.

(2) Mailers having a supply of the one-cent postal cards on hand may prepay the additional one-cent postage either by affixing a one-cent stamp thereto or by imprinting on the address side a complete and legible one-cent meter impression showing date of mailing in the postmark. Metered postal cards need not be postmarked in the post office, if the metered date is correct.

d. In § 34.7, *Private mailing cards ("post cards")*, make the following changes:

1. In paragraph (a) strike out "1 cent" and insert, in lieu thereof "* * * [2 cents]"; strike out "(30 Stat. 419, as amended; 39 U. S. C. 281)" and insert, in lieu thereof "(30 Stat. 419, as further amended by section 1 (a), 65 Stat. 672; 39 U. S. C. 280, 281)"; and add a Note to read as follows:

NOTE: For provisions of section 1 (a), 65 Stat. 672; 39 U. S. C. 280, see § 8.16 (a) and § 34.11 of this chapter.

2. Amend subparagraph (1) of paragraph (d) by striking out "1 cent" in the first and second sentences and inserting, in lieu thereof, "2 cents".

3. Amend subparagraph (2) of paragraph (d) by striking out "1-cent" in the last sentence and inserting, in lieu thereof, "2-cent".

4. Amend paragraph (d) by adding a new subparagraph (3) to read as follows:

(3) Private mailing or post cards prepared for mailing without stamps affixed as nonmetered matter must show the full amount—two cents—in the indicia. In order that permit holders may use up stocks on hand, they may overprint the nonmetered indicia to show the higher amount paid or add a line reading: "Add'l. 1¢ Paid" below the indicia.

e. In § 34.8, *Rates of postage on first-class matter*, make the following changes:

1. Amend paragraph (a) to read as follows:

(a) The rate of postage on all mail matter of the first class (except postal cards and private mailing or post cards) shall be 3 cents for each ounce or fraction thereof: * * * [Except as provided * * * (for postal and post cards) the rate of postage on mail matter of the first class when mailed for local delivery at post offices where free delivery by carrier is not established and when the matter is not collected or delivered by rural or star route carriers, shall be 2 cents for each ounce or fraction thereof.] (Sec. 9, 20 Stat. 358, as further amended by section 1 (b), 65 Stat. 672; 39 U. S. C. 280)

2. In paragraph (c) amend first sentence by striking out "1-cent" and by inserting, in lieu thereof "2-cent".

f. In § 34.9, *Business reply cards and envelopes*, amend paragraph (b) by striking out "2 cents" and by inserting, in lieu thereof "3 cents".

g. Section 34.11, *Rate of postage on postal cards and post cards*, is amended to read as follows:

§ 34.11 *Rate of postage on postal cards and post cards*—(a) *Postal cards.* The rate of postage on each single postal card issued and sold under the provisions of section 3916 of the Revised Statutes (39 U. S. C., sec. 356) [§ 8.16 (a) of this chapter], and on each portion of double postal cards issued and sold under the provisions of the act of March 3, 1879 (39 U. S. C., sec. 358) [§ 8.16 (b) of this chapter], shall be 2 cents: *Provided*, That on all single and double postal cards sold in quantities of fifty or more there shall be an additional charge of 10 per centum. (Sec. 9, 20 Stat. 358, as further amended by sec. 1 (a), 65 Stat. 672; 39 U. S. C. 280)

(b) *Post cards.* The rate of postage on each private mailing or post card conforming to the conditions prescribed by the act of May 19, 1898 (39 U. S. C., sec. 281) [§ 34.7 (a)], shall be 2 cents. (30 Stat. 419, as amended by sec. 1 (a), 65 Stat. 672; 39 U. S. C. 280)

h. In § 34.65, *Third-class matter*, make the following changes:

1. Amend paragraph (b) to read as follows:

(b) *Rate of postage.* The rate of postage on third-class matter shall be 2 cents for the first two ounces or fraction thereof, and 1 cent for each additional ounce or fraction thereof up to and including eight ounces in weight, except that the rate of postage on books and catalogs, of twenty-four pages or more, seeds, cuttings, bulbs, roots, scions, and plants not exceeding eight ounces in weight shall be 2 cents for the first two ounces or fraction thereof and 1½ cents for each additional two ounces or fraction thereof: *Provided*, That upon payment of a fee of $10 for each calendar year or portion thereof and under such regulations as the Postmaster General may establish for the collection of the lawful revenue and for facilitating the handling of such matter in the mails, it shall be lawful to accept for transmission in the mails, separately addressed identical pieces of third-class matter in quantities of not less than twenty pounds, or of not less than two hundred pieces, subject to pound rates of postage applicable to the entire bulk mailed at one time: *Provided further*, That the rate of postage on third-class matter mailed in bulk under the foregoing provisions shall be 14 cents for each pound or fraction thereof with a minimum charge per piece of 1 cent, except that in the case of books and catalogs of twenty-four pages or more, seeds, cuttings, bulbs, roots, scions, and plants the rate shall be 10 cents for each pound or fraction thereof with a minimum charge per piece of 1 cent: *Provided further*, That the minimum charge per piece of 1 cent specified in the foregoing proviso shall be increased to 1½ cents on July 1, 1952: *Provided further*, That pieces or packages of such size or form as to prevent ready facing and tying in bundles and requiring individual distributing throughout shall be subject to a minimum charge of 3 cents each: *And provided further*, That the rates prescribed by this section shall not apply with respect to matter mailed by religious, educational, scientific, philanthropic, agricultural, labor,

veterans', or fraternal organizations or associations, not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual, and the existing rates shall continue to apply with respect to such matter. (Sec. 202, 62 Stat. 1260, sec. 3, 65 Stat. 673; 39 U. S. C. 290a, 290a–1)

2. In paragraph (c) strike out "or less than 3 inches in width and" and insert, in lieu thereof "or less than 2¾ inches in width or".

3. Redesignate paragraph (d) as paragraph (g).

4. Insert new paragraphs (d), (e), and (f) to read as follows:

(d) *Special rate for books, seeds, etc., mailed by certain nonprofit organizations or associations.* Postage on books and catalogs of twenty-four pages or more, seeds, cuttings, bulbs, roots, scions and plants not exceeding eight ounces in weight mailed by religious, educational, scientific, philanthropic, agricultural, labor, veterans', or fraternal organizations or associations not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual shall continue to be computed at the rate of 1½ cents for each two ounces or fraction thereof. Each piece of matter mailed at this rate shall be indorsed by the mailer "Sec. 34.65 (d), P. L. & R."

(e) *Special minimum per piece rate for certain nonprofit organizations or associations.* The postage on third-class matter mailed in bulk under the provisions of paragraph (b) of this section by religious, educational, scientific, philanthropic, agricultural, labor, veterans', or fraternal organizations or associations, not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual shall be computed at the rate of 14 cents for each pound or fraction thereof with a minimum charge per piece of 1 cent, except that in the case of books and catalogs of 24 pages or more, seeds, cuttings, bulbs, roots, scions and plants, the postage shall be computed at the rate of 10 cents for each pound or fraction thereof with a minimum charge per piece of 1 cent. Each separately addressed piece of matter mailed at the bulk rates stated shall bear the printed indicia, "Sec. 34.65 (e), P. L. & R." adjacent to the postage stamp or postage indicia. Pieces mailed at either of the special rates stated must bear the complete name and address of the mailing organization or association in the upper left corner of the address side. These special rates are not applicable where mailings are made jointly under arrangements with contractors or others for the latter's profit.

NOTE: Paragraph (e) shall be effective July 1, 1952. See § 34.66 as to mailings at bulk rates.

(f) *Application to mail at special rates.* Any organization or association desiring to mail third-class matter at the special rates set forth in paragraphs (d) and (e) of this section shall submit, through the postmaster at the office where the matter is to be mailed, to the Assistant Postmaster General, Bureau of Finance, a written request for such privilege accompanied with satisfactory evidence that the organization or association is not conducted for private profit and none of its net income inures to the benefit of any private stockholder or individual.

i. In § 34.78, *Special handling of fourth-class matter,* amend paragraph (a) by the addition of a Note, to read as follows:

NOTE: See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for special-handling service.

j. In § 34.83, *Rates of postage on library books,* amend paragraph (a) by the addition of a Note to read as follows:

NOTE: By specific provision in section 4, 65 Stat. 674; 39 U. S. C. 292a, the rates prescribed in this paragraph "shall remain in effect until otherwise provided by Congress."

k. In § 34.84, *Rates of postage on other books,* amend paragraph (a) by the addition of a Note to read as follows:

NOTE: By specific provision in section 4, 65 Stat. 674; 39 U. S. C. 292a, the rates prescribed in this paragraph "shall remain in effect until otherwise provided by Congress."

l. In § 53.3, *Rates on special-delivery matter,* amend paragraph (a) to read as follows:

(a) *Amounts; stamps.* Mail of any class shall be given the most expeditious handling and transportation practicable and immediate delivery at the office of address when, in addition to the regular postage, a special-delivery fee is prepaid thereon by means of special-delivery stamps or ordinary postage stamps, or in such other manner as the Postmaster General may prescribe, in accordance with the following schedule: Matter weighing not more than two pounds, if of the first class, 20 cents; if of any other class, 35 cents. Matter weighing more than two but not more than ten pounds, if of the first class, 35 cents; if of any other class, 45 cents. Matter weighing more than ten pounds, if of the first class, 50 cents; if of any other class, 60 cents. (Sec. 2, 46 Stat. 1469, as further amended by sec. 5, 65 Stat. 674; 39 U. S. C. 276c, 276d)

NOTE: See § 1.8a of this chapter as to authority of Postmaster General to prescribe fees for special-delivery service.

m. Amend § 58.3, *Registry fees and limits of indemnity,* to read as follows:

§ 58.3 *Registry fees and limits of indemnity*—(a) *Schedule of.* Mail matter shall be registered on the application of the party posting the same. The registry fees, which shall be in addition to the regular postage, and the limits of indemnity therefor within the maximum indemnity provided by this section, shall be as follows:

For articles having no intrinsic value and for which no indemnity is payable, 30 cents; for registry indemnity not exceeding $5, 40 cents; for registry indemnity exceeding $5 but not exceeding $25, 55 cents; for registry indemnity exceeding $25 but not exceeding $50, 65 cents; for registry indemnity exceeding $50 but not exceeding $75, 75 cents; for registry indemnity exceeding $75 but not exceeding $100, 85 cents; for registry indemnity exceeding $100 but not exceeding $200, 95 cents; for registry indemnity exceeding $200 but not exceeding $300, $1.05; for registry indemnity exceeding $300 but not exceeding $400, $1.15; for registry indemnity exceeding $400 but not exceeding $500, $1.25; for registry indemnity exceeding $500 but not exceeding $600, $1.35; for registry indemnity exceeding $600 but not exceeding $700, $1.45; for registry indemnity exceeding $700 but not exceeding $800, $1.55; for registry indemnity exceeding $800 but not exceeding $900, $1.65; for registry indemnity exceeding $900 but not exceeding $1,000, $1.75: *Provided,* That for registered mail having a declared value in excess of $25 a registry fee of not less than 55 cents shall be paid. (Sec. 208, 62 Stat. 1265, sec. 6 (a), 65 Stat. 674; 39 U. S. C. 387)

(b) *Surcharges for over-value registered mail or insured mail treated as registered mail.* For registered mail or insured mail treated as registered mail having a declared value in excess of the maximum indemnity covered by the registry or insurance fee paid there shall be charged additional fees (known as "surcharges") as follows: When the declared value exceeds the maximum indemnity covered by the registry or insurance fee paid by not more than $50, 2 cents; by more than $50 but not more than $100, 3 cents; by more than $100 but not more than $200, 4 cents; by more than $200 but not more than $400, 6 cents; by more than $400 but not more than $600, 7 cents; by more than $600 but not more than $800, 8 cents; by more than $800 but less than $1,000, 10 cents; and if the excess of the declared value over the maximum indemnity covered by the registry or insurance fee paid is $1,000 or over, the additional fees for each $1,000 or part of $1,000 on articles destined to points within the several zones applicable to fourth-class matter shall be as follows:

For local delivery or for delivery within the first zone, 12 cents; for delivery within the second zone, 14 cents; for delivery within the third zone, 16 cents; for delivery within the fourth zone, 17 cents; for delivery within the fifth or sixth zones, 18 cents; for delivery within the seventh or eighth zones, 19 cents: *Provided,* That for registered mail or insured mail treated as registered mail of such kind or character that it may be carried at less than the maximum risk of loss in the mails, the Postmaster General may prescribe rules for determining upon what part of the declared value in excess of the maximum indemnity covered by the registry or insurance fee paid the additional fees shall be based. (Sec. 208, 62 Stat. 1265, sec. 6 (b), 65 Stat. 674; 39 U. S. C. 387)

(c) *Accounting for fees.* All such fees shall be accounted for in such manner as the Postmaster General shall direct. * * * (Sec. 208, 62 Stat. 1265; 39 U. S. C. 387)

NOTE: See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for the registry of mail matter.

n. In § 59.3, *Return receipts,* make the following changes:

1. Amend subparagraph (1) of paragraph (a) to read as follows:

(1) *Particulars.* Whenever the sender of any registered mail shall so request, and upon payment of a fee of 7 cents at the time of mailing or of 15 cents subsequent to the time of mailing, a receipt shall be obtained for such registered mail, showing to whom and when the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided,* That upon payment of the additional sum of 24 cents at the time of mailing of any such registered mail, a receipt shall be obtained for such registered mail, showing to whom, when, and the address where the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided further,* That no refund shall be made of fees paid for return receipts for registered mail where the failure to furnish the sender a return receipt or the equivalent is not due to the fault of the postal service. (Sec. 209, 62 Stat. 1266, sec. 7, 65 Stat. 675; 39 U. S. C. 388, 388a)

NOTE: See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for return receipts.

2. Amend subparagraph (1) of paragraph (b) by striking out "26 cents" and "5 cents" appearing therein and by inserting, in lieu thereof "24 cents" and "7 cents", respectively.

3. Amend paragraph (e) by striking out "10 cents" and by inserting, in lieu thereof "15 cents".

o. In § 63.10, *Fees and amounts of indemnity,* make the following changes:

1. Amend subparagraphs (1) and (2) of paragraph (b), to read as follows:

(1) The fee for collect-on-delivery service for registered sealed domestic mail of any class bearing postage at the first-class rate shall, in addition to the regular postage and any other required fees, be 80 cents for collections and indemnity not exceeding $10; $1.10 for collections and indemnity exceeding $10 but not exceeding $50; $1.20 for collections and indemnity exceeding $50 but not exceeding $100; $1.40 for collections and indemnity exceeding $100 but not exceeding $200. The maximum amount of charges collectible on any registered sealed domestic collect-on-delivery article shall be $200. (Sec. 3, 58 Stat. 733, as further amended by sec. 11 (a), 65 Stat. 676; 39 U. S. C. 246, 245d)

(2) When indemnity in excess of $200 is desired, the fee for such registered sealed domestic collect-on-delivery mail shall, in addition to the regular postage and any other required fees, be $1.50 for indemnity exceeding $200 but not exceeding $300; $1.60 for indemnity exceeding $300 but not exceeding $400; $1.70 for indemnity exceeding $400 but not exceeding $500; $1.80 for indemnity exceeding $500 but not exceeding $600; $1.90 for indemnity exceeding $600 but not exceeding $700; $2 for indemnity exceeding $700 but not exceeding $800; $2.10 for indemnity exceeding $800 but not exceeding $1,000. (Sec. 3, 58 Stat. 733, as further amended by sec. 11 (b), 65 Stat. 676; 39 U. S. C. 246, 245d)

2. Add a note after paragraph (c), to read as follows:

NOTE: See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for registry and collect-on-delivery service.

p. In § 64.18, *Fees and limits of indemnity,* make the following changes:

1. Amend the text of paragraph (a), preceding the Note, to read as follows:

(a) *Schedule of.* The fees for insurance, which shall be in addition to the regular postage, and the limits of indemnity therefor within the maximum indemnity provided by this section, shall be as follows: 5 cents for indemnification not exceeding $5; 10 cents for indemnification exceeding $5 but not exceeding $10; 15 cents for indemnification exceeding $10 but not exceeding $25; 20 cents for indemnification exceeding $25 but not exceeding $50; 30 cents for indemnification exceeding $50 but not exceeding $100; 35 cents for indemnification exceeding $100 but not exceeding $200. (Sec. 210, 62 Stat. 1266, sec. 8, 65 Stat. 675; 39 U. S. C. 245a, 245a–1)

2. Amend the Note to paragraph (a) by the addition of a paragraph to read as follows:

See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for the insurance of mail matter.

q. In § 64.20, *Return receipts,* make the following changes:

1. Amend subparagraph (1) of paragraph (a) to read as follows:

(1) Whenever the sender of an insured article of mail on which other than the minimum fee was paid shall so request, and upon payment of a fee of 7 cents at the time of mailing or of 15 cents subsequent to the time of mailing, a receipt shall be obtained for such insured mail, showing to whom and when the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided,* That upon payment of the additional sum of 24 cents at the time of mailing of any insured article of mail on which other than the minimum fee was paid, a receipt shall be obtained for such insured mail, showing to whom, when, and the address where the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided further,* That no refund shall be made of fees paid for return receipts for insured mail where the failure to furnish the sender a return receipt or the equivalent is not due to the fault of the postal service. (Sec. 210, 62 Stat. 1266, sec. 9, 65 Stat. 675; 39 U. S. C. 245a, 245a-2)

NOTE: See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for return receipts.

