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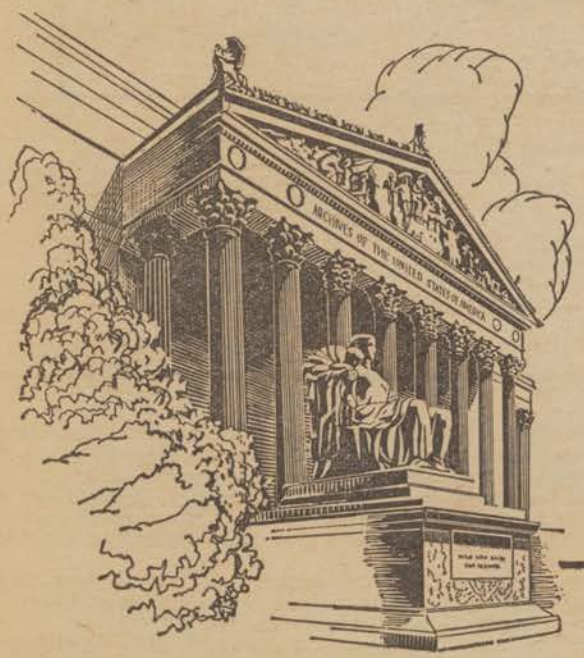

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Title 3—The President

PROCLAMATION 4026

Proclamation Amending and Correcting Part 3 of the Appendix to the Tariff Schedules of the United States With Respect to the Importation of Agricultural Commodities

By the President of the United States of America

A Proclamation

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), limitations have been imposed by Presidential proclamations on the quantities of certain articles which may be imported into the United States in any quota year; and

WHEREAS, in accordance with section 102(3) of the Tariff Classification Act of 1962, the President by Proclamation No. 3548 of August 21, 1963, proclaimed the additional import restrictions set forth in part 3 of the Appendix to the Tariff Schedules of the United States; and

WHEREAS the import restrictions on certain dairy products set forth in part 3 of the Appendix to the Tariff Schedules of the United States as proclaimed by Proclamation No. 3548 have been amended by Proclamation No. 3558 of October 5, 1963; Proclamation No. 3562 of November 26, 1963; Proclamation No. 3597 of July 7, 1964; section 88 of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 950); Proclamation No. 3709 of March 31, 1966; Proclamation No. 3790 of June 30, 1967; Proclamation No. 3822 of December 16, 1967; Proclamation No. 3856 of June 10, 1968; Proclamation No. 3870 of September 24, 1968; and Proclamation No. 3884 of January 6, 1969; and

WHEREAS, pursuant to said section 22, the Secretary of Agriculture advised me there was reason to believe that the articles, for which

import restrictions are hereinafter proclaimed, are being imported, and are practically certain to be imported, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with the price support program now conducted by the Department of Agriculture for milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat; and

WHEREAS, under the authority of said section 22, I requested the United States Tariff Commission to make an investigation with respect to this matter; and

WHEREAS the United States Tariff Commission has made an investigation under the authority of said section 22 with respect to this matter and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of such investigation and report, I find and declare that the articles, for which import restrictions are hereinafter proclaimed, are being imported and are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the price support program now conducted by the Department of Agriculture for milk and butterfat or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat; and

WHEREAS I find and declare that for the purpose of the first proviso of section 22(b) of the Agricultural Adjustment Act, as amended, the representative period for imports of such articles is the calendar years 1967 through 1969; and

WHEREAS, on the basis of such investigation and report, I find and declare that the imposition of the import restrictions hereinafter proclaimed is necessary in order that the entry, or withdrawal from warehouse, for consumption of such articles will not render or tend to render ineffective or materially interfere with the price support program now conducted by the Department of Agriculture for milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat; and

WHEREAS I find and declare that the allocation of shares of the import quotas proclaimed herein among the countries of origin shall be based upon the proportion of such articles supplied by such countries during the twelve months July 1969 through June 1970, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned; and