2. Amend subparagraph (2) of paragraph (a) by striking out "26 cents" and "5 cents", and by inserting, in lieu thereof, "24 cents" and "7 cents", respectively.

r. In § 64.24, *C. o. d. fees,* amend paragraph (a) to read as follows:

(a) *Schedule of.* The fees for collect-on-delivery service for sealed domestic mail matter of any class bearing postage at the first-class rate and for domestic third- and fourth-class mail matter shall, in addition to the regular postage and any other required fees, be as follows: 30 cents for collections and indemnity not exceeding $5; 40 cents for collections and indemnity exceeding $5 but not exceeding $10; 60 cents for collections and indemnity exceeding $10 but not exceeding $25; 70 cents for collections and indemnity exceeding $25 but not exceeding $50; 80 cents for collections and indemnity exceeding $50 but not exceeding $100; 90 cents for collections and indemnity exceeding $100 but but not exceeding $150; $1 for collections and indemnity exceeding $150 but not exceeding $200. (Sec. 211, 62 Stat. 1266, sec. 10, 65 Stat. 676; 39 U. S. C. 245b, 245b–1)

NOTE: See §§ 63.9 to 63.17 of this chapter relative to collect-on-delivery service for registered mail of any class sealed against postal inspection and prepaid at the first-class rate of postage.

See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for collect-on-delivery service.

s. In § 71.7 *Fees and limitations,* amend the Note by the addition of a paragraph to read as follows:

See § 1.8a of this chapter for authority of Postmaster General to prescribe fees for the issuance of money orders.

t. In § 34.63, *Undeliverable second-class matter,* amend the Note following paragraph (b) by the addition of a paragraph to read as follows:

See § 1.8a of this chapter for authority of the Postmaster General to prescribe fees for notices of undeliverable second-class matter.

u. In § 43.12, *Forwarding of mail,* amend the Note to paragraph (c) by the addition of a paragraph to read as follows:

See § 1.8a of the chapter for authority of the Postmaster General to prescribe fees to be charged for notices with respect to undeliverable second, third, or fourth-class mail.

The foregoing amendments shall become effective January 1, 1952, unless otherwise indicated in text.

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25, sec. 2, 45 Stat. 940, secs. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 16, 65 Stat. 672, et seq.; 5 U. S. C. 22, 369; 39 U. S. C. 303, 280, 290a–1, 292a, 276d, 387, 388a, 245a–1, 245a–2, 245b–1, 245d–1, 246f, 794g)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 51–15274; Filed Dec. 27, 1951; 8:45a. m.]

PART 34—CLASSIFICATION AND RATES OF POSTAGE

MISCELLANEOUS AMENDMENTS

1. Amend § 34.20, *Conditions for admission as second-class matter,* by inserting "(a) *General conditions.*" immediately after the present caption of the section, and add a new paragraph (b), to read as follows:

(b) *Maximum amount of advertising permitted.* * * * publications having over 75 per centum advertising in more than one-half of their issues during any twelve months' period shall not be accepted for mailing as second-class matter and their entry shall be revoked, except that for the purpose of this proviso only, a charge made solely for the publication of transportation schedules, fares, and related information shall not be construed as constituting a charge for advertising: * * * (1st proviso, sec. 2 (a), 65 Stat. 672; 39 U. S. C. 289a)

2. In § 34.40, *Postage rates on second-class matter,* amend paragraphs (d) and (e) to read as follows:

(d) *Increases in existing rates*—(1) *Annual increases.* In the case of publications entered as second-class matter (including sample copies to the extent of 10 per centum of the weight of copies mailed to subscribers during the calendar year) when mailed by the publisher thereof from the post office of publication and entry or other post office where such entry is authorized, or when mailed by news agents (registered as such under regulations prescribed by the Postmaster General) to actual subscribers thereto or to other news agents for the purpose of sale, the total postage computed at the pound rates in effect under existing law and based on the bulk weight of each mailing shall be increased (i) by 10 per centum, beginning on April 1, 1952, (ii) by an additional 10 per centum, based on the rates now in force, beginning on April 1, 1953, and (iii) by an additional 10 per centum, based on the rates now in force, beginning on April 1, 1954: * * * (Sec. 5, 18 Stat. 232, sec. 1, 23 Stat. 387, secs. 1101, 1102, 1103, 40 Stat. 327, 328, sec. 202, 43 Stat. 1066, sec. 4, 45 Stat. 940, sec. 2 (a) 65 Stat. 672; 39 U. S. C. 283, 289a)

(2) *Minimum rate per copy.* In no case, except where the free-in-county mailing privilege is applicable, shall the postage on each individually addressed copy be less than one-eighth of 1 cent. (Sec. 2 (c), 65 Stat. 673; 39 U. S. C. 289a)

(e) *Publications of certain nonprofit organizations and publications for use in classrooms*—(1) *Special postage rate and existing rates.* * * * the rate of postage on newspapers or periodicals maintained by and in the interests of religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual, shall be 1½ cents per pound or fraction thereof, and the increase provided by this section shall not apply to such rate: *And provided further,* That existing rates shall continue in effect with respect to any religious, educational, or scientific publication designed specifically for use in school classrooms or in religious instruction classes. The publisher of any such newspaper, periodical, or publication before being entitled to such rate shall furnish proof of qualification to the Postmaster General at such times and under such conditions as the Postmaster General may prescribe. (Sec. 5, 18 Stat. 232, sec. 1, 23 Stat. 387; secs. 1101, 1102, 1103, 40 Stat. 327, 328, sec. 202, 43 Stat. 1066; sec. 4, 45 Stat. 940, sec. 2 (a), 65 Stat. 672; 39 U. S. C. 283, 289a)

NOTE: The minimum rate per copy provided by paragraph (d) (2) of this section applies to copies mailed at the special postage rate or the existing rates.

(2) *Mailings at special rate and existing rates to be accepted only when authorized.* No publication shall be accepted for mailing at the special postage rate of 1½ cents per pound or fraction thereof provided in paragraph (e) (1) of this section or at the existing rates until the postmaster has been authorized by the Bureau of Finance to accept the publication at such rates. The publishers of the nonprofit organizations or associations specified shall submit to the postmaster satisfactory evidence that none of the net income of such organization or association inures to the benefit of any private stockholder or individual. The publishers of the classroom publications specified shall furnish to the postmaster satisfactory evidence that their publications are of the character and for the uses stated. The postmaster shall forward the evidence and a copy of a recent issue to the Bureau of Finance. Pending consideration by the Department of the evidence submitted the publication may, if already entered as second-class matter, be accepted under deposits of money to cover postage at the rates set forth in paragraphs (a) and (d) of this section, such deposits to be treated and disposed of in the manner prescribed in § 34.30.

3. In § 34.41, *Free-in-county matter, and rates on second-class matter at letter-carrier offices,* make the following changes:

1. Amend paragraph (b) to read as follows:

(b) *When mailed to another office where publisher's headquarters are located.* The free-in-county mailing privilege and the rates of postage on copies of publications of the second class when addressed for delivery within the county in which they are published and entered as such shall be the same as authorized by existing law: *Provided further,* That copies of a publication mailed at a post office where it is entered, for delivery by letter carriers at a different post office within the delivery limits of which the headquarters or general business office of the publisher is located, shall be chargeable with postage at the rate that would be applicable if the copies were mailed at the latter office, unless postage chargeable at the pound rates from the office of mailing is higher, in which case such higher rates shall apply. (Sec. 25, 20 Stat. 361, 47 Stat. 338, sec. 2 (b), 65 Stat. 673; 39 U. S. C. 286, 289a)

2. In paragraph (c) change the present caption to read *"Pound rate of postage within county of publication"* and insert "(1) *Rate of 1 cent a pound."* immediately after the caption, and add a new subparagraph (2), to read as follows:

(2) *Minimum rate per copy.* In no case, except where the free-in-county mailing privilege is applicable, shall the postage on each individually addressed copy be less than one-eighth of 1 cent. (Sec. 2 (c) 65 Stat. 673; 39 U. S. C. 289a)

4. In § 34.42, *Transient second class postage rates,* amend paragraph (a) to read as follows:

(a) *When applicable.* The rate of postage on copies of publications having second-class entry mailed by others than the publishers of authorized news agents, sample copies mailed by the publishers in excess of the 10 per centum allowance entitled to be sent at the pound rates, and copies mailed by the publishers to persons who may not be included in the required legitimate list of subscribers, shall be 2 cents for the first two ounces and 1 cent for each additional two ounces or fraction thereof, except when the postage at the rates prescribed for fourth-class matter is lower, in which case the latter rates shall apply, computed on each individually addressed copy or package of unaddressed copies, and not on the bulk weight of the copies and packages. (23 Stat. 40, sec. 1106, 40 Stat. 328, sec. 203; 43 Stat. 1067; sec. 5, 45 Stat. 941; 47 Stat. 579; sec. 2 (d), 65 Stat. 673; 39 U. S. C. 287, 289a)

(R. S. 161, 396, Secs. 304, 309, 42 Stat. 24, 25, sec. 2, 65 Stat. 672, 673; 5 U. S. C. 22, 369, 39 U. S. C. 289a)

The foregoing amendments shall become effective April 1, 1952, unless otherwise indicated in text.

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 51-15275; Filed, Dec. 27, 1951; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 772]

NEW MEXICO

ADJUSTING THE BOUNDARIES OF THE CORONADO NATIONAL FOREST

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 11, 36; 16 U. S. C. 473), and pursuant to Executive Order No. 9337 of April 24, 1943, and upon the recommendation of the Secretary of Agriculture, it is ordered as follows:

The following-described lands are hereby excluded from the area now within the boundaries of the Coronado National Forest, New Mexico, and the boundaries of the said forest are adjusted accordingly:

NEW MEXICO PRINCIPAL MERIDIAN

T. 31 S., R. 18 W.,
Secs. 7 and 8;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 32 S., R. 18 W.,
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 and 30.
T. 31 S., R. 19 W.,
Secs. 11 to 17, inclusive;
Secs. 19 to 36, inclusive.

T. 32 S., R. 19 W.,
Secs. 1 to 18, inclusive;
Secs. 20 to 29, inclusive;
Secs. 32 to 35, inclusive.
T. 33 S., R. 19 W.,
Secs. 2 to 4, inclusive;
Secs. 9 to 11, inclusive;
Secs. 15 and 16;
Secs. 21 and 22.

The areas described aggregate 55,831.11 acres of lands which have been patented through land-exchange procedure pursuant to the act of March 20, 1922, 42 Stat. 465, as amended by the act of February 28, 1925, 43 Stat. 1090.

OSCAR L. CHAPMAN,
Secretary of the Interior.

DECEMBER 19, 1951.

[F. R. Doc. 51-15280; Filed, Dec. 27, 1951; 8:46 a. m.]

[Public Land Order 773]

IDAHO

RESERVING PUBLIC LANDS FOR USE BY THE FOREST SERVICE, DEPARTMENT OF AGRICULTURE, AS ADMINISTRATIVE SITES

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473), and otherwise, and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Idaho are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws but not the mineral-leasing laws, and reserved for use by the Forest Service, Department of Agriculture, as administrative sites in connection with the administration of the Boise National Forest:

BOISE MERIDIAN

IDAHO CITY AIRPORT ADMINISTRATIVE SITE

T. 6 N., R. 5 E.,
Sec. 26, lots 4 and 5;
Sec. 27, lot 1, SE¼NE¼SE¼, and S½SW¼SE¼;
Sec. 34, lot 1.

The areas described aggregate 127.77 acres, partly within the boundaries of the Boise National Forest.

ELK CREEK ADMINISTRATIVE SITE

T. 13 N., R. 9 E.,
Sec. 32, W½NE¼NE¼, NW¼NE¼, N½SW¼NE¼, NW¼SE¼NE¼, NE¼NW¼, E½E½NW¼NW¼, E½NE¼SW¼NW¼, and N½SE¼NW¼.

The areas described aggregate 165 acres, within the boundaries of the Boise National Forest.

This order shall be subject to existing withdrawals for powersite and reclamation-project purposes so far as they affect any of the above-described lands; and it shall take precedence over, but not otherwise affect, existing reservations for national-forest purposes so far as they affect any of the above-described lands.

OSCAR L. CHAPMAN,
Secretary of the Interior.

DECEMBER 19, 1951.

[F. R. Doc. 51-15283; Filed, Dec. 27, 1951; 8:47 a. m.]

[Public Land Order 774]

ALASKA

EXCLUDING A TRACT OF PUBLIC LAND FROM THE TONGASS NATIONAL FOREST AND ADDING IT TO THE ADMINISTRATIVE RESERVE FOR THE NATIVES OF ANGOON COMMUNITY MADE BY PUBLIC LAND ORDER 593 OF JULY 8, 1949.

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473), and pursuant to Executive Order No. 9337 of April 24, 1943, and the act of May 31, 1938 (52 Stat. 593; 48 U. S. C. 353a), it is ordered as follows:

Subject to valid existing rights and claims, and the provisions of existing withdrawals, the following-described tract of public land in Alaska, identified by a survey of which plats and field notes are on file in the Bureau of Land Management, Washington, D. C., is hereby excluded from the Tongass National Forest and is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws and the mineral leasing laws, and added to the administrative reserve for the use of the natives of the Angoon Community established by Public Land Order 593 of July 8, 1949:

U. S. Survey No. 2413, lot 33, containing 2.63 acres.

OSCAR L. CHAPMAN,
Secretary of the Interior.

DECEMBER 19, 1951.

[F. R. Doc. 51-15282; Filed Dec. 27, 1951; 8:46 a. m.]

[Public Land Order 775]

NORTH DAKOTA

REVOKING EXECUTIVE ORDER NO. 5258 JANUARY 9, 1930

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910, 36 Stat. 847 (43 U. S. C. 141), and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Executive Order No. 5258 of January 9, 1930, temporarily withdrawing certain public lands in North Dakota for classification and in aid of legislation, which was revoked in part by Executive Order No. 5632 of May 27, 1931, and Public Land Order No. 634 of February 28, 1950, is hereby revoked as to the public lands in the remaining areas affected thereby, described as follows:

FIFTH PRINCIPAL MERIDIAN

T. 154 N., R. 74 W.,
Secs. 7 and 18.
T. 157 N., R. 74 W.,
Secs. 18, 29, and 31.
T. 153 N., R. 75 W.
Secs. 3, 18, and 25.
T. 154 N., R. 75 W.,
Secs. 6, 17, 18, 19, and 30.
T. 155 N., R. 75 W.,
Secs. 6, 19, 23, 29, and 31.
T. 157 N., R. 75 W.,
Secs. 14, 15, and 25.
T. 153 N., R. 76 W.,
Sec. 2.
T. 154 N., R. 76 W.,
Secs. 7, 24, 26, and 35.
T. 155 N., R. 76 W.,
Secs. 1, 10, 14, 15, and 23.
T. 158 N., R. 76 W.,
Secs. 1 and 12.
T. 155 N., R. 77 W.,
Secs. 9 and 18.
T. 156 N., R. 77 W.,
Secs. 15, 21, 28, 31, and 33;
Sec. 35, N½, W½SW¼, SE¼SW¼, and NE¼SE¼.
T. 157 N., R. 78 W.,
Sec. 8.

The public lands affected by this order aggregate approximately 3,262.46 acres.

The lands are primarily valuable for grazing purposes but have a low carrying capacity. They are suitable for disposal probably at public sale.

No applications for these lands may be allowed under the homestead, small-tract, or desert-land laws, or any other non-mineral public-land laws unless the land in question has already been classified as valuable or suitable for such types of application or shall be so classified upon consideration of an application.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, and selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this order shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279-284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this order, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Bureau of Land Management, Washington 25, D. C., shall be acted upon in accordane with the regulation contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Director, Bureau of Land Management, Washington 25, D. C.

OSCAR L. CHAPMAN,
Secretary of the Interior.

DECEMBER 19, 1951.

[F. R. Doc. 51-15281; Filed, Dec. 27, 1951; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 9233]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 11—INDUSTRIAL RADIO SERVICES

MISCELLANEOUS AMENDMENTS

In the matter of providing for a Radiolocation Service, particularly one to establish locations accurate to within a few feet from distances beyond line of sight, on a permanent basis. Amendment of the Table of Frequency Allocations to provide for the use of frequencies in the band 1750–1800 kc by the Radiolocation Service. Promulgation of rules to govern a Radiolocation Service on a developmental basis, said rules to be designated Subpart M of Part 11, rules governing Industrial Radio Services.

This report and order is issued by the Commission in connection with a hearing held on the above entitled matter in Washington, D. C., on June 4 and 5, 1951, before Chairman Coy, pursuant to a supplemental Notice of Hearing and Notice of Proposed Rule Making released April 16, 1951. Specifically, the proceeding looked toward a permanent allocation of frequencies in the band 1750–1800 kc for use by a Radiolocation Service, information concerning the nature and extent of any plans for the use of these frequencies for radiolocation purposes, and the promulgation of Rules to Govern a Radiolocation Service. Witnesses appeared on behalf of the American Petroleum Institute, the Seismograph Service Corporation, the Hastings Instrument Company and the United States Coast and Geodetic Survey. While none of the issues aroused any substantial controversy, the question of the precise manner by which the Disaster Service could be protected from interference that might be caused by operations of the Radiolocation Service in the band 1750–1800 kc engendered extensive comment.

Radiolocation techniques fall, generally, into two classes: (1) Pulse-type direct ranging methods which are basically ultra-high frequency and above with resulting line-of-sight limitations on range,[1] and (2) phase-comparison methods which permit use of the low or medium frequencies and the elimination of the line-of-sight limitation. Provision for the former or pulse-type facility has already been made in the Table of Frequency Allocations under the terms of footnotes NG17 and 18, which make certain of the microwave bands available to the Radiolocation Service. This allocation is being implemented in the service rules which were proposed as a part of this proceeding.

The question to be answered, therefore, is not whether radiolocation facilities are to be provided, but where in exploration operations does line-of-sight ranging fall short of urgent needs. Experience to date indicates that, except for petroleum exploration operations in the Continental Shelf area, line-of-sight ranging would not fall short. The maximum dependable surveying range of an ultra high frequency system limits the direct operational range of the practical exploration system to an off-shore distance on the order of 15 to 25 miles. On the other hand, there appear to be areas in the Continental Shelf considered commercially exploitable for oil at distances of 40 to 70 miles from the Gulf of Mexico coastline. Use of customary survey procedures to carry the survey stepwise in the water to off-shore distances much greater than 15 to 25 miles appears neither reliable nor economically practical. Accordingly, the Commission is of the opinion that there is a definite need for a radiolocation service which is not subject to the line-of-sight limitations of the ultra and super high frequency systems as an aid in development of the oil resources lying beneath the waters of the Gulf of Mexico.