WHEREAS it has been determined advisable, in order to carry out the intent of the import restrictions proclaimed pursuant to said section 22 with respect to articles for which licenses are required, that the Secretary of Agriculture be authorized to adjust, within the aggregate quantity of any such article permitted to be entered from all countries

during a calendar year, the quantities of any such article which may be entered from particular countries of origin;

WHEREAS the Secretary of Commerce has advised me that, due to a processing error, the published figures for the importation during the calendar year 1967 of articles originating in Iceland, on which the import restriction of such articles set forth in item 950.10D of Part III of the Appendix to the Tariff Schedules of the United States was based, understated actual imports from that country for 1967 by 89,000 pounds; and

WHEREAS, in order to carry out the Presidential intention that such import restriction should be based on the level of imports of such articles from Iceland during the calendar year 1967, the figure in the quota quantity column opposite Iceland in item 950.10D of Part III of the Appendix to the Tariff Schedules of the United States should be corrected by increasing the amount by 89,000 pounds;

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962, do hereby proclaim that:

1. Part 3 of the Appendix to the Tariff Schedules of the United States is amended as follows:

(a) Headnote 3(a) is amended as follows:

(1) Subdivision (i) is amended by changing the item number "950.15" in the first sentence to "950.16" and by revising the last sentence to read as follows:

"No licenses shall be issued which will permit entry during the first six months of a quota year of more than one-half of the quantities specified in the column entitled 'Quota Quantity' for any of the articles subject to the quotas provided for in items 950.07 through 950.10E, 950.15, and 950.16."

(2) In subdivision (iii) the phrase "items 950.10B, 950.10C, and 950.10D" is changed to read "items 950.10B through 950.10E".

(3) A new subdivision (iv) is added which reads as follows:

"(iv) Notwithstanding any other provision of this part, if the Secretary of Agriculture determines that, in the case of any article for which licenses are required by subdivision (i) hereof, a quantity specified in the column entitled 'Quota Quantity' opposite the name of any country is not likely to be entered within any calendar year, he may by regulation provide with respect to such article for the adjustment for that calendar year, within the aggregate quantity of such article permitted to be entered from all countries during such calendar year, of the quantities of such article which may be entered during such year from particular countries of origin."

(b) Item 950.10E is added following item 950.10D, which reads as follows:

950.10E Cheese, and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.85 of subpart C, part 4, schedule 1, except articles within the scope of other import quotas provided for in this part; if shipped otherwise than in pursuance to a purchase, or if having a purchase price under 47 cents per pound:

Country of Origin	*Quota Quantity (in pounds)*
Denmark	6,680,000
United Kingdom	791,000
Ireland	756,500
West Germany	100,000
Poland	385,600
Australia	123,600
Iceland	64,300
Other	None

(c) Items 950.16, 950.17, and 950.18 are added following item 950.15, which read as follows:

950.16 Chocolate provided for in item 156.30 of part 10 and articles containing chocolate provided for in item 182.95, part 15, schedule 1, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection):

Country of Origin	*Quota Quantity (in pounds)*
United Kingdom	930,000
Ireland	3,750,000
Other	None

950.17 Animal feeds containing milk or milk derivatives, classified under item 184.75, subpart C, part 15, schedule 1:

Country of Origin	*Quota Quantity (in pounds)*
Ireland	12,060,000
United Kingdom	185,000
New Zealand	3,930,000
Australia	125,000
Other	None

950.18 Ice cream, as provided for in item 118.25 of part 4, subpart D, schedule 1:

Country of Origin	*Quota Quantity (in gallons)*
Belgium	243,650
New Zealand	155,680
Denmark	3,450
Netherlands	27,600
Jamaica	950
Other	None

(d) The figure in the quota quantity column opposite "Iceland" in item 950.10D is corrected to read "649,000".

2. Articles which were exported to the United States on a through bill of lading, or which were in bonded warehouse, but not entered, or withdrawn from warehouse, for consumption prior to the effective date of this proclamation, shall not be denied entry under the import restrictions herein proclaimed. Notwithstanding headnote 3(a)(i) of part 3 of the Appendix to the Tariff Schedules of the United States, import licenses

shall not be required for the entry into the United States during the first six months of the calendar year 1971 of articles subject to the quotas provided in items 950.10E and 950.16.