Data collected by the Commission since the earlier radiolocation hearing (Docket 8989) held in 1948 indicated that with existing techniques, an accurate system of radiolocation capable of operating beyond line-of-sight might be established by the use of frequencies in the vicinity of 2,000 kc. Recognizing the intermittent character of operations in the Disaster Service, the band 1750–1800 kc appeared to offer fewer obstacles to a sharing arrangement than other bands of similar propagation characteristics. Accordingly, one of the purposes of the hearing was to determine whether in view of the need for absolute Disaster Service priority in time of actual or imminent disaster, it is possible to permit the Radiolocation Service to share the band.

It is clear from the record that simultaneous co-channel operations in the same area of stations in the two services result in harmful interference. However, since radiolocation operations will be predominantly daytime and tests and drills in the Disaster Service will, except for those occasions of actual or imminent disaster, take place chiefly at night, the interference problem can be obviated, to a large extent, by a time sharing arrangement. The difficulty here, of course, lies in the fact that it is at those times which cannot be handled by time sharing that the necessity for interference-free communication for the Disaster Service is greatest.

It is apparent, therefore, that some scheme of notification to stations in the Radiolocation Service which will enable them to cease operations whenever disaster threatens or strikes is essential. As to this, the parties submitted a plan providing the framework within which a workable system of notification may be devised which can be used in the event of a disaster, to inform the operators of stations in the Radiolocation Service in the area to cease operations immediately. The general outline of the procedure to be followed has been embodied in § 11.611 of the rules which are being adopted herewith. While we will require that licensees in the Disaster Service cooperate in establishing a means of notification, we wish to emphasize that the burden of its establishment is on prospective licensees in the Radiolocation Service and failure to establish or maintain adequate liaison may result in discontinuance of use of the band for radiolocation purposes.

With respect to the nature and extent of any plans for the development and use of a Radiolocation Service in the band 1750–1800 kc in the near future, the amount of experimentation with the band to date has been rather limited. Testimony showed that this may be attributed to several factors. The controversy over the ownership of the Tidelands has apparently made it difficult for prospective drillers to find a landlord with whom they can negotiate a lease. Secondly, the heretofore temporary nature of the 1750–1800 kc allocation has made many interested persons loathe to spend large sums of money erecting stations and building equipment to operate in a band which might not be eventually available for radiolocation purposes. Finally, the existing shortage of petroleum reserve which in 1948 was one of

[1] In some systems, such as the Loran Radionavigation System, pulse techniques are utilized at medium frequencies, but the degree of accuracy obtainable with Loran is not suitable for consideration in connection with the oil exploration problem.

the elements leading to consideration of a permanent allocation to a medium frequency radiolocation service was thereafter at least temporarily relieved.

It appears that the permanent allocation of frequencies in the band 1750–1800 kc to radiolocation herein ordered will to a large extent obviate one of the factors which has heretofore deterred development of radiolocation techniques in the medium frequency portion of the spectrum. It further appears that the other deterring factors are of a temporary or uncertain character, and that a change therein would result in an immediate necessity for the use of a medium frequency radiolocation facilities.

There remains the question of the promulgation of service rules. Most of the discussion in this report relates to the use of the band 1750–1800 kc by the petroleum industry. In this connection, therefore, we wish to point out that while the use of this band for radiolocation purposes is limited to petroleum operations, the rules provide for the assignment of certain frequencies above 2450 Mc to any person engaged in a commercial or industrial enterprise who has a substantial need in connection therewith to establish a position, distance or direction by means of radiolocation devices for purposes other than navigation. It is believed that the various known radiolocation methods are susceptible of further development and that new methods may be devised. Further, the various regulatory requirements which should be incorporated into these rules are not all known at this time. For these reasons, all operations in the Industrial Radiolocation Service will be placed on a developmental basis until at least July 1, 1954, subsequent to which time the entire matter will be reviewed.

In line with the general principle of maximum flexibility during this period of development, only a minimum of technical standards have been adopted and these relate primarily to the band 1750–1800 kc. Of the developments which have been described in this record, the CW phase comparison technique appears, from an accuracy viewpoint to offer the most promise for petroleum industry radiolocation operations in this part of the spectrum. However, this technique is susceptible of a number of variations in the system design and a number of refinements appear to be necessary before any present method might be called completely satisfactory. To encourage experimentation with the various possible system variations by more than one organization, and to foster competition in the matter of conditions of service, it appears desirable during this developmental period to restrict each applicant to the use, either directly or indirectly, of a total of 25 kc of spectrum space in this band for all of his stations. This policy has been incorporated in the rules. Along similar lines, systems operating in the band 1750–1800 kc which are capable of use by a large number of persons will be preferred over those which are capable of serving only a small number.

The record indicates that petroleum industry radiolocation systems should have a positioning accuracy of plus or minus 50 feet. Individual measurements or determinations incorporating discrepancies greater than this amount tend to be inadequate to permit the assembly of geophysical data, comprising scattered independent observations, into a concordant, unified picture required for arriving at a sufficiently accurate final interpretation. In speaking of a radiolocation system here, we refer to that number of stations operated as a unit which is required to produce at least two intersecting lines of position. Three different physical locations generally are required for this purpose.

It will be noted that the rules provide that the normal maximum transmission bandwidth for stations operating between 1750–1800 kc is 3 kc. The reason why we have not imposed a definite prohibition against exceeding 3 kc is because it appears that the question of "lane identification" or means of obtaining spot positioning, has not yet been satisfactorily resolved. With the phase comparison methods described at the hearing, since it has not been possible to develop, within the limits of the spectrum space available, an adequate system of "lane identification", the mobile craft must enter the hyperbolic grid system at a known point and thereafter maintain continuous operation throughout the duration of the survey. This lack of an adequate method of spot positioning is one of the chief stumbling blocks to the development of an all-purpose radiolocation system. The record indicates that present methods involve either the use of additional 3 kc channels or the use of a wider bandwidth. Accordingly, a bandwidth greater than 3 kc will normally not be authorized except where additional spectrum space is needed for "lane identification" purposes.

We have stated that assignments in the band 1750–1800 kc will be protected from interference from other radiolocation stations in the area. In determining the extent of this protection, the record indicates that a desired to undesired signal ratio of 20 db is adequate. Accordingly, on the basis of a service area per system of 100 miles square, frequency assignments will be repeated only at intervals of not less than 360 miles. Furthermore, because of the exclusive nature of the assignments, stations will not be licensed to operate at temporary locations as is provided for other stations in the Industrial Radio Services.

As has been indicated above, the policy to be followed with respect to the establishment of a notification procedure between the Disaster and Radiolocation Services has been set forth in the rules as finalized. It should be noted that any authorizations which may be issued in the Radiolocation Service for operation in the band 1750–1800 kc will be conditioned upon the filing of a satisfactory notification plan with the application for station license to cover construction permit. In this connection, we wish to direct attention to the provisions in the rules protecting stations in the Disaster Service from interference at any time during an actual or imminent disaster. Accordingly, acceptance of a plan of notification and issuance of an authorization does not alter in any way the responsibility and necessity of licensees in the Radiolocation Service to protect the Disaster Service in accordance with the conditions attached to the allocation of the band.

There are several changes in the rules as finally adopted to which we would like to call attention. It will be noted that the term "meteorological" has been deleted from the section relating to the nature of the service. This was done so that there would be no confusion between the special uses of radiolocation devices for industrial and commercial purposes for which we are making provision here and the Meteorological Aids Service for which rules will be released at some future time. In line with this distinction between the use of radiolocation devices for industrial and commercial purposes as contrasted to their use for other purposes, the names of the new Subpart M has been changed to Industrial Radiolocation Service. In this connection we wish to point out that, except for use in their public safety activities, instrumentalities of state and local governments and educational institutions are included within the term "industrial or commercial enterprise" found in the eligibility requirements of the new service. Speed measuring devices used by police and highway departments will continue to be licensed under appropriate provisions of Part 10, Rules Governing the Public Safety Radio Services.

It will be noted that speed measuring devices in the Industrial Radiolocation Service are limited to the band 2450–2500 Mc. This places into the rules the policy of the Commission with respect to such devices announced in its Report on Frequency Service Allocation between 1000 Mc and 13,200 Mc adopted February 20, 1948, Mimeograph No. 17266. In this report the Commission stated that it would "permit the operation of such (speed measuring) equipments in the band 2450–2500 Mc with the stipulation that interference from industrial, scientific and medical devices must be accepted and that fixed and mobile services will have priority over this non-safety category of radiolocation service."

Definitions for mobile radiopositioning and land radiopositioning stations have been added in order to facilitate station classification. The addition of these two terms to Part 2 of the Commission's rules is being ordered concurrently herewith in the disposition of Proposed Rule Making (Docket 10071) released October 10, 1951.

The rules as proposed and as finally adopted make no provision for the use of voice communications in radiolocation operations. To the extent that such communications are necessary for administrative, operational or disaster purposes, it is anticipated that either wire lines or one of the regularly established services such as the Petroleum, Special Industrial or Low Power Industrial, etc., will be used.

The precise manner in which various types of radiolocation devices and systems ultimately may be used to provide location information to interested persons is the subject of the developmental program which we are authorizing herein. Therefore, the Commission is not

now in a position to decide whether, or under what conditions, if any, an Industrial Radiolocation Service licensee might be considered to be rendering a communications common carrier service subject to regulation under Title II of the Communications Act of 1934, as amended. Decision on this subject is specifically reserved until the termination of the developmental program on or subsequent to July 1, 1954.

It will be noted that the rules adopted concurrently herewith provide a more detailed plan for regulation of industrial radiolocation operations in the medium frequency 1750–1800 kc band than is prescribed for similar operations in the UHF and SHF parts of the spectrum. The distinction is considered to be necessary for several reasons, including: The greater interference possibilities arising from medium frequency operation; the smaller number of systems capable of operating in the 1750–1800 kc band; and the fact that, of the several radio-location techniques discussed on this record, continuous wave phase comparison systems operating in the 1750–1800 kc band are the only ones which appear to be readily adaptable for use by large numbers of persons.

In view of the foregoing considerations and determinations, and pursuant to the authority contained in section 4 (i), 301 and 303 of the Communications Act of 1934, as amended; Article 7 of the Cairo (1938) General Radio Regulations; and Article 3 of the Atlantic City (1947) Radio Regulations, it is ordered this eighteenth day of December 1951, That:

1. The foregoing report is adopted.

2. Part 2, Frequency Allocation and Radio Treaty Matters, is amended as set forth below, effective February 1, 1952.

3. Part 11, Industrial Radio Services, is amended as set forth below, effective February 1, 1952.

4. The proceedings in Docket 9233 are terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

Released: December 19, 1951.

Amend Part 2, Rules Governing Frequency Allocations and Treaty Matters, as follows:

1. Section 2.1 *Definitions*, is amended by adding the following paragraph in alphabetical order:

Disaster Communications Service. A service of fixed, land, and mobile stations licensed or authorized to provide essential communications incident to or in connection with disasters or other incidents which involve loss of communications facilities normally available or which require the temporary establishment of communications facilities beyond those normally available.

2. Section 2.104 (a), *Table of Frequency Allocations* is amended as follows:

(a) Delete the entries in column 8 opposite the frequency band 1750–1800 kc in column 7.

(b) Delete footnotes 1 and 2.

(c) Add:

7	8	9	10	11
1750–1800 (NG1, 21)	a. Fixed. b. Mobile.	a. Fixed. b. Land. c. Mobile.	.....	Disaster.

NG21 For radiolocation activities of the petroleum industry only, land radiopositioning stations and mobile radiopositioning stations may be authorized to use frequencies in this band, provided that such use (a) shall be limited to locations within 150 miles of the shoreline of the Gulf of Mexico, (b) shall be subject, internationally, to the provisions of paragraph 88 of the Atlantic City, 1947, Radio Regulations and to the use-in-derogation provisions of Article 7 of the Cairo General Radio Regulations, (c) shall not cause harmful interference to stations in the Disaster Communications Service between the times at New Orleans of sunset and sunrise or at any time during an actual or imminent disaster in any area. Stations in the Disaster Communications Service shall not cause harmful interference to radiopositioning stations between the times at New Orleans of sunrise and sunset except during an actual or imminent disaster in any area.

Add a new Subpart M to Part 11, Rules Governing Industrial Radio Services, as shown herein.

SUBPART M—INDUSTRIAL RADIOLOCATION SERVICE

§ 11.601 *Nature of service.* The rules in this subpart are designed to facilitate the eventual establishment, on a regular basis, of an Industrial Radiolocation Service to be used primarily in connection with geographical, geological, or geophysical activities. Since there does not appear to be any single radiolocation system which is satisfactory in all respects, all stations licensed under this subpart will be authorized only on a developmental basis. To encourage further development of radiolocation techniques, deviation from these rules may be authorized on request where it appears to the Commission that the public interest, convenience or necessity would be served thereby.

§ 11.602 *Eligibility.* The following persons are eligible to hold authorizations to operate radio stations in the Industrial Radiolocation Service:

(a) Any person engaged in a commercial or industrial enterprise who has a substantial need in connection therewith to establish a position, distance, or direction by means of radiolocation devices for purposes other than navigation.

(b) A corporation or association organized for the purpose of furnishing a radiolocation service to persons eligible under paragraph (a) of this section.

§ 11.603 *Service authorized.* (a) Stations licensed under this subpart to operate on frequencies within the band 1750–1800 kc shall provide service without discrimination to all persons eligible under the provisions of § 11.602 (a) of this subpart.

(b) Stations licensed under this subpart to operate on frequencies in bands other than 1750–1800 kc may be required by the Commission to provide service without discrimination to all persons eligible under the provisions of § 11.602 (a) of this subpart.

§ 11.604 *Showing required for authorization.* (a) Applications to operate stations in the Industrial Radiolocation Service will be granted only in these cases where it is shown: That the applicant is financially, legally and technically qualified to render the proposed service; and that a grant of the application would serve the public interest, convenience or necessity. A showing with respect to technical qualifications should include information which indicates the applicant's ability to construct and operate the proposed facilities; the availability of qualified operating and maintenance personnel; and complete details as to the manner in which the service will be made available to those seeking it under the provisions of § 11.603 of this subpart.

(b) Each application for a new station in this service shall be accompanied by:

(1) A functional description of the manner in which the system will operate, including the interrelationship and function of each unit in the system;

(2) A complete technical description of the equipment to be used, including:

(i) Emission bandwidth;

(ii) Modulation;

(iii) Plate power input to final radio frequency stage;

(iv) For equipment employing pulse modulation, the pulse width, pulse repetition rate, and peak power output;

(v) Physical and radiation characteristics of the antenna system; and

(3) A map of the area which it is proposed to serve, showing location of each station.

§ 11.605 *Report of operation.* (a) A report of the results of the operation of developmental stations in this service shall be filed within 60 days of the expiration of such authorization. Matters which the licensee does not wish to disclose publicly may be so labeled and submitted as separate documents; they will be used solely for the Commission's information, and will not be disclosed publicly without permission of the licensee. The report shall include comprehensive and detailed information covering the system and equipment, including the following:

(a) Results of operation to date, including:

(1) Maximum and minimum usable range;

(2) Maximum and average accuracy in various parts of the service area;

(3) Approximate number of hours of operation;

(4) Approximate number of position readings taken;

(5) Emission bandwidth;

(6) Type(s) of modulation;

(7) Minimum practical operating power (input to final stage);

(8) For equipment employing pulse modulation, the pulse width, pulse repetition rate and peak power output;

(9) Physical and radiation characteristics of the antenna systems employed;

(b) Copies of any reports published by the licensee; and

(c) Schedule of charges; reports of revenues received and sums disbursed.

§ 11.606 *Policy governing assignment of frequencies in the band 1750–1800 kc.* (a) Notwithstanding contrary provisions elsewhere in this part, each frequency assignment in the band 1750–1800 kc will be on an exclusive basis within the daytime primary service area of the station to which assigned. The normal minimum geographical separation between stations of two different radiolocation systems shall be not less than 360 miles when the stations are operated on the same frequency or on different frequencies separated by less than 5 kc. Any person desiring geographical separations of less than 360 miles under these circumstances will be required to show that the desired separation will result in a protection ratio of at least 20 db throughout the daytime primary service area of other stations.

(b) For purposes of this section, the daytime primary service area of an Industrial Radiolocation Service station operating in the 1750–1800 kc band is defined as the area within which the signal intensities are adequate for satisfactory use by the petroleum industry for radiolocation purposes during the hours from sunrise to sunset from all stations in the radiolocation system of which the station in question is a part, i. e., the primary service area of the station coincides with the primary service area of the system.

(c) Where the number of applicants requesting authority to serve an area exceeds the number of frequencies available for assignment; or where it appears to the Commission that fewer applicants or licensees than the number before it should be given authority to serve a particular area; or where it appears that an applicant, either directly or indirectly, seeks to use more than 25 kc of the available spectrum space in this band, the applications may be designated for hearing.

§ 11.607 *Frequencies available.* (a) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service, excluding speed measuring devices, may be authorized to use frequencies in the band 1750–1800 kc. Such use shall be in connection with petroleum industry activities only and shall be at locations within 150 miles of the shore line of the Gulf of Mexico. These frequencies are shared with the Disaster Communications Service and are subject to a number of special restrictions set forth elsewhere in this subpart.

(b) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service, including speed measuring devices, may be authorized to use frequencies in the band 2450–2500 Mc on the condition that harmful interference will not be caused to the fixed and mobile services. Stations in the Industrial Radiolocation Service operating in this band also must accept any harmful interference that may be experienced from the operation of industrial, scientific and medical equipment operating in accordance with Part 18, Rules and Regulations Relating to Industrial, Scientific and Medical Service.

(c) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this Service, excluding speed measuring devices, may be authorized to use frequencies in the following bands on the condition that harmful interference will not be caused to stations in the Radionavigation Service:

2900–3246 Mc	5460–5650 Mc
3266–3300 Mc	9000–9300 Mc
5250–5440 Mc	9320–9500 Mc

(d) Land Radiopositioning Stations and Mobile Radiopositioning Stations in this service may be authorized on request to use frequencies allocated exclusively to Federal Government Stations in those instances where the Commission finds, after consultation with the appropriate Government agency or agencies, that such assignment is necessary or required for coordination with Government activities.

§ 11.608 *Special restrictions applicable to 1750–1800 kc only.* Each station authorized to operate in the Radiolocation Service on frequencies between 1750–1800 kc is subject to the following restrictions in addition to the other requirements in this part:

(a) Such stations shall be located within 150 miles of the shore line of the Gulf of Mexico;

(b) Such stations shall be used in connection with petroleum industry activities only;

(c) Plate power input to the final radio frequency stage shall not exceed 500 watts;

(d) In the absence of a satisfactory showing that the public interest, convenience or necessity would be served thereby, stations in this band will be restricted to a maximum authorized bandwidth of 3 kc; and

(e) Land Radiopositioning Stations will not be authorized for operation at temporary locations.

§ 11.609 *Special exemptions.* Stations licensed under this subpart are exempt from the requirements of §§ 11.57, 11.151, 11.201, 11.202, 11.207, and 11.208 of this part.

§ 11.610 *License term.* Each station authorized to operate in this Service will receive a license term of two years from the date of final action on the license application or until July 1, 1955, whichever date is earlier.

§ 11.611 *Control of interference, 1750–1800 kc only*—(a) *Nighttime protection.* Operation of stations in the Industrial Radiolocation Service on frequencies in the 1750–1800 kc band is subject to the condition that during the hours from sunset to sunrise no harmful interference be caused to any proper operation of stations licensed to operate in the same band under Part 20, Rules Governing Disaster Communications Service.

(b) *Daytime protection.* Operation of stations in the Industrial Radiolocation Service on frequencies in the 1750–1800 kc band is subject to the condition that during the hours from sunrise to sunset no harmful interference be caused to operation of stations licensed to operate in the same band under Part 20, Rules Governing Disaster Communications Service, when such stations are transmitting during an imminent or actual disaster in any area in connection therewith. (Except during such an imminent or actual disaster, operation of stations in the Disaster Communications Service shall not cause harmful interference during the hours from sunrise to sunset to operation of stations in the Industrial Radiolocation Service. See Rules Part 20.)

(c) For purposes of this section, irrespective of the time zones involved, it shall be assumed that the times of sunset and sunrise at each actual station location shall be the exact time of sunset and sunrise at New Orleans, Louisiana, as set forth in section 26 of the Commission's Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

(d) To carry into effect the requirements of paragraphs (a) and (b) of this section, including a positive means whereby operation in this service can be suspended to protect against harmful interference, there shall be established an adequate and reliable system of notification and liaison between licensees in this service and licensees in the Disaster Communications Service. The extent and division of responsibility for various phases of the notification and liaison system shall be as follows:

(1) Organization and establishment of a system of liaison within the Industrial Radiolocation Service; the devising of a system for the receipt and distribution of notification information; and the installation, operation and maintenance of such a system shall be the responsibility of licensees in the Industrial Radiolocation Service authorized to operate in the band 1750–1800 kc.

(2) Organization and establishment of a system of liaison within the Disaster Communications Service; and the devising of a method for the dispatch of notification information to the person or persons designated by licensees in the Industrial Radiolocation Service shall be the responsibility of licensees in the Disaster Communications Service authorized to operate in the band 1750–1800 kc.

(3) The responsibility for the initiation of liaison between licensees in the Industrial Radiolocation Service and the licensees in the Disaster Communications Service shall be the responsibility of the former.

(4) Once initiated, the maintenance, review and improvement of liaison between licensees in the two Services shall be the joint responsibility of both groups.

(5) Issuance of notification to suspend operation in the Industrial Radiolocation Service due to an impending or actual disaster shall be the responsibility of licensees in the Disaster Communications Service. Such notification shall be by those means which have been mutually agreed upon as sufficiently adequate, prompt and reliable to effectuate the purpose of this section. Any desired communication method or combination of methods may be utilized.

(6) Prompt suspension of operation of the radiopositioning station or stations upon receipt of disaster notification shall be the responsibility of licensees in the Industrial Radiolocation Service.

(7) When stations in the Industrial Radiolocation Service have discontinued transmitting to protect disaster communications in connection with an imminent or actual disaster, and when the point has been reached where there is no reasonable possibility that radiolocation transmissions will cause harmful interference to the disaster communications, it shall be the responsibility of licensees in the Disaster Communications Service to communicate this information promptly to the licensees in the Industrial Radiolocation Service so that they may resume operation at will.

(8) Although the prearranged notification procedure required to be established by the terms of this section shall be the primary means by which licensees in the Industrial Radiolocation Service receive information necessary for compliance with the requirements of this section, it shall be the further responsibility of licensees in this Service to suspend operation upon receipt of any reliable intelligence which indicates a reasonable possibility that harmful interference is being caused to actual disaster transmissions.

(9) The notification and liaison procedure hereby required to be established shall be limited to that geographical area within which there is a reasonable anticipation, determined by actual tests wherever practicable, that harmful interference may be caused by a licensee in the Industrial Radiolocation Service to licensees in the Disaster Communications Service.

(10) All construction permits for radiopositioning stations in this band are granted subject to the condition that the permittee, at the time of filing for station licenses, accompany such applications with a comprehensive plan defining in detail the means of notification which have been agreed upon by the permittee and the licensees of Disaster Communications Service stations in the area. The notification plan shall be kept current by the licensee, through successive modifications as may be necessary, to incorporate stations in the Disaster Communications Service which subsequently may be authorized to operate in the same interference area. A copy of this notification plan and of all subsequent modifications shall be filed at the following points: The Commission's offices at Washington 25, D. C.; the offices of the Engineer in Charge of the Radio District in which the radiopositioning station is located; and the offices of the Engineer in Charge of the Radio District or Districts in which are located the Disaster Communications Service stations involved in the plan.

§ 11.612 *Land radiopositioning station.* A station in the radiolocation service other than a radionavigation station, not intended for operation while in motion.

§ 11.613 *Mobile radiopositioning station.* A station in the radiolocation service other than a radionavigation station, intended to be used while in motion or during halts at unspecified points.

[F. R. Doc. 51-15336; Filed, Dec. 27, 1951; 8:54 a. m.]

[Docket No. 10071]

PART 2—FREQUENCY ALLOCATIONS & RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

MISCELLANEOUS AMENDMENTS

In the matter of Amendment of § 2.1 of Subpart A, §§ 2.101 and 2.104 (a) of Subpart B of Part 2, Frequency Allocations and Radio Treaty Matters.

ORDER

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 18th day of December 1951.

The Commission having under consideration the amendment of Subpart A and Subpart B of Part 2, Frequency Allocations and Radio Treaty Matters to provide nomenclature and definitions for stations in the Radiolocation Service which are used for purposes other than radionavigation, making no change in the bands of frequencies which may be authorized to the non-safety category of radiolocation devices such as speedmeters and radar used for purposes other than radionavigation.

It appearing, that in accordance with the requirement of section 4 (a) of the Administrative Procedure Act, general Notice of Proposed Rule Making was duly published in the FEDERAL REGISTER, and

It further appearing, that no comments were received by the Commission.

It further appearing, that public interest, convenience and necessity would be served by the adoption of the amendments as proposed and authority therefor is contained in sections 4 (i) and 303 (c), (e), (f), (g), and (r) of the Communications Act of 1934, as amended.

It is ordered, That effective February 1, 1952, Subparts A and B of Part 2, Frequency Allocation and Treaty Matters are amended as follows:

1. Section 2.1 *Definitions,* is amended by adding the following paragraphs in alphabetical order:

Land Radiopositioning station (PL). A station in the radiolocation service, other than a radionavigation station, not intended for operation while in motion.

Mobile radiopositioning station (PO). A station in the radiolocation service, other than a radionavigation station, intended to be used while in motion or during halts at unspecified points.

2. Section 2.101 *Station symbols,* is amended by adding the following:

PL	Land radiopositioning station.
PO	Mobile radiopositioning station.

3. Section 2.104 (a), in the band 2450–2500 Mc, footnote NG17 is changed to read:

NG17 Land radiopositioning stations and mobile radiopositioning stations, including speed measuring devices, may be authorized to use frequencies in the band 2450–2500 Mc on the condition that harmful interference will not be caused to the fixed and mobile services.

Section 2.104 (a), in the bands 2900–3246, 3266–3300, 5250–5440, 5460–5650, 9000–9300, and 9320–9500 Mc, footnote NG18 is changed to read:

NG18 Land radiopositioning stations and mobile radiopositioning stations, excluding speed measuring devices, may be authorized to use frequencies in this band on the condition that harmful interference will not be caused to the radionavigation service.

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

Released: December 19, 1951.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-15335; Filed, Dec. 27, 1951; 8:53 a. m.]

PART 12—AMATEUR RADIO SERVICE

WAIVER OF LICENSE REQUIREMENT FOR AMATEURS SERVING IN ARMED FORCES

In the matter of waiver in the case of amateurs serving in the armed forces of the United States of the requirement that applications for renewal of amateur operator licenses be accompanied by a showing of actual operation of an amateur station prior to expiration of the license.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 18th day of December 1951.

The Commission having under consideration its order in the above-entitled matter dated and effective November 13, 1950, which provides that the requirement of § 12.27 of Part 12, Amateur Radio Service that all applications for renewal of an amateur operator license be accompanied by a showing that the applicant actually operated an amateur radio station or stations in the manner, upon the occasions, or for the period of time specified in that section be waived in cases where it is shown that the applicant was unable to conduct such operation because he was on active duty in the armed forces of the United States, and which also provides for incorporation of the substance of the aforesaid order into Part 12, Amateur Radio Service as a footnote appended to § 12.27 thereof;

It appearing, that the effective date of the aforementioned order and footnote extends only to December 31, 1951, and that approximately the same circumstances which made it necessary to adopt that order and footnote still prevail;

It further appearing, that the action herein ordered relieves a restriction and continues the terms of a previous Commission Order for an additional year under a continuation of the same conditions and circumstances which necessitated issuance of the original order, and, therefore, compliance with the public notice and procedure set forth in section 4 (a) of the Administrative Procedure Act is unnecessary;

It further appearing, that, since the extension of time herein ordered relieves a restriction which otherwise

would be applicable, this order may be made effective immediately;

It further appearing, that authority for the aforesaid order and amendment of § 12.27 of Part 12 is contained in sections 4 (i) and 303 (l) and (r) of the Communications Act of 1934, as amended;

It is ordered, That the order of November 13, 1950, in the above-entitled matter, be amended to the extent that it shall apply in the case of applications for renewal of amateur operator licenses expiring during the period January 1, 1951, to December 31, 1952;

It is further ordered, That, effective immediately, the footnote appended to § 12.27 of Part 12 be and it hereby is amended to read as follows:

[6] By order dated and effective November 13, 1950, and amended December 18, 1951, the Commission temporarily waived, to a limited extent, the requirement that all applications for the renewal of an amateur operator license be accompanied by a showing that the applicant actually operated an amateur radio station or stations, in the manner and upon the occasions or for the period of time specified in § 12.27, in cases where it is shown that the applicant was unable to conduct such operation because he was on active duty in the armed forces of the United States. This order is applicable to all amateur operator licenses which expire during the period January 1, 1951, to December 31, 1952.

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

Released: December 19, 1951.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 51-15334; Filed, Dec. 27, 1951; 8:53 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 31—BILLS OF LADING

DECEMBER 20, 1951.

It has come to the Commission's attention that its regulations relating to Bills of Lading (49 CFR Part 31), as printed in the 1949 Edition of the Code of Federal Regulations, are incomplete in that they omit §§ 31.1 to 31.3, inclusive, originally printed in the 1938 Edition of the Code.

In order that the Code may properly reflect the situation, Part 31 has been revised and should be inserted in the 1951 pocket supplement. Titles of §§ 31.2 and 31.3 have been shortened.

Sections appearing in the 1949 Edition of the Code of Federal Regulations as §§ 31.1 to 31.4, inclusive, have been redesignated §§ 31.4 to 31.7, inclusive.

As amended, Part 31 should read:

SEC.
31.1 Requirement for certain forms of bills of lading.
31.2 Appendix D; form of domestic (straight) bill of lading prescribed.
31.3 Appendix F; form of contract to be used for shipments of livestock and wild animals in lieu of uniform bill of lading prescribed.
31.4 Requirement for certain forms of export bill of lading.
31.5 Permission to print form of through export bill of lading on both sides of paper.
31.6 Appendix D; form of through export bill of lading prescribed.
31.7 Uniform standard bill of lading and uniform order bill of lading.

AUTHORITY: §§ 31.1 to 31.7 issued under sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interpret or apply sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1.

CROSS REFERENCES: For interstate transportation of livestock, Bureau of Animal Industry, Department of Agriculture, see Animals and Animal Products, 8 CFR Parts 71–77, 81. For lading and unlading of vessels, Bureau of Customs, Department of Treasury, see Customs Duties, 19 CFR Part 2. For United States Maritime Commission regulations concerning the filing of port bill of lading forms, see Shipping, 46 CFR Part 223.

§ 31.1 *Requirement for certain forms of bills of lading.* All common carriers, except express companies, engaged in the transportation of property by rail or by water subject to the Interstate Commerce Act served with notice of this proceeding and parties thereto, are hereby notified and required to cease and desist on or before August 8, 1919, from using their present bills of lading to the extent that the provisions and regulations contained therein are inconsistent with or different from the provisions and regulations contained in the forms of bills of lading designated as Appendixes B[1] and D.

All common carriers subject to the act heretofore served with notice of this proceeding are hereby notified and required to adopt and put in use on or before August 8, 1919, upon notice to the Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the Interstate Commerce Act (49 U. S. C. 6), and thereafter to use and employ, uniformly when they issue bills of lading covering shipments, other than livestock, moving in interstate commerce, as required by and defined in section 20 of the act (49 U. S. C. 20), and such forms of bills of lading referred to as Appendixes B and D.

NOTE: Derived from 52 I. C. C. 671, 64 I. C. C. 347, 357; 66 I. C. C. 63; 63 I. C. C. 687; 80 I. C. C. 305; 156 I. C. C. 188; 167 I. C. C. 214; 172 I. C. C. 362; 235 I. C. C. 63; 245 I. C. C. 527.

§ 31.2 *Appendix D; form of domestic (straight) bill of lading prescribed.* (See 49 CFR, 1938 ed. 31.2.)

NOTE: Derived from 52 I. C. C. 671 (Appendix B); 64 I. C. C. 357, Appendix D; 66 I. C. C. 63; 167 I. C. C. 214; 172 I. C. C. 362; 245 I. C. C. 527, 6 F. R. 2912.

§ 31.3 *Appendix F; form of contract to be used for shipments of livestock and wild animals in lieu of uniform bill of lading prescribed.* (See 49 CFR, 1938 ed., 31.3)

NOTE: Derived from 64 I. C. C. 357; 66 I. C. C. 63; 245 I. C. C. 527, 6 F. R. 2912.

[1] Not filed with the Federal Register Division.

§ 31.4 *Requirement for certain forms of export bill of lading.* All common carriers engaged in the transportation of property by rail or by water, or by rail and water, subject to the Interstate Commerce Act, parties hereto, are hereby notified and required to cease and desist, and thereafter abstain, from using their present through export bills of lading to the extent that the general provisions, and the rules and regulations relating to the service until delivery at the port of export, contained therein, are inconsistent with or different from the rules and regulations made by the Commission prescribed in form of uniform through export bill of lading set forth in said Appendix D, § 31.6, and to establish, put in force, maintain, and apply to such transportation the rules and regulations made by the Commission prescribing the rules and regulations made by the Commission prescribing the form of uniform through export bill of lading set forth in said Appendix D, § 31.6.

Respondents shall comply therewith upon not less than 5 days' notice to this Commission and to the general public by filing and posting tariffs in the manner prescribed in section 6 of the Interstate Commerce Act.

NOTE: Derived from 52 I. C. C. 671; 64 I. C. C. 347; 66 I. C. C. 687; 80 I. C. C. 305; 156 I. C. C. 188.

§ 31.5 *Permission to print form of through export bill of lading on both sides of paper.* Prior orders modified so as to permit the printing of the form of through export bill of lading on both sides of the paper, consecutively, in part on one side of the paper and the remainder on the other side, without change in the order of arrangement.

NOTE: Derived from 80 I. C. C. 305.

§ 31.6 *Appendix D; form of through export bill of lading prescribed.* (See 49 CFR, 1938 ed., 31.13.)

NOTE: Derived from 52 I. C. C. 671; 64 I. C. C. 347; 66 I. C. C. 687; 80 I. C. C. 305; 156 I. C. C. 188; 235 I. C. C. 63.

§ 31.7 *Uniform standard bill of lading and uniform order bill of lading.* Publication of the uniform standard bill of lading and uniform order bill of lading in the form presented on June 16, 1943, by the Association of American Railroads is authorized, subject to the conditions (a) that the wording on the face and back of the forms will conform to that now printed in the Consolidated Classification, the only changes being in the arrangement and spacing of the printed matter on the face of the forms, and (b) that the rail carriers shall allow shippers to use up their present supply of bills of lading before requiring such bills to conform to the rearrangement herein authorized.

[8 F. R. 9841]

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-15324; Filed, Dec. 27, 1951; 8:51 a. m.]

[S. O. 858, Amdt. 7]

PART 95—CAR SERVICE

LUMBER; RESTRICTIONS ON RECONSIGNING

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 19th day of December A. D. 1951.

Upon further consideration of Service Order No. 858 (15 F. R. 5050, 5434; 16 F. R. 819, 2005, 1284, 1678, 4550, 9901), and good cause appearing therefor: *It is ordered*, That:

Section 95.858 *Lumber; restrictions on reconsigning*, of Service Order No. 858 be, and it is hereby further amended by substituting paragraph (f) hereof for paragraph (f) thereof:

(f) *Expiration date.* This section shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended or annulled by order of this Commission.

Effective date. This amendment shall become effective 11:59 p. m., December 31, 1951.

It is further ordered, That this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 11, 24 Stat. 379, as amended, 384, as amended; 49 U. S. C. 1, 15)

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-15327; Filed, Dec. 27, 1951; 8:52 a. m.]