3. The provisions of this proclamation shall become effective upon publication in the FEDERAL REGISTER.

IN WITNESS WHEREOF, I hereunto set my hand this thirty-first day of December, in the year of our Lord nineteen hundred and seventy and of the Independence of the United States of America the one hundred and ninety-fifth.

Richard Nixon

[F.R. Doc. 70–17658; Filed, Dec. 31, 1970; 12:21 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that the positions of Special Assistant to the General Counsel and Confidential Assistant to the General Counsel in the Office of the Special Representative for Trade Negotiations are no longer excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraphs (2) and (3) are revoked under paragraph (d) of § 213.3303 as set out below.

§ 213.3303 Executive Office of the President.

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.* * * *

(2) [Revoked]

(3) [Revoked]

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–17614; Filed, Dec. 31, 1970; 8:45 a.m.]

PART 213—EXCEPTED SERVICE

Overseas Private Investment Corporation

Section 213.3317 is amended to show that one position of Secretary to the President, Overseas Private Investment Corporation, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (b) is added to § 213.3317 as set out below.

§ 213.3317 Overseas Private Investment Corporation.

* * * * *

(b) One Secretary to the President.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–17615; Filed, Dec. 31, 1970; 8:45 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1971 Crop of Upland Cotton; Base Acreage Allotments

STATE RESERVES AND COUNTY BASE ACREAGE ALLOTMENTS

Correction

In F.R. Doc. 70–16995 appearing at page 19330 in the issue of Tuesday, December 22, 1970, the following changes should be made in the tables under § 722.467(b)(2):

1. The entry in the third column for Lauderdale County, Miss., reading "2,046" should read "2,064".

2. The entry in the first column for Sharkey County, Miss., should read "19,589".

3. The entry in the second column for Hidalgo County, Tex., should read "233".

4. The entry in the first column for Roberts County, Tex., reading "199" should read "119".

[Amdt. 3]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970–71 and Subsequent Marketing Years

Correction

In F.R. Doc. 70–17048 appearing at page 19167 in the issue of Friday, December 18, 1970, the word "quality" appearing in the 16th line of § 725.69(b)(6)(ii) should read "qualify".

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 815.12]

PART 815—ALLOTMENT OF DIRECT-CONSUMPTION PORTION OF MAINLAND SUGAR QUOTA FOR PUERTO RICO

Calendar Year 1971

Basis and purpose. This allotment order is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 926, as amended), hereinafter called the "Act", for the purpose of allotting the portion of the sugar quota for Puerto Rico for the calendar year 1971 which may be filled by direct-consumption sugar among persons who market such sugar for consumption in the continental United States.

Omission of recommended decision and effective date. The record of the hearing regarding the subject of this order shows that the capacity to produce refined sugar in Puerto Rico far exceeds the maximum quantity of Puerto Rican direct-consumption sugar that may be marketed within probable mainland and local quotas (R 9). The proceeding to which this order relates was instituted for the purpose of allotting the direct-consumption portion of the mainland quota to prevent disorderly marketing and to afford each interested person an equitable opportunity to market direct-consumption sugar in the continental United States. The allotments made effective by this order are small in relation to the quantities of sugar that could be produced for marketing and delay in the issuance of the order might result in some persons marketing more than their fair share of the direct-consumption portion of the quota. Therefore, it is imperative that this order become effective on January 1, 1971, in order to fully effectuate the purposes of section 205(a) of the Act. Accordingly, it is hereby found that due and timely execution of the functions imposed upon the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirements in 5 U.S.C. 553 is impracticable and contrary to the public interest and, consequently, this order shall be effective on January 1, 1971.