[S. O. 865, Amdt. 19]

PART 95—CAR SERVICE

DEMURRAGE ON FREIGHT CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 19th day of December A. D. 1951.

Upon further consideration of Service Order No. 865 (15 F. R. 6197, 6256, 6330, 6452, 7800; 16 F. R. 320, 819, 1131, 2040, 2894, 3619, 5175, 6184, 7359, 8583, 9901, 10994, 11313), and good cause appearing therefor: *It is ordered*, That:

Section 95.865 *Demurrage on freight cars*, of Service Order No. 865, as amended, be and it is hereby suspended until 7:00 a. m., March 16, 1952, to the extent it applies on ore cars A. A. R. Mechanical Designation "HM", "HMA", and "HK" as described or listed in the Official Railroad Equipment Register I. C. C.—R. E. R. No. 298, or reissues thereof, issued by M. A. Zenobia, Agent.

It is further ordered, That this amendment shall become effective at 7:00 a. m., December 20, 1951, and a copy be served upon the State railroad regulatory bodies of each State, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 11, 24 Stat. 379, as amended, 384, as amended; 49 U. S. C. 1, 15)

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-15325; Filed, Dec. 27, 1951; 8:51 a. m.]

[S. O. 865, Amdt. 20]

PART 95—CAR SERVICE

DEMURRAGE ON FREIGHT CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 19th day of December A. D. 1951.

Upon further consideration of Service Order No. 865 (15 F. R. 6197, 6256, 6330, 6452, 7800; 16 F. R. 320, 819, 1131, 2040, 2894, 3619, 5175, 6184, 7359, 8583, 9901, 10994, 11313, 12096), and good cause appearing therefor: *It is ordered*, That:

Section 95.865 *Demurrage on freight cars*, of Service Order No. 865, as amended, be and it is hereby further suspended until 11:59 p. m., January 31, 1952, only to the extent it applies on refrigerator cars.

It is further ordered, That Service Order No. 865 be, and it is hereby further amended by substituting the following paragraph (b) for paragraph (b) thereof:

(b) *Freight cars subject to an average agreement.* When demurrage detention occurs to cars held for loading or unloading under average agreement rules for which charges are or may be lawfully provided by tariffs the demurrage charges on freight cars shall be: $5.00 per car per day or fraction thereof for the first and second days; $10.00 per car per day or fraction thereof for the third and fourth days: $20.00 per car per day for each succeeding day or fraction thereof. Charges at rates in excess of $5.00 per car per day shall not be offset or reduced by accrued credits.

It is further ordered, That this amendment shall become effective at 11:59 p. m., December 31, 1951, and a copy be served upon the State railroad regulatory bodies of each State, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 11, 24 Stat. 379, as amended, 384, as amended; 49 U. S. C. 1, 15)

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-15328; Filed, Dec. 27, 1951; 8:52 a. m.]

[Rev. S. O. 866, Amdt. 1]

PART 95—CAR SERVICE

RAILROAD OPERATING REGULATIONS FOR FREIGHT CAR MOVEMENT

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 19th day of December A. D. 1951.

Upon further consideration of the provisions of Revised Service Order No. 866 (15 F. R. 6198, 6256, 6573; 16 F. R. 2894), and good cause appearing therefor: *It is ordered*, That:

Section 95.866 *Railroad operating regulations for freight car movement*, of Revised Service Order No. 866 be, and it is hereby, amended by substituting the following paragraph (e) hereof for paragraph (e) thereof:

(e) *Expiration date.* This section shall expire at 11:59 p. m., March 31, 1952, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered, That this amendment shall become effective at 7:00 a. m., December 31, 1951; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 11, 24 Stat. 379, as amended, 384, as amended; 49 U. S. C. 1, 15)

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-15326; Filed, Dec. 27, 1951; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 4]

CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE IN OCCUPATIONS IN OR ABOUT SLAUGHTERING AND MEAT PACKING ESTABLISHMENTS AND RENDERING PLANTS

In accordance with the Procedure Governing Determinations of Hazardous-Occupations (29 CFR Part 4, Subpart D), an investigation has been conducted by the Bureau of Labor Standards of the United States Department of Labor for the purpose of ascertaining what occupations in or about slaughtering and meat packing establishments and rendering plants are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being and thus constitute oppressive child labor as defined in section 3 (l) of the Fair Labor Standards Act, as amended (52 Stat. 1060, as amended; 29 U. S. C., and Sup. 201 et seq.).

A report of the investigation, entitled "Occupational Hazards to Young Workers, Report No. 10, Slaughtering, Meat Packing, and Rendering", has been submitted to the Secretary of Labor. The report concludes that certain occupations in or about slaughtering and meat packing establishments and rendering plants are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being. Copies of this report will be made available to interested persons upon request to the Bureau of Labor Standards, United States Department of Labor, Washington 25, D. C.

On the basis of such conclusions the Secretary of Labor pursuant to the authority conferred by section 3 (l) of the Fair Labor Standards Act, as amended (52 Stat. 1060, as amended; 29 U. S. C. and Sup. 201 et seq.) and Reorganization Plan No. 2, effective July 16, 1946, adopted pursuant to the Reorganization Act of 1945 (59 Stat. 613) proposes to issue a finding and order in the form set forth below.

Accordingly, notice is hereby given of a public hearing to be held on February 5, 1952, commencing at 10:00 a. m. in Room 1214, United States Department of Labor Building, Fourteenth Street and Constitution Avenue NW., Washington 25, D. C., before a presiding officer to be hereinafter designated, at which hearing interested persons may appear and be heard with respect to said proposed finding and order. All interested persons desiring to appear at the hearing are requested to notify the Secretary of Labor at least five days prior to the date fixed for the hearing. Any interested person who is unable to appear in person may file a written comment or brief with the Secretary of Labor not later than the day prior to the hearing, in order that the same may be made a part of the record of the hearing.

The finding and order which I propose to issue in this matter is as follows:

By virtue of the authority vested in me by section 3 (l) of the Fair Labor Standards Act, as amended (52 Stat. 1060, as amended; 29 U. S. C. and Supp. 201 et seq.) and Reorganization Plan No. 2 of 1946 adopted pursuant to the Reorganization Act of 1945 (59 Stat. 613) and in accordance with the Procedure Governing Determinations of Hazardous Occupations (29 CFR Part 4, subpart D), an investigation having been conducted with respect to what occupations in or about slaughtering and meat packing establishments and rendering plants are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being and a report of said investigation having been submitted to me:

Now, therefore, I, Maurice J. Tobin, Secretary of Labor, after reviewing all the evidence and information with respect to the occupations involved, including the report of investigation, do hereby find, declare, and order:

§ 4.61 *Occupations in or about slaughtering and meat packing establishments and rendering plants (Order 10)*—(a) *Finding and declaration of fact.* The following occupations in or about slaughtering and meat packing establishments and rendering plants are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, hand-truckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.

(2) All occupations involved in the recovery of lard and oils, except for operation of a lard-roll machine and occupations in the packaging and shipment of such products.

(3) All occupations involved in tankage or inedible rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and the like.

(4) All occupations involved in the operation or feeding of the following power-driven meat-processing machines: Meat and bone cutting saws, knives (except bacon-slicing machines), head-splitters, and guillotine cutters; snout-pullers and jaw-pullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines).

(5) All boning occupations.

(6) All occupations that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

(7) All occupations that involve the hand-lifting or hand-carrying of any beef, pork, or horse carcass, half carcass of the same, or any beef or horse quarter carcass.

(b) *Definitions.* As used in this section:

(1) The term "slaughtering and meat packing establishments" shall mean establishments in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are slaughtered and/or subsequently processed. The term shall include establishments which manufacture or process meat products from such animals, establishments which manufacture sausage casings from such animals, and establishments which sell the meat from such animals at wholesale.

(2) The term "rendering plants" shall mean plants engaged in the rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and the like.

(3) The term "killing floor" shall include that workroom or workplace where cattle, calves, hogs, sheep, lambs, goats or horses are shackled and killed, and the carcasses are dressed prior to chilling.

(4) The term "curing cellar" shall include that workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include that workroom or workplace where meats are smoked.

(5) The term "hide cellar" shall include that workroom or workplace where hides are graded, trimmed, salted and otherwise cured.

(6) The term "all boning occupations" shall mean the removal of bones from meat cuts. It shall not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

(c) *Exceptions:* This section shall not apply to the following:

(1) Any department of a slaughtering and meat packing establishment engaged solely in the killing and/or processing of poultry, rabbits, or small game provided such department is physically separated from the "killing floor" as such term is defined in subparagraph (3) of paragraph (b) of this section;

(2) Establishments where no slaughtering of cattle, calves, hogs, sheep, lambs, goats or horses is done and the only meat processing carried on is incidental to the processing or manufacture of products other than meat; or

(3) Any retail or service establishment qualifying as such under section 13 (a) (2) of the act, or any department thereof, in which no slaughtering of cattle, calves, hogs, sheep, lambs, goats or horses is done.

(d) This section shall not justify non-compliance with a Federal or State law or municipal ordinance establishing a higher standard than the standard established herein.

(e) This section, when issued, will be made effective 30 days after due publication in the FEDERAL REGISTER.

(Sec. 3 (l), 52 Stat. 1060, as amended; 29 U. S. C. 203)

Signed at Washington, D. C., this 18th day of December 1951.

MAURICE J. TOBIN,
Secretary of Labor.

[F. R. Doc. 51-15226; Filed, Dec. 27, 1951; 8:46 a. m.]

[29 CFR Part 4]

CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE IN OCCUPATIONS INVOLVED IN OPERATION OF BAKERY MACHINES

In accordance with the Procedure Governing Determinations of Hazardous-Occupations (29 CFR Part 4, Subpart D), an investigation has been conducted for the purpose of ascertaining what occupations involved in the operation of bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being and thus constitute oppressive child labor as defined in section 3 (l) of the Fair Labor Standards Act, as amended, (52 Stat. 1060, as amended; 29 U. S. C. and Sup. 201 et seq.).

A report of the investigation, entitled "Occupational Hazards to Young Workers, Report No. 11, The Operation of Bakery Machines" has been submitted to the Secretary of Labor. The report concludes that certain occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being. Copies of this report will be made available to interested persons upon request to the Bureau of Labor Standards, United States Department of Labor, Washington 25, D. C.

On the basis of such conclusions the Secretary of Labor pursuant to the authority conferred by section 3 (l) of the Fair Labor Standards Act, as amended, (52 Stat. 1060, as amended; 29 U. S. C. and Supp. 201 et seq.) and Reorganization Plan No. 2, effective July 16, 1946, adopted pursuant to the Reorganization Act of 1945 (59 Stat. 613), proposes to issue a finding and order in the form set forth below.

Accordingly, notice is hereby given of a public hearing to be held February 6, 1952, commencing at 10:00 a. m. in Room 1214, United States Department of Labor Building, Fourteenth Street and Constitution Avenue NW., Washington 25, D. C., before a presiding officer to be hereinafter designated, at which hearing interested parties may appear and be heard with respect to said proposed finding and order. All interested persons desiring to appear at the hearing are requested to notify the Secretary of Labor at least five days prior to the date fixed for the hearing. Any interested person who is unable to appear in person may file a written comment or brief with the Secretary of Labor not later than the day prior to the hearing in order that the same may be made a part of the record at the hearing.

The finding and order which I propose to issue in this matter is as follows:

By virtue of the authority vested in me by section 3 (l) of the Fair Labor Standards Act, as amended (52 Stat. 1060, as amended; 29 U. S. C. and Supp. 201 et seq.) and Reorganization Plan No. 2 of 1946 adopted pursuant to the Reorganization Act of 1945 (59 Stat. 613) and in accordance with the Procedure Governing Determinations of Hazardous Occupations (29 CFR Part 4, Subpart D), an investigation having been conducted with respect to what occupations involved in the operation of bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being and a report of said investigation having been submitted to me:

Now, therefore, I, Maurice J. Tobin, Secretary of Labor, after reviewing all the evidence and information with respect to the occupations involved, including the report of the investigation, do hereby find, declare and order:

§ 4.62 *Occupations involved in the operation of bakery machines*—(a) *Finding and declaration of fact.* The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) The occupation of operating, assisting to operate, or cleaning any horizontal or vertical dough mixers; batter mixers; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cooky or cracker machine.

(b) This section shall not justify noncompliance with a Federal or State law or municipal ordinance establishing a higher standard than the standard established herein.

(c) This section, when issued, will be made effective 30 days after due publication in the FEDERAL REGISTER.

(Sec. 3 (l), 52 Stat. 1060, as amended; 29 U. S. C. 203)

Signed at Washington, D. C., this 29th day of August 1951.

MICHAEL J. GALVIN,
Acting Secretary of Labor.

[F. R. Doc. 51-15225; Filed, Dec. 27, 1951; 8:45 a. m.]

Wage and Hour Division

[29 CFR Part 522]

EMPLOYMENT OF LEARNERS IN GLOVE INDUSTRY

SUBMINIMUM RATES

Pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended, the Administrator has heretofore issued regulations (§§ 522.220 to 522.231) providing for the employment of learners in the Glove Industry at wages lower than the minimum wage applicable under section 6 of the act.

These regulations have been re-examined in the light of recent changes in wage levels, administrative experience in the operation of the regulations, and after consultation with interested parties in the industry. All relevant information available indicates that it is necessary to amend the learner regulations for this industry by increasing the minimum learner wage rates as follows: (1) In the work glove branch increase the minimum learner wage rate from 60 cents per hour to 63 cents per hour for the first 320 hours of the learning period, and from 65 cents to 68 cents per hour for the remaining 160 hours; (2) in all other branches of the industry, increase the minimum learner wage rate from 60 cents per hour to 65 cents per hour for the first 320 hours and from 65 cents to 70 cents per hour for the remaining 160 hours.

Accordingly, notice is hereby given pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001), that under the authority provided in section 14 of the Fair Labor Standards Act of 1938, as amended, the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to amend § 522.224 to read as follows:

§ 522.224 *Subminimum rates.* (a) The subminimum rates which may be authorized in special certificates issued in the work glove branch of the glove industry shall be not less than 63 cents per hour for the first 320 hours of the learning period and not less than 68 cents per hour for the remaining 160 hours. In all other branches of this industry, the subminimum rates which may be authorized in special certificates shall be not less than 65 cents per hour for the first 320 hours of the learning period and not less than 70 cents per hour for the remaining 160 hours.

(b) In establishments where experienced workers are paid on a piece rate basis learners shall be paid the same piece rates that experienced workers engaged in the same occupation are paid and earnings shall be based on those piece rates if in excess of the subminimum rates provided in paragraph (a) of this section.

Prior to final adoption of this proposed amendment, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., within 15 days from publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 20th day of December 1951.

WM. R. MCCOMB,
Administrator, Wage and Hour and Public Contracts Divisions.

[F. R. Doc. 51-15284; Filed, Dec. 27, 1951; 8:47 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Office of the Secretary

ALASKA

NOTICE FOR FILING OBJECTIONS TO ORDER EXCLUDING A TRACT OF PUBLIC LAND FROM THE TONGASS NATIONAL FOREST AND ADDING IT TO THE ADMINISTRATIVE RESERVE FOR THE NATIVES OF ANGOON COMMUNITY MADE BY PUBLIC LAND ORDER 593 OF JULY 8, 1949 [1]

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

OSCAR L. CHAPMAN,
Secretary of the Interior.

DECEMBER 19, 1951.

[F. R. Doc. 51-15305; Filed, Dec. 27, 1951; 8:50 a. m.]

DEPARTMENT OF COMMERCE

Office of International Trade

[Case No. 114]

A. E. RATNER CHEMICAL CO. ET AL.

ORDER REVOKING AND DENYING LICENSE PRIVILEGES

In the matter of: A. E. Ratner, trading as A. E. Ratner Chemical Company, 135 Front Street, New York 5, New York; Continental Pharma, S. A., Boris Schorine, Thirty-five, Avenue Rogier, Brussels 3, Belgium; Continental Pharma, Eugene Hecht, 1477 Sherbrooke Street, West, Montreal 25, Canada; respondents.

Under date of August 31, 1950, administrative proceedings were instituted by the Office of International Trade, Department of Commerce, against respondent A. E. Ratner, trading as A. E. Ratner Chemical Company, New York City (hereinafter referred to as Ratner) on charges of violating section 6 of the act of July 2, 1940 (54 Stat. 714), as amended, and the Export Control Act of 1949 (63 Stat. 7), and the regulations promulgated thereunder, by obtaining two validated export licenses for the shipment of aluminum oxide to Belgium although then knowing and intending that the commodity would be, as it actually was, reexported and transshipped from Beligium to Hungary. Ratner was further charged with attempting to obtain a third validated export license for the shipment of another large amount of aluminum oxide to Belgium on the false representation that he held an order for the commodity from the named consignee although he held no order whatsoever, but the application was subsequently rejected by the Office of International Trade and no exportation was effected.

Ratner requested an oral hearing, which was held in New York City, on February 14, 1951. The Office of International Trade and respondent were represented by counsel, Ratner appeared personally and testified and Ratner's testimony affecting the subject matter of the charges implicated other persons not named in the charging letter as respondents, and it appeared necessary in the interests of the proceedings to extend the inquiry to those persons.

The Compliance Commissioner ruled, accordingly, that the ends of justice would be served by bringing into the proceedings all of the parties to the aforesaid export transactions and the Office of International Trade independently determined that there was cause to believe that charges should also be brought against Continental Pharma S. A. (hereinafter called Pharma-Brussels) and its office manager, Boris Schorine, both of Brussels, Belgium, and Eugene Hecht, trading as Continental Pharma (hereinafter referred to as Pharma-Montreal) of Montreal, Canada. The charging letter was amended and transmitted on May 15, 1951, to both Pharma concerns, Schorine, Hecht and Ratner wherein they were alleged to have violated the export control regulations by either (1) concealing from Ratner their true purpose to transship the aluminum oxide from Belgium to Hungary and inducing him to unknowingly represent on the applications for export licenses that Belgium was the country of ultimate destination, or (2) revealing their true intention to Ratner after the aforesaid applications were filed but before shipments thereunder were effected and inducing Ratner to conceal this information in order to maintain the licenses in effect for the purpose of facilitating the exportations, or (3) revealing to Ratner the intended transshipment to Hungary but agreeing with him that this material information would not appear on the aforesaid applications, and that Ratner would falsely represent the ultimate destination as Belgium in order to induce the issuance of the licenses and to effect the exports from the United States.

Pharma-Brussels and Pharma-Montreal submitted informal answers to the charges on June 2 and June 5, 1951, respectively, and, under date of June 27, 1951, filed a joint formal answer. Annexed to this document was an affidavit by Schorine, dated June 20, 1951, which was received as his answer to the charges, although he did not otherwise appear or have representation in the proceedings.

Further hearings were held in New York City on July 5 and July 6, 1951, and extensive oral and documentary evidence was received. All of the respondents, except Schorine, were represented at these hearings by counsel, and Ratner and Hecht appeared in person. The Office of International Trade was also represented by counsel at the hearings. Briefs were subsequently filed by counsel for Ratner and the Pharma concerns. All of such material included in the record has been carefully considered by the Compliance Commissioner and on the basis thereof he has duly filed his report.

It appears from the record and the Compliance Commissioner's report that at the time of the transactions herein involved, respondent Eugene Hecht was and still is the sole owner of Pharma-Montreal, a Canadian company engaged in import-export trade of fine chemicals and antibiotics in Montreal, and the half owner and a director of respondent Pharma-Brussels, a Belgian corporation engaged in import-export trade of chemicals in Brussels; that both Pharma concerns conducted extensive trade in Europe, including business with countries behind the Iron Curtain; that respondent Schorine was the office manager of Pharma-Brussels and although familiar with and participating in the transactions herein, did so only as an employee of the corporation under direction of the directors and Eugene Hecht; that said respondent Schorine left the employ of said corporation early in 1950 and has since been employed by an independent concern in Brussels; that respondent Ratner at the time of the transactions herein involved was and still is the sole owner of A. E. Ratner Chemical Company of New York City, a company engaged in the export and domestic sales of chemicals.

It further appears from the record and the report of the Compliance Commissioner that during the late fall of 1948 and the early part of 1949, the Pharma concerns received orders for large quantities of aluminum oxide from the Hungarian Heavy Industries Foreign Trade Co. (NIK), an agency of the Hungarian Government, and with knowledge that aluminum oxide was considered a strategic commodity and that the United States authorities would not grant a license to export this material to Hungary, falsely represented to Ratner that the chemical was being purchased by Pharma-Brussels for resale to the abrasives trade in Belgium in order to induce Ratner to make application to the Office of International Trade for validated export licenses to that country. On February 16 and again on March 11, 1949, Ratner prepared and filed with the Office of International Trade applications

[1] See F. R. Doc. 51-15282, Title 43, Chapter I, Appendix, *supra*.

for validated licenses to export 80 and 85 tons of aluminum oxide, respectively, to Pharma-Brussels, as the purchaser and ultimate consignee and Belgium as the country of ultimate destination, representing that the end use was "for resale to the polishing trade." In reliance on these representations, the Office of International Trade issued to Ratner validated export licenses on March 4 and March 23, 1949. Thereafter, but before any shipments of aluminum oxide were made, Hecht and the Pharma concerns revealed to Ratner the identity of the true purchaser, NIK, and of their intention to reexport the chemical from Belgium to Hungary. Ratner filed shipper's export declarations with the Collector of Customs in May and August 1949, showing the exportation of said aluminum oxide to Belgium under the purported authority of the aforesaid validated export licenses and thereafter exported the commodity from the United States to Pharma-Brussels in Belgium, which diverted or transshipped the chemicals to Hungary.

Respondent Hecht, and both Pharma concerns sought to exonerate themselves by contending that Ratner knew from the inception of the transaction that NIK was the purchaser and that the oxide was ultimately destined for Hungary; that reliance was placed upon Ratner to obtain Hungarian export licenses and that they were unaware that he had misrepresented Belgium as the country of ultimate destination. Ratner denied that he was informed of the identity of the true purchaser or the intended country of ultimate destination explaining that he had been specifically informed by Hecht, on at least two occasions, before and after the aforesaid applications were filed, that Pharma-Brussels was the purchaser and Belgium was the country of final consumption.

The Compliance Commissioner found that neither explanation was acceptable and that the Pharma concerns had contrived to hide from Ratner their knowledge of the difficulty of obtaining an export license for shipment of oxide to Hungary and to keep from him the identity of the real purchaser in Hungary for the express purpose of causing him to falsely represent Belgium as the country of ultimate destination. However, the Compliance Commissioner found that Ratner was fully apprised by Hecht and the Pharma concerns of the true nature of the transaction after the licenses were received, but prior to any shipment, and that he had agreed not only to effectuate the exportations under the purported authority of the aforesaid export licenses, but also to participate with the Pharma concerns in a division of the profits from the sale of aluminum oxide to NIK.

It further appears from the record and the report of the Compliance Commissioner that Ratner filed another application for a validated export license, in August 1949, to ship 100 tons of aluminum oxide to Pharma-Brussels in Belgium, as the purchaser and country of ultimate destination, falsely representing that he held an order for the chemical from Pharma-Brussels when in fact he held no order whatsoever. The Office of International Trade thereafter rejected said application because the same was not supported by evidence of an order as required by the export control regulations and exportation was thus not effected.

Ratner's explanation that the Pharma concerns anticipated additional oxide orders and that Hecht had asked him to apply for the export license to save time was found unacceptable by the Compliance Commissioner. The Compliance Commissioner found that Ratner acted in this matter on the mere assumption that an order for the aluminum oxide would be forthcoming. He concluded that in making the false representations on the aforesaid application in order to induce the Office of International Trade to issue an export license, Ratner knew that the Pharma concerns had received no order but merely anticipated receiving one and that they had not asked Ratner to apply for the license or knew that he had done so.

It further appears from the record and the report of the Compliance Commissioner that the actions of respondents were in violation of the law and regulations relating to export controls as such actions were willfully contrived to export a strategic material to a destination behind the Iron Curtain for which a validated license could not have been obtained and thereby presented a threat to the national security. It was concluded that respondent Eugene Hecht was primarily responsible for the actions of the Pharma concerns since both were so closely inter-related in the conduct of the transactions as to constitute a single entity because of Hecht's half ownership and directorship of Pharma-Brussels. Ratner's actions were found to be equally culpable as he not only knowingly participated in the unauthorized exportations and shared in the profits of the sale to Hungary, but also tried to obtain another license under false representations knowing that the commodity was intended for ultimate consumption in Hungary. The Compliance Commissioner also found that Ratner had deliberately violated the export control regulations on another occasion by willfully undervaluing a shipment of progesterone to Pharma-Brussels in order to avoid obtaining an export license therefor. The Compliance Commissioner stated that even though the Pharma concerns and Ratner appeared to be substantial and reputable business concerns and had no record of prior violations of United States export control law and regulations (except Ratner's improper shipment of progesterone to Belgium) the seriousness of the violations herein and the willful manner in which the respondents had acted was calculated to undermine and destroy the integrity of the licensing system and constituted a threat to the national security. He concluded, accordingly, that respondents had thereby demonstrated their unfitness for continued trust as recipients of export licenses and the privileges of engaging in export operations.

The Compliance Commissioner further concluded that respondent Schorine participated in these violative actions as an employee required to do the bidding of the directors of Pharma-Brussels and of Hecht and that he did not actively, or otherwise, cause or induce Ratner to make the false representations to the Office of International Trade or to the Collector of Customs. Furthermore, that he severed his association with Pharma-Brussels not long after the exportations were effected and has since been employed in Brussels, Belgium, with an independent concern not connected with exports and that suspension of his export privileges would therefore be futile.

The record and the report and recommendations of the Compliance Commissioner have been carefully considered, and it appears that the findings and recommendations contained therein are supported by substantial evidence, are fair and reasonable, and necessary to protect the public interest, and should be adopted.

Now, therefore, it is ordered as follows:

(1) A finding of violation of the export law and regulations is made against respondent Boris Schorine, but no remedial action shall be taken against him for the reasons above given.

(2) All outstanding validated export licenses held by or issued in the names of all the other respondents named hereinbelow or any of them are revoked and shall forthwith be returned to the Office of International Trade for cancellation.

(3) Respondents Eugene Hecht, individually, and trading as Continental Pharma, Montreal, Canada, A. E. Ratner, individually, and trading as A. E. Ratner Chemical Company, New York City, and Continental Pharma S. A., Brussels, Belgium, its officers and stockholders, their successors or assigns, officers, representatives, agents, and/or employees, are hereby denied for the duration of export controls, the privileges of directly or indirectly exporting or otherwise participating in any exportations of any commodity from the United States to any foreign destination, including Canada. Such denial of export privileges shall be deemed to include and prohibit participation directly or indirectly in any capacity (a) in the obtaining or using of validated export licenses and general licenses, (b) as a party or as a representative of a party to any export license application or to any exportation, and (c) in the financing, forwarding, transporting, or other servicing of exports for any commodities from the United States.

(4) This revocation and denial of export privileges shall apply not only to each of the respondents named in paragraph (3) hereinabove but to any other person, firm, corporation or business organization with which each or any of them may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of export trade from the United States.

(5) No person or business organization shall knowingly (a) apply for or obtain any license, shipper's export declaration, bill of lading or other export control document relating to any exportation from the United States of commodities to or for any of the respondents or those persons and business organizations covered in paragraphs (3)

and (4) hereinabove, or (b) order, receive, service, or otherwise act as a party to, any exportation of commodities from the United States, in such manner that any of the aforestated respondents or those persons and business organizations covered in paragraphs (3) and (4) hereinabove will directly or indirectly obtain any benefit therefrom, without prior disclosure of such facts to, and specific authorization of, the Office of International Trade.

Dated: December 18, 1951.

JOHN C. BORTON,
Assistant Director for Export Supply.

[F. R. Doc. 51-15278; Filed, Dec. 27, 1951; 8:46 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of the Administrator

[Determination 1, Amdt. 19]

DETERMINATION 1, APPROVAL OF EXTENT OF RELAXATION OF CREDIT CONTROLS IN CRITICAL DEFENSE HOUSING AREAS

Section 3, *Areas affected*, of Determination No. 1 approving the extent of the relaxation of real estate construction credit controls in critical defense housing areas published in 16 F. R. 9582, September 20, 1951, is hereby amended by adding the following areas thereto, in view of the amended joint certification taken by the Acting Secretary of Defense and the Director of Defense Mobilization dated December 19, 1951 (see Docket Nos. 10 and 96), and in view of the defense housing programs of credit restrictions approved for said areas by the Housing and Home Finance Agency (CR 2, 16 F. R. 3303, CR 3, 16 F. R. 3835):

Area and Date

71. San Marcos, Tex., December 21, 1951.
72. Wichita Falls, Tex., December 21, 1951.

ROGER L. PUTNAM,
Administrator.

DECEMBER 26, 1951.

[F. R. Doc. 51-15385; Filed, Dec. 27, 1951; 10:44 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1540]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF ORDER MODIFYING ORDER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

DECEMBER 20, 1951.

Notice is hereby given that, on December 19, 1951, the Federal Power Commission issued its order, entered December 18, 1951, modifying order (16 F. R. 2898) issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-15290; Filed, Dec. 27, 1951; 8:48 a. m.]

[Docket No. G-1795]

CITIES SERVICE GAS CO.

NOTICE OF FINDINGS AND ORDER

DECEMBER 20, 1951.

Notice is hereby given that, on December 19, 1951, the Federal Power Commission issued its order, entered December 18, 1951, permitting abandonment and issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-15291; Filed, Dec. 27, 1951; 8:48 a. m.]

[Docket No. G-1812]

PIEDMONT NATURAL GAS CO., INC.

NOTICE OF FINDINGS AND ORDER

DECEMBER 20, 1951.

Notice is hereby given that, on December 18, 1951, the Federal Power Commission issued its order, entered December 18, 1951, issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-15292; Filed, Dec. 27, 1951; 8:48 a. m.]

[Docket No. G-1849]

LOUISVILLE GAS AND ELECTRIC CO.

NOTICE OF APPLICATION

DECEMBER 18, 1951.

Take notice that on December 4, 1951, Louisville Gas and Electric Company (Louisville), a Kentucky corporation with its principal place of business in Louisville, Kentucky, filed an application pursuant to section 7 (b) of the Natural Gas Act for permission and an approval to abandon certain facilities hereinafter described and to terminate service presently rendered by means of such facilities to Indiana Gas & Water Company, Inc. (Indiana).

Louisville states that it presently owns and operates approximately 1.46 miles of 6-inch pipeline running from its Jackson Street gas plant to a point of connection with Indiana's gas line near the north end of George Rogers Clark Memorial Bridge through which it supplies Indiana with natural gas for resale and distribution in and around New Albany, Jeffersonville and Clarksville, Indiana. Louisville states that Ohio River Pipeline Corporation (Ohio) will undertake to serve Indiana with the gas needed for distribution in these communities if the facilities proposed by Ohio in its application, Docket No. G-1772, are authorized by the Commission. Louisville states further that, if the abandonment is not permitted, its customers, including those in the three communities, will suffer gas shortages at periods of peak demand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 12th day of January 1952. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-15287; Filed, Dec. 27, 1951; 8:47 a. m.]

[Docket No. E-6107]

ARIZONA EDISON CO., INC.

NOTICE OF ORDER EXTENDING TIME FOR USE AND MAINTENANCE OF INTERCONNECTION FOR EMERGENCY PURPOSES

DECEMBER 20, 1951.

Notice is hereby given that, on December 19, 1951, the Federal Power Commission issued its order, entered December 18, 1951, in the above-entitled matter, extending time for use and maintenance of interconnection for emergency purposes to December 31, 1952.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-15288; Filed, Dec. 27, 1951; 8:47 a. m.]

[Docket No. E-6387]

MISSOURI PUBLIC SERVICE CO.

NOTICE OF ORDER AUTHORIZING MERGER OF FACILITIES AND APPROVING AND DIRECTING ACCOUNTING INCIDENT THERETO

DECEMBER 20, 1951.

Notice is hereby given that, on December 18, 1951, the Federal Power Commission issued its order, entered December 18, 1951, authorizing merger or consolidation of facilities and approving and directing accounting incident thereto in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-15289; Filed, Dec. 27, 1951; 8:48 a. m.]

[Docket No. E-6398]

UNION ELECTRIC POWER CO. AND UNION ELECTRIC CO. OF MISSOURI

ORDER SUSPENDING SUPPLEMENTAL RATE SCHEDULES

DECEMBER 18, 1951.

Union Electric Power Company, a wholly owned subsidiary of Union Electric Company of Missouri (Missouri), on November 19, 1951, submitted for filing with the Commission a proposed supplemental rate schedule dated November 16, 1951, (Supplement No. 1 to Rate Schedule FPC No. 17). With this proposed supplemental rate schedule Union Electric Power Company filed a Certifi-

cate of Concurrence for Missouri (Supplement No. 1 to Rate Schedule FPC No. 11). The supplementary rate schedule would increase charges to Missouri by about $1,650,000, or 8.6 percent per year, principally through an increase in the monthly unit demand charge from $1.15 to $1.39 per kw of billing demand.

Union Electric Power Company requested that statutory notice requirements be waived to establish October 1, 1950, as the effective date for the changes in the rate schedule.

The data submitted in support of the increased rates and charges do not appear to support the total amount of the proposed increase in rates and charges in many respects, including the following:

(a) Certain items of transmission plant investment of Union Electric Power Company appear to be overstated and the reserve for depreciation applicable thereto appears to be understated;

(b) The method used for determination of capacity responsibility in the submitted cost of service data appears to result in the assignment of an excessive amount of capacity to Missouri;

(c) The claimed working capital requirements of Union Electric Power Company appear excessive;

(d) The claimed income tax requirements of Union Electric Power Company for cost of service allocation purposes appear to have been determined improperly;

(e) The submitted cost of service data appear to include abnormal operating expenses.

Thus, unless suspended by order of the Commission, rates and charges will become effective on December 20, 1951, which may result in excessive rates or charges; may place an undue burden upon ultimate consumers; may be unduly discriminatory or preferential; and may result in increased rates and charges which have not been shown to be justified.

The Commission finds:

(1) Good cause has not been shown for waiver of the 30-day notice requirement of section 205 (d) of the Federal Power Act.

(2) The proposed increase in rates or charges may be unjust, unreasonable, unduly discriminatory or preferential.

(3) It is necessary, desirable, and in the public interest that the Commission enter upon a hearing concerning the lawfulness of the rates or charges in the proposed supplemental rate schedules and that said proposed supplemental rate schedules be suspended pending such hearing and decision thereon.

The Commission orders:

(A) A public hearing be held at a time and place hereafter to be fixed by further order of the Commission, concerning the lawfulness of the rates or charges provided for in the proposed supplemental rate schedules referred to above.

(B) Pending such hearing and decision thereon, the proposed supplemental rate schedules are suspended and the use of such rates or charges provided therein is deferred until May 20, 1952, and thereafter such proposed supplemental rate schedules may go into effect in the manner prescribed by the Commission in accordance with the Federal Power Act.

(C) During the period of suspension, the rates and charges heretofore in effect under Union Electric Power Company's Rate Schedule FPC No. 17 and Missouri's Rate Schedule FPC No. 11 on file with the Commission shall remain in force and continue in effect.

(D) At the hearing, the burden of proof to show that the proposed rates or charges are just and reasonable and not unduly discriminatory or preferential shall be upon the filing companies.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) and reissuance of the Commission's rules, effective January 1, 1948.

(F) This order is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in any proceeding now pending, or hereafter instituted, by or against Union Electric Power Company or Union Electric Company of Missouri.

Date of issuance: December 20, 1951.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-15311; Filed, Dec. 27, 1951; 8:51 a. m.]

OFFICE OF DEFENSE MOBILIZATION

[RC-25; Nos. 2, 48, 60]

LONE STAR, TEXAS, AREA; PADUCAH, KENTUCKY, AREA; VALDOSTA, GEORGIA, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING ARE.

DECEMBER 27, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (l) of the Housing and Rent Act of 1947, as amended, exist in the area designated as:

Docket No. 48—Lone Star, Texas, Area. (The area consists of all of Camp and Morris Counties; precincts 1, 2, and 8, including Hughes Springs, Linden, and Avinger, in Cass County; precincts 1, 2, 3, and 6, including Jefferson City in Marion County; precincts 1, 4, 5, 6, and 7, including Mount Pleasant, in Titus County; all in Texas.) This supersedes certification under Docket No. 48, dated October 30, 1951.

Docket No. 2—Paducah, Kentucky, Area. (The area consists of all of McCracken and Ballard Counties, and Magisterial Districts 5, 6, 7, and 8; including the city of Mayfield, in Graves County, Kentucky; Massac County, Illinois, and the township of Vienna, including Vienna City, in Johnson County, Illinois.) This supersedes certification under Docket No. 2, dated October 11, 1951.

Docket No. 60—Valdosta, Georgia, Area. (The area consists of all of Lowndes and Lanier Counties, Georgia.) This supersedes certification under Docket No. 60, dated September 21, 1951.

Therefore, pursuant to section 204 (l) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLIAM C. FOSTER,
Acting Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51-15396; Filed, Dec. 27, 1951; 11:08 a. m.]

[RC-25; Nos. 43, 128]

KINSTON, NORTH CAROLINA, AREA; DOVER-DENVILLE, NEW JERSEY, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 27, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (l) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

Docket No. 43—Kinston, North Carolina, Area. (The area consists of Lenoir County, North Carolina.)

Docket No. 128—Dover-Denville, New Jersey, Area. (The area consists of Morris County, New Jersey.)

Therefore, pursuant to section 204 (l) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLIAM C. FOSTER,
Acting Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51-15395; Filed, Dec. 27, 1951; 11:08 a. m.]

[RC-25; No. 50]

SANFORD, FLORIDA AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 27, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (l) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

The Sanford, Florida, Area. Consisting of Seminole County, Florida.

Therefore, pursuant to section 204 (l) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the afore-

mentioned area is a critical defense housing area.

WILLIAM C. FOSTER,
Acting Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51-15390; Filed, Dec. 27, 1951; 11:07 a. m.]

[RC-25; No. 88]

KINGSVILLE, TEXAS, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 27, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

Kingsville, Texas, Area. (The area consists of Precincts 1, 2 and 3, including Kingsville City, in Kleberg County; Precincts 1, 4, 6 and 7, including Alice City and Fremont town, in Jim Wells County; and Precincts 3, 4, 5 and 8, including Bishop town and Robstown City, in Nueces County; all in Texas.)

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

This supersedes certification under Docket No. 88, dated November 12, 1951.

WILLIAM C. FOSTER,
Acting Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51-15391; Filed, Dec. 27, 1951; 11:08 a. m.]

[RC-25; No. 280]

SALINA, KANSAS, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 27, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

The Salina, Kansas, Area. This area consists of Saline County, Kansas.

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLLIAM C. FOSTER,
Acting Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51-15392; Filed, Dec. 27, 1951; 11:08 a. m.]

[RC-25; No. 334]

FORT HUACHUCA, ARIZONA, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 27, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

The Fort Huachuca, Arizona, Area. (This area consists of District One, including the cities of Bisbee and Tombstone, in Cochise County, Arizona.)

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLIAM C. FOSTER,
Acting Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51-15393; Filed, Dec. 27, 1951; 11:08 a. m.]

[RC-25; No. 354]

KODIAK, ALASKA, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 27, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

Kodiak, Alaska, Area. (The area consists of Kodiak Island, Alaska.)

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLIAM C. FOSTER,
Acting Secretary of Defense.
C. E. WILSON,
Director of Defense Mobilization.

[F. R. Doc. 51-15394; Filed, Dec. 27, 1951; 11:08 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1354]

CHICAGO CORPORATION

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of December A. D. 1951.

The Boston Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, $1 Par Value, of The Chicago Corporation, a security listed and registered on the Midwest Stock Exchange and on the New York Stock Exchange. Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to January 4, 1952, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 51-15297; Filed, Dec. 27, 1951; 8:49 a. m.]

[File No. 54-174, 70-1741]

SIOUX CITY GAS AND ELECTRIC CO. ET AL.

ORDER REGARDING REORGANIZATION FEES AND EXPENSES

DECEMBER 20, 1951.

In the matter of Sioux City Gas and Electric Company, Iowa Public Service Company, Nebraska Public Service Company, Penn-Western Service Corporation, File No. 54-174; Sioux City Gas and Electric Company, South Dakota Public Service Company, Yankton Gas Company, File No. 70-1741.

The Commission having, on September 8, 1949, approved an amended plan, which has been consummated, filed pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 ("Act") by Sioux City Gas and Electric Company ("Iowa Company"), the name of which has since been changed to Iowa Public Service Company, then a regis-

tered holding company and a public utility company, and by three of its subsidiaries, including its principal subsidiary, Iowa Public Service Company ("Delaware company"), then also a registered holding company and a public utility company, designed to effectuate compliance with the standards of section 11 of the act; and

The amended plan having provided, in effect, that the Iowa company will pay such fees and expenses in connection with the plan as this Commission may determine, award, allow or allocate upon the application of any interested person, and the Commission, in its order of September 8, 1949, having reserved jurisdiction over the payment of fees and expenses in connection with the amended plan; and

Numerous persons having filed applications for approval of payment to them of fees and expenses out of the corporate estate of the Iowa company; and

A public hearing having been held, and the Commission having considered the record and having this day made and filed its Findings and Opinion herein:

It is hereby ordered, That the applications of the following named persons be, and the same hereby are, approved in the amounts indicated and not otherwise:

	Fees	Expenses	Total
Winthrop, Stimson, Putnam & Roberts, counsel for companies	$60,000.00	$1,645.62	$61,645.62
Sifford & Wadden, local counsel for companies	7,500.00	994.78	8,494.78
Reis & Chandler, Inc., expert witness for companies	20,000.00	266.93	20,266.93
Manufacturers Trust Co., exchange and scrip agent with respect to common stock	6,500.00	2,035.15	8,535.15
The Commercial National Bank & Trust Co. of New York:			
For services as exchange agent with respect to bonds	1,828.75	1,096.52	2,925.27
For services as trustee of Iowa company bonds	450.00		450.00
Chadbourne, Wallace, Parke & Whiteside, counsel for The Commercial National Bank & Trust Co. of New York	1,600.00	35.84	1,635.84
Bankers Trust Co., exchange agent with respect to preferred stock of Delaware	1,000.00	230.77	1,230.77
Chemical Bank & Trust Co., trustee of bonds of Delaware company, for authentication of new bonds	3,872.00	46.78	3,918.78
Cravath, Swaine & Moore, counsel for trustee of bonds of Delaware company	1,900.00	76.17	1,976.17
Arthur Andersen & Co., accountants for companies	9,995.66	816.59	10,812.25
General expenses		37,548.27	37,548.27

It is further ordered, That, in addition to the amounts approved for the following banks and trust companies in the next preceding paragraph, payments to them, on the same basis as for previous services and expenses be, and the same hereby are, approved:

Manufacturers Trust Company, for expenses incurred after October 30, 1950:

The Commercial National Bank and Trust Company of New York, for services and expenses after October 30, 1950;

Bankers Trust Company, for expenses incurred after March 31, 1950.

It is further ordered, That the applications of the following named persons be, and the same hereby are, denied in toto:

Debevois, Plimpton & McLean, counsel for a holder of the Delaware company preferred stock;

Francis S. Gaines, counsel for individual common stockholders of the Delaware company;

Duff and Phelps, financial adviser to Francis S. Gaines.

It is further ordered, That the jurisdiction heretofore reserved in our order, dated September 8, 1949, with respect to the reasonableness and appropriate allocation of all fees and expenses and other remuneration incurred or to be incurred in connection with the amended plan and the transactions incident thereto be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 51-15293; Filed, Dec. 27, 1951; 8:48 a. m.]

[File No. 54-199]

STANDARD GAS AND ELECTRIC CO., AND PHILADELPHIA CO.

NOTICE OF FILING OF PLAN FOR PARTIAL LIQUIDATION OF PHILADELPHIA CO. BY DISTRIBUTION OF PORTION OF DUQUESNE LIGHT CO. COMMON STOCK, AND NOTICE OF AND ORDER FOR HEARING

DECEMBER 20, 1951.

Standard Gas and Electric Company ("Standard"), a registered holding company, having filed a plan, dated February 8, 1951 (File No. 54-191), for its liquidation and dissolution under section 11 (e) of the Public Utility Holding Company Act of 1935 ("act"); and hearings having been held on Step I of such plan which proposes the retirement of the $7 and $6 Prior Preference Stocks of Standard through the allocation of portofolio common stocks held by Standard; and one of the said stocks proposed to be so allocated being the common stock of Duquesne Light Company ("Duquesne"), all of which stock is held by Philadelphia Company ("Philadelphia"), a subholding company in the Standard system; and Step I of the said plan having contemplated the distribution by Philadelphia to its stockholders of shares of Duquesne common stock for the purpose of providing Standard with the shares of Duquesne common stock to be allocated under Step I;

Notice is hereby given that Standard and Philadelphia have filed an application for approval of a plan under section 11 (e) of the act proposing the partial liquidation of Philadelphia. All interested persons are referred to said plan which is on file in the offices of the Commission for a full statement of the transactions therein proposed, which are summarized as follows:

Of the 5,190,852$^{11}/_{12}$ outstanding shares of common stock of Philadelphia, Standard owns 5,024,790 shares or 96.8 percent, Standard's parent, Standard Power and Light Corporation, owns 9,750 shares or 0.19 percent and the remainder, 156,-312$^{11}/_{12}$ shares or 3.01 percent is held by the public. Philadelphia owns the 5,-750,000 outstanding shares of common stock of Duquesne. Philadelphia, in partial liquidation, proposes to distribute an aggregate of 1,038,171 shares of the common stock of Duquesne. Such distribution will be made in the ratio of one share of common stock of Duquesne for each five shares of common stock of Philadelphia held.

In lieu of fractional shares of common stock of Duquesne, scrip will be issued, by the Distribution and Scrip Agent to be appointed under the plan, which when combined into lots representing one or more full shares, will be exchangeable for the full shares represented thereby. Arrangements will be made with the Distribution and Scrip Agent whereby, without payment of commission, holders of scrip may either sell the same or purchase additional scrip sufficient to equal a full share or shares.

Upon the expiration of five years from the effective date of the plan, holders of certificates for common stock of Philadelphia who have not filed with the Distribution and Scrip Agent an acknowledgement of receipt of notice, more particularly described in the plan, will cease to have any rights to receive common stock of Duquesne and all unexchanged scrip will become void. At such time the Distribution and Scrip Agent will turn over to Duquesne all unclaimed shares of Duquesne common stock and dividends upon such shares.

It is proposed that Standard will pay the fees and expenses of the Distribution and Scrip Agent, including fees of such agent's counsel, and that Philadelphia will pay transfer taxes in connection with the distribution of the Duquesne common stock.

Applicants have represented that if the proposed distribution in partial liquidation of Philadelphia is approved or consummated such distribution will not be urged or relied upon in the pending proceeding (File No. 54-173) or in any future proceeding for the simplification of the corporate structure of Philadelphia under section 11 of the act as having any effect on the participation to be accorded the holders of the Preferred Five Per Cent Stock, of the Six Per Cent Cumulative Preferred Stock and of the $5 Cumulative Preference Stock of Philadelphia, of the 6 percent Cumulative Preferred Stock of The Consolidated Gas Company of the City of Pittsburgh, dividends on which have been guaranteed by Philadelphia at the rate of 4 percent per annum, and of any other securities of Philadelphia ranking senior to or having a preference over its common stock.

The Commission being required by the provisions of section 11 (e) of the act before approving any plan thereunder to find, after notice and opportunity for hearing, that the plan as submitted or as modified is necessary to effectuate the provision of subsection (b) of section 11 and is fair and equitable to the persons affected thereby; and it appearing appropriate to the Commission that notice be given and a hearing be held on the said plan to afford all interested persons an opportunity to be heard with respect thereto:

It is ordered, That a hearing in these proceedings, pursuant to the applicable provisions of the act and the rules and regulations thereunder, be held, before William W. Swift, Hearing Examiner, on January 22, 1952, at 10:10 a. m., at the offices of this Commission, 425 Second Street NW., Washington 25, D. C. On that date the hearing room clerk in Room 193 will advise as to the room in which the hearing will be held. Any person not having heretofore appeared in the proceedings at File Nos. 54–173, and 54–191 and desiring to be heard in connection with the said plan or proposing to intervene herein shall file with the Secretary of the Commission on or before January 17, 1952, his written request or application therefor as provided by Rule XVII of the rules of practice of the Commission.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of the said plan and that, on the basis thereof, the following matters and questions are presented for consideration by the Commission without prejudice to the presentation of additional matters and questions upon further examination:

1. Whether the plan, as submitted or as modified, is necessary to effectuate the provisions of section 11 (b) of the act;

2. Whether the plan, as submitted or as modified, is fair and equitable to the persons affected thereby;

3. Generally, whether the transactions proposed in the plan are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the act and of the rules and regulations thereunder, with particular reference to the proposal to create a minority interest in the common stock of Duquesne in advance of the retirement of the Prior Preference Stocks of Standard; and whether any terms and conditions should be prescribed;

4. Whether approval of the plan should be conditioned on its being amended to provide for Commission supervision over all fees and expenses incurred in connection therewith;

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve a copy of this Notice and Order by registered mail on Standard; Philadelphia; Duquesne; Standard Power and Light Corporation; Mellon National Bank and Trust Company of Pittsburgh, Pa.; The Chase National Bank of the City of New York, N. Y.; Continental Illinois National Bank and Trust Company of Chicago, Illinois; Harris Trust and Savings Bank, Chicago, Illinois; W. Howard Dilks, Jr., Esq.; William L. Fox, Esq.; Harold C. Ackert, Esq.; H. F. Stambaugh, Esq.; A. Albert Minton, Esq.; Henry C. Herchenroether; the Pennsylvania Public Utility Commission and the City of Pittsburgh, Pa.; and that notice of said hearing shall be given to all other persons by general release of this Commission which shall be distributed to the press and mailed to persons on the mailing list for releases under the act, and that further notice shall be given to all persons by publication of this Notice and Order in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51–15301; Filed, Dec. 27, 1951; 8:50 a. m.]

[File No. 70–2726]

CENTRAL POWER AND LIGHT CO.

ORDER AUTHORIZING ACQUISITION OF UTILITY ASSETS BY PUBLIC UTILITY COMPANY

DECEMBER 20, 1951.

Central Power and Light Company ("Central"), a public utility subsidiary of Central and South West Corporation, a registered holding company, having filed an application pursuant to section 10 of the Public Utility Holding Company Act of 1935 ("Act") with respect to the following proposed transaction:

Central proposes to purchase from W. C. Jackson, Jr., a nonaffiliate, for the sum of $215,000 in cash, the electric utility properties and assets and the ice properties and assets, located in and in the vicinity of the Town of Port Aransas, Nueces County, Texas. Such properties are presently owned and operated by Mustang Island Utilities Company, all of whose outstanding stock is owned by W. C. Jackson, Jr. Applicant states that promptly upon consummation of the purchase, the electric properties proposed to be acquired will be interconnected with the electric transmission system of Central and operated as a part of its integrated electric system. Applicant further states that the electric generating and ice plants are located in the same building and that such properties are operated jointly. Applicant proposes, however, to close the ice plant in Port Aransas and to lease the ice storage facilities for independent operation.

It is represented that no State Commission or any other Federal Commission has jurisdiction over the proposed transaction. The applicant requests that the Commission's Order herein become effective upon issuance.

Due notice having been given of the filing of the application, and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and the interest of investors and consumers that said application, as amended, be granted forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application, as amended, be, and it hereby is, granted forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51–15300; Filed, Dec. 27, 1951; 8:50 a. m.]

[File No. 70–2727]

CITIES SERVICE CO.

ORDER AUTHORIZING SALE OF COMMON STOCK OF A PUBLIC UTILITY COMPANY BY A REGISTERED HOLDING COMPANY TO NON-AFFILIATES

DECEMBER 20, 1951.

Cities Service Company, a registered holding company, having filed a declaration, and amendments thereto, pursuant to section 12 (d) of the act and Rule U-44 promulgated thereunder, with respect to the following proposed transaction:

Cities Service Company proposes to sell all of the outstanding capital stock, consisting of 10,000 shares of no par common stock, of Spokane Gas & Fuel Company, a gas utility company operating in Spokane, Washington, to Ray C. Fish, acting on behalf of himself and certain other persons, none of whom are affiliated with Cities Service Company, for $300,000 in cash, pursuant to the terms of an agreement dated October 8, 1951.

Cities Service Company states that the proposed sale of such common stock will be in compliance with the requirements of the Order of the Commission dated May 5, 1944, issued under section 11 (b) (1) of the act, as modified by Supplemental Order dated October 12, 1944, directing Cities Service Company, among other things, to dispose of its interest in Spokane Gas & Fuel Company and therefore requests that the Order of the Commission permitting the declaration to become effective contain the recitals, specifications and itemizations required by section 1808 (f) of the Internal Revenue Code, as amended. The declarant requests that the Commission's Order herein become effective upon issuance.

Due notice having been given of the filing of the declaration, and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and the interest of investors and consumers that said declaration, as amended, be permitted to become effective forthwith:

It is ordered, pursuant to Rule U-23 and the applicable provisions of the act, that said declaration, as amended, be, and it hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

It is further ordered and recited and the Commission finds, That the aforesaid sale and transfer by Cities Service Company of said 10,000 shares of no par value common stock of Spokane Gas & Fuel Company as hereinabove in this order authorized, approved and directed, is necessary and appropriate to the integration and simplification of the holding company system of which Cities Service Company and Spokane Gas & Fuel Company are members, and is necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, within the meaning of sections 373 (a) and 1808 (f) of the Internal Revenue Code, as amended.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15299; Filed, Dec. 27, 1951; 8:50 a. m.]

[File No. 70-2732]

GENERAL PUBLIC UTILITIES CORP.

AMENDMENT OF NOTICE REQUESTING AUTHORIZATION TO AMEND CERTIFICATE OF INCORPORATION WITH RESPECT TO PREEMPTIVE RIGHTS

DECEMBER 20, 1951.

The notice issued herein on December 14, 1951, is amended in two particulars, as follows:

1. The Corporation states that it will take a separate vote on each of the two numbered amendments as set out in the original notice, and that the proxies to be solicited will provide that the holders will refrain from voting on either proposed amendment if the holders of more than 12,500 shares object to such amendment and demand payment for their shares. Since the Corporation may acquire up to 12,500 shares of stockholders objecting to either amendment, the maximum number of shares which the Corporation proposes to acquire in connection with the adoption of the two amendments is 25,000 shares.

2. The time within which any interested person may request that a hearing be held on the matter is extended to January 3, 1952 at 5:30 p. m.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15298; Filed, Dec. 27, 1951; 8:49 a. m.]

[File No. 70-2753]

CENTRAL VERMONT PUBLIC SERVICE CORP.

ORDER AUTHORIZING ISSUANCE AND SALE OF NOTES

DECEMBER 20, 1951.

Central Vermont Public Service Corporation ("Central Vermont"), a public utility subsidiary of New England Public Service Company, a registered holding company, having filed an application with this Commission, pursuant to the first sentence of section 6 (b) of the Public Utility Holding Company Act of 1935 ("act"), with respect to the following transactions:

The Commission, by Orders dated July 19, 1951, and August 1, 1951, authorized Central Vermont to issue or renew, until December 31, 1951, short-term notes up to the maximum amount of $1,600,000 at any one time outstanding. Central Vermont now proposes to issue or renew from time to time after December 31, 1951, and until April 30, 1952, or until the company shall have completed permanent financing, whichever shall first occur, notes having a maturity date of nine months or less up to the maximum amount of $2,100,000 (including notes outstanding as of November 30, 1951, in the amount of $1,050,000). The company anticipates that it will be able to borrow the required funds at an interest rate of not exceeding 3 percent per annum. In case the interest rate should exceed 3 percent on any note, the company will file an amendment to its application stating the rate of interest and other details of the note at least five days prior to the execution and delivery thereof and asks that such amendment become effective without further order of the Commission at the end of the five day period unless the Commission shall have notified the company to the contrary within said period.

The proceeds from the sale of the notes will be used for construction purposes. It is represented that no State commission or any other Federal commission has jurisdiction over the proposed transactions. The expenses in connection with the proposed transactions are estimated at not more than $500. The applicant requests that the Commission's order herein become effective upon its issuance.

Due notice having been given of the filing of the application, and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted and that the order become effective upon the issuance thereof:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application be, and it hereby is, granted, effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15294; Filed, Dec. 27, 1951; 8:49 a. m.]

[File No. 70-2755]

FALL RIVER ELECTRIC LIGHT CO.

ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

DECEMBER 20, 1951.

Fall River Electric Light Company ("Fall River"), a utility subsidiary of Eastern Utilities Associates ("EUA"), a registered holding company, having filed a declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following transactions:

Fall River expects to have outstanding on December 31, 1951, $650,000 face amount of unsecured short-term promissory notes maturing on said date and evidencing borrowings from The First National Bank of Boston ("First National"). Fall River proposes to issue to the First National, under a new loan agreement, unsecured promissory notes up to an aggregate maximum face amount of $1,000,000. Each of said notes will mature not later than one year less one day after the date of issue of the initial note, but in no event later than December 30, 1952, and will bear interest at the prime interest rate existing on its issue date. The declaration states that said prime interest rate at the time of the filing thereof was 2¾ percent. The company will not consummate any loan at an interest rate in excess of 3 percent except after an amendment to the declaration setting forth such interest rate shall have become effective. If such amendment is filed after the declaration has become effective, the company will request therein that the amendment be permitted to become effective five days after filing without further order of the Commission unless the Commission shall have notified the Company to the contrary. Pursuant to the new loan agreement, First National is not obligated to lend in excess of $400,000 unless one or more other banks shall then participate or shall have participated at least to the extent of such excess. First National has informed Fall River that it has received a firm participation from The Chase National Bank of the City of New York to the extent of $600,000. The proposed notes will be prepayable any time without premium.

The proceeds from the proposed notes will be used by Fall River to pay off its outstanding promissory notes, to purchase additional shares of common stock of its subsidiary, Montaup Electric Company, and to provide funds for the 1952 construction program of Fall River.

The declaration indicates that the proposed notes will be retired by the financing proposed in the Amended Reorganization Plan No. 2 of Eastern Utilities Associates and its subsidiary companies, which plan, dated July 30, 1951, has been filed with this Commission in File No. 54-188.

The declaration states that the total expenses in connection with the proposed issuance of said notes, including counsel fees of not more than $700, are estimated to aggregate not more than $800. The declaration further states that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed issuance of said notes.

Fall River requests that the Commission's order herein become effective forthwith upon issuance.

Due notice having been given of the filing of the declaration, and a hearing not having been requested nor ordered by the Commission; and the Commission finding that the applicable provisions of

the act and the rules promulgated thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act that said declaration be, and hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15295; Filed, Dec. 27, 1951; 8:49 a. m.]

[File No. 70-2757]

BROCKTON EDISON CO.

ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

DECEMBER 20, 1951.

Brockton Edison Company ("Brockton"), a utility subsidiary of Eastern Utilities Associates ("EUA"), a registered holding company, having filed a declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following transactions:

Brockton expects to have outstanding on December 31, 1951, $1,000,000 face amount of unsecured short-term promissory notes maturing on said date and evidencing borrowings from The First National Bank of Boston ("First National"). Brockton proposes to issue to First National, under a new loan agreement, unsecured promissory notes up to an aggregate maximum face amount of $1,500,000. Each of said notes will mature not later than one year less one day after the date of issue of the initial note, but in no event later than December 30, 1952, and will bear interest at the prime interest rate existing on its issue date. The declaration states that said prime interest rate at the time of the filing thereof was 2¾ percent. The company will not consummate any loan at an interest rate in excess of 3 percent except after an amendment to the declaration setting forth such interest rate shall have become effective. If such amendment is filed after the declaration has become effective, the company will request therein that the amendment be permitted to become effective five days after filing without further order of the Commission unless the Commission shall have notified the Company to the contrary. Pursuant to the new loan agreement, First National is not obligated to lend in excess of $600,000 unless one or more other banks shall then participate or shall have participated at least to the extent of such excess. First National has informed Brockton that it has received a firm participation from The Chase National Bank of the City of New York to the extent of $900,000. The proposed notes will be prepayable any time without premium.

The proceeds from the proposed notes will be used by Brockton to pay off its outstanding promissory notes, to purchase additional shares of common stock of its subsidiary, Montaup Electric Company, and to provide funds for the 1952 construction program of Brockton.

The declaration indicates that the proposed notes will be retired by the financing proposed in the Amended Reorganization Plan No. 2 of Eastern Utilities Associates and its subsidiary companies, which plan, dated July 30, 1951, has been filed with this Commission in File No. 54-188.

The declaration states that the total expenses in connection with the proposed issuance of said notes, including counsel fees of not more than $700, are estimated to aggregate not more than $800. The declaration further states that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed issuance of said notes.

Brockton requests that the Commission's order herein become effective forthwith upon issuance.

Due notice having been given of the filing of the declaration, and a hearing not having been requested nor ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act that said declaration be, and hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15296; Filed, Dec. 27, 1951; 8:49 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear, Rainwear and Other Odd Outerwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended September 25, 1950; 15 F. R. 5701; 6326).

Angelica Uniform Co., Brunswick, Mo., effective 12-12-51 to 12-11-52; five learners (men's and women's washable service apparel).

Angelica Uniform Co., Marquand, Mo., effective 12-12-51 to 6-11-52; 20 learners (women's washable service apparel).

Armored Garments, Inc., Spruce Pine, N. C., effective 12-10-51 to 12-9-52; five learners (men's and boys' denim dungarees).

Ashland Crafts, Inc., Eighteenth Street and Carter Avenue, Ashland, Ky., effective 12-13-51 to 6-12-52; 10 learners (children's dresses).

Ashland Crafts, Inc., Eighteenth Street and Carter Avenue, Ashland, Ky., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (children's dresses).

Clark Manufacturing Co., Inc., Meridian, Miss., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (pants, overalls, etc.).

Cluett, Peabody & Co., Inc., Buchanan, Ga., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (white shirts).

Cluett, Peabody & Co., Inc., Corinth, N. Y., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (fancy shirts).

Cluett, Peabody & Co., Inc., Fleetwood, Pa., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (sport shirts).

Cluett, Peabody & Co., Inc., Lewistown, Pa., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (sport shirts).

Columbo Garment Co., 155 S. Dickason Blvd., Columbus, Wis., effective 12-14-51 to 12-13-52; five learners (slacks).

Elk Brand Shirt & Overall Co., Hopkinsville, Ky., effective 12-10-51 to 12-9-52; 10 percent of the productive factory force (overalls, work shirts, pants).

J. Freezer & Sons, Inc., Floyd, Va., effective 12-14-51 to 12-13-52; 10 percent of the productive factory force (men's sport shirts).

Jayson-York, Inc., East Street and Pennsylvania Avenue, York, Pa., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (men's shirts).

Lingerie, Inc., Lenoir Rd., Morgantown, N. C., effective 12-14-51 to 12-13-52; 10 percent of the productive factory force (lingerie, panties, slips, pettiskirts, gowns, bedjackets, pajamas).

Little River Garment Co., Cadiz, Ky., effective 12-10-51 to 12-9-52; 10 percent of the productive factory force (dungarees and overalls).

Mammoth Cave Garment Co., Cave City, Ky., effective 12-11-51 to 12-10-52; 10 learners (dungarees).

Manhattan Shirt Co., Salisbury, Md., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (shirts).

Matawan Undergarment Co., Inc., 5 Johnson Avenue, Matawan, N. J., effective 12-15-51 to 12-14-52; 10 percent of the productive factory force (children's underwear).

Mayflower Manufacturing Co., 460-506 North Main Street, Scranton, Pa., effective 12-12-51 to 12-11-52; 10 percent of the productive factory force (trousers).

Meyersdale Manufacturing Co., Inc., Meyersdale, Pa., effective 12-14-51 to 12-13-52; 10 percent of the productive factory force (men's dress shirts).

Milam Manufacturing Co., Tupelo, Miss., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (children's outerwear).

Model Blouse Co., 119 Mulberry Street, Millville, N. J., effective 12-10-51 to 12-9-52;

10 percent of the productive factory force (boys' sport shirts).

Reliance Manufacturing Co., "Capitol" Factory, Mitchell, Ind., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (pants, overalls, coveralls, etc.).

Sacony of St. Matthews, Inc., 215 West Bridge Street, St. Matthews, S. C., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force; this certificate does not authorize the employment of learners at subminimum wage rates engaged in the production of ladies' and children's skirts (ladies' apparel, children's clothing).

Salant & Salant, Inc., Henderson, Tenn., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (pants, overalls, work shirts, etc.).

Stahl-Urban Co., Brookhaven, Miss., effective 12-19-51 to 12-18-52; 10 percent of the productive factory force (men's and boys' work trousers, wool and cotton outerwear).

Statham Garment Corp., Statham, Ga., effective 12-13-51 to 12-12-52; 10 percent of the productive factory force (uniform trousers, men's and boys' semidress and work trousers).

Thomson Co., Millon, Ga., effective 12-12-51 to 12-11-52; 10 percent of the productive factory force (men's and boys' sport and dress trousers).

Thomson Co., Thomson, Ga., effective 12-8-51 to 12-7-52; 10 percent of the productive factory force (men's and boys' sport and dress trousers).

Twin City Manufacturing Co., Graymont, Ga., effective 12-8-51 to 6-7-52; 10 learners (men's sport and dress shirts).

Walhalla Garment Co., Walhalla, S. C., effective 12-12-51 to 12-11-52; 10 percent of the productive factory force (women's cotton house dresses and housecoats).

Wright Garment Co., Bowman, Ga., effective 12-11-51 to 12-10-52; 10 percent of the productive factory force (work and semidress trousers).

Glove Industry Learner Regulations (29 CFR 522.220 to 522.231, as amended October 26, 1950; 15 F. R. 6888).

Zain Gloves, Inc., Richmondville, N. Y., effective 12-14-51 to 12-13-52; 10 percent of the productive factory force engaged in the learner occupations (men's leather dress gloves).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised November 19, 1951; 16 F. R. 10733).

Rockwood Mills, Rockwood, Tenn., effective 12-13-51 to 8-12-52; 40 learners.

S & W Hosiery Mills, Englewood, Tenn., effective 12-13-51 to 12-12-52; five learners.

Knitted Wear Industry Learner Regulations (29 CFR 522.68 to 522.79, as amended January 25, 1950; 15 F. R. 398).

Union Underwear Co., Frankfort, Ky., effective 12-11-51 to 12-10-52; 5 percent of the productive factory force (men's and boys' underwear).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14).

Haspel Bros., Inc., 2527 St. Bernard Avenue, New Orleans, La., effective 12-16-51 to 12-15-52; 7 percent of the productive factory force; sewing machine operators, pressers, handsewing; 480 hours each; 60 cents per hour for the first 240 hours and 65 cents per hour for the remaining 240 hours (men's summer suits and odd trousers).

Michaels, Stern & Co., Inc., 15 Hand Street, Rochester 5, N. Y., effective 12-14-51 to 12-13-52; 7 percent of the productive factory force; machine operators (except cutting), pressers, handsewers; 480 hours each; 60 cents per hour for the first 240 hours and 65 cents per hour for the remaining 240 hours (men's clothing).

Michaels, Stern & Co., Inc., 317 Child Street, Rochester, N. Y., effective 12-12-51 to 12-11-52; 7 percent of the productive factory force; machine operating (except cutting), pressers, handsewers; 480 hours each; 60 cents per hour for the first 240 hours and 65 cents per hour for the remaining 240 hours (men's clothing).

Michaels, Stern & Co., Inc., Liberty Street, Penn Yan, N. Y., effective 12-14-51 to 12-13-52; 7 percent of the productive factory force; sewing machine operating, pressers, handsewers; 480 hours each; 60 cents per hour for the first 240 hours and 65 cents per hour for the next 240 hours (men's and boys' clothing).

Michaels, Stern & Co., Inc., 87 North Clinton Avenue, Rochester 2, N. Y., effective 12-14-51 to 12-13-52; 7 percent of the productive factory force; machine operators (except cutting), pressers, handsewers; 480 hours; 60 cents per hour for the first 240 hours and 65 cents per hour for the remaining 240 hours (men's clothing).

Paramount Cap Manufacturing Co., Bourbon, Miss., effective 12-14-51 to 12-13-52; 10 percent of the productive factory force; machine operators (except cutting); 240 hours at 65 cents per hour (cloth caps).

The Springfield Co., 88 Birnie Avenue, Springfield 7, Mass., effective 12-14-51 to 6-13-52; 10 learners; ball stitcher only; 480 hours; 65 cents per hour for the first 240 hours and 70 cents per hour for the remaining 240 hours (sporting goods).

Toluca Garment Co., Inc., Toluca, Ill., effective 12-15-51 to 12-14-52; seven learners; machine operators (except cutting), pressers, handsewers; 480 hours each; 60 cents per hour for the first 240 hours and 65 cents per hour for the remaining 240 hours (men's suits, topcoats, and overcoats).

Unitog Co., 138 West Pine Street, Warrensburg, Mo., effective 12-14-51 to 6-13-52; two learners; embroidery machine operators; 160 hours at 60 cents per hour (embroidery and alteration work).

The following special learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, the number of learners, the learner occupations, the length of the learning period and the learner wage rates are indicated respectively.

General Fuse Corp. of Puerto Rico, Villalba, P. R., effective 12-11-51 to 6-10-52; 20 learners; Assembly of fuses; 240 hours at 34 cents per hour (fuses).

Pan American Plastic Corp., Rio Piedras, P. R., effective 12-3-51 to 6-2-52; 24 learners; injection molders relief operators; 240 hours at 30 cents per hour and 240 hours at 38 cents per hour (plastic articles).

St. Regis Paper & Bag Corp. of Puerto Rico, Playa Ponce, P. R., effective 12-10-51 to 6-9-52; 10 learners; Valving, sewing, sleeving operators; 200 hours at 39 cents per hour, 200 hours at 41 cents per hour, 200 hours at 43 cents per hour (paper bags).

Univis Optical Corp., Guayama, P. R., effective 12-10-51 to 6-9-52; 114 learners; Grinders, 480 hours; Polishers, 480 hours; Assemblers, 540 hours; Blockers, 160 hours; Inspectors, 480 hours; Generator operators, 160 hours; each 34 cents per hour (processing of ophthalmic lenses).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be canceled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 17th day of December 1951.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 51-15285; Filed, Dec. 27, 1951; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26656]

PIG IRON FROM HAMPTON ROADS, VA., TO ERIE, PA.

APPLICATION FOR RELIEF

DECEMBER 21, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin, Agent, for carriers parties to Agent R. B. LeGrande's tariff I. C. C. No. 238.

Commodities involved: Pig iron, import, carloads.

From: Hampton Roads, Va., and related ports.

To: Erie, Pa.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: R. B. LeGrande's tariff I. C. C. No. 238, Supp. 103.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-15329; Filed, Dec. 27, 1951; 8:52 a. m.]

[4th Sec. Application 26657]

COKE FROM BIRMINGHAM, ALA., TO ATLANTA, DECATUR, AND UNION CITY, GA.

APPLICATION FOR RELIEF

DECEMBER 21, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for the Atlanta and West Point Rail Road Company and other carriers.

Commodities involved: Coke, carloads.

From: Birmingham, Ala., and related points.

To: Atlanta, Decatur, and Union City, Ga.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1150, Supp. 36.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-15330; Filed, Dec. 27, 1951; 8:52 a. m.]