Preliminary statement. Under the provisions of section 205(a) of the Act, the Secretary is required to allot a quota or proration thereof whenever he finds that allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for the area. Section 205(a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et seq.), a preliminary finding was made that allotment of the direct-consumption

portion of the quota is necessary and a notice was published on October 24, 1970 (35 F.R. 16594), of a public hearing to be held at Santurce, P.R., in Conference Room, Seventh Floor, Segarra Building, Stop 20, on November 12, 1970, at 9:30 a.m., e.s.t., for the purpose of receiving evidence to enable the Secretary to make a fair, efficient and equitable distribution of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1971. The hearing was held at the time and place specified in the notice.

In arriving at the findings, conclusions, and regulatory provisions contained herein, all proposed findings and conclusions were carefully and fully considered in conjunction with the record evidence pertaining to the allotment of the direct-consumption portion of the mainland quota.

Basis for findings and conclusions. Section 205(a) of the Act reads in pertinent part as follows:

> * * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processing of sugar or liquid sugar from sugar beets or sugarcane, limited in any year when proportionate shares were in effect to processings to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; and the ability of such person to market or import that portion of such quota or proration thereof allotted to him. * * *

The record of the hearing regarding the subject of this order shows that the capacity to produce refined sugar in Puerto Rico far exceeds the maximum quantity of Puerto Rican direct-consumption sugar that may be marketed within the probable quotas. Thus, to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market sugar within the quota as required by section 205(a) of the Act, allotment of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1971 is found to be necessary (R–8, 9).

While all three factors specified in the provisions of section 205(a) of the Act quoted above have been considered, only the "past marketings" and "ability to market" factors have been given percentile weightings in the formula on which the allotment of the direct-consumption portion of the mainland quota for Puerto Rico is based. Testimony indicates that allottees accounting for over 90 percent of the direct-consumption sugar brought into the continental United States each year do not process sugar from sugarcane and accordingly, no weight should be given to the factor "processings from proportionate shares" (R–9, 10).

The Government witness proposed that the factor "past marketings" be measured for each processor and refiner by the average annual quantity of direct-consumption sugar which he marketed in the continental United States within the mainland quotas for Puerto Rico during the 5 years, 1966 through 1970, inclusive expressed as a percentage of the sum of such quantities for all processors and refiners. The witness stated that the use of the quantities marketed in the most recent 5-year period will reflect market conditions similar to those which would be expected to occur in the marketing of direct-consumption sugar in the mainland in 1971, and furthermore, that a 5-year average of such marketings tends to minimize short-run influences affecting data for a single year and adds stability to the "past marketings" factor (R–11, 12).

The Government witness proposed that the factor "ability to market" be measured by the largest quantity of direct-consumption sugar marketed in the mainland by each refiner and processor in any one of the past 5 years, 1966 through 1970, expressed as a percentage of the sum of such quantities for all refiners and processors. The witness stated that the actual demonstrated ability of each allottee as measured by the largest quantity of sugar marketed in any one of the last 5 years is believed to be the best measure of processor's and refiner's relative ability to market direct-consumption sugar in the mainland in 1971, and that the use of a more remote period would not be as indicative of current ability to market (R–11, 12).

In determining allotments of the direct-consumption portion of the mainland quota for the calendar year 1971, the Government witness proposed that the factors "past marketings" and "ability to market", measured as proposed above, be weighted equally and such weighted percentages shall be applied to the quantity to be allotted in determining individual allotments (R–13).

The order allotting the direct-consumption portion of the mainland quota for 1970 established a liquid sugar reserve of 20 short tons, raw value, for other than named allottees. The record of the hearing reveals that shipment of liquid sugar from other than named allottees totaled 13 tons in 1967, 15 tons in 1968, 13 tons in 1969, and 13 tons to date in 1970. Accordingly, the Government witness proposed that a liquid sugar reserve in an amount not to exceed 20 short tons, raw value, be established to permit the marketing of liquid sugar in the continental United States in 1971 by other than named allottees. Provision is therefore made for determining allotments by applying the weighted percentage factors for each allottee to the direct-consumption portion of the mainland quota less such liquid sugar reserve.

At the hearing the witness representing three of the named allottees supported and endorsed the Government's proposal.

A proposal was made by the witness for Central San Francisco that initial allotments be established at 95 percent of the direct-consumption quota instead of 90 percent so that allottees could, particularly the smaller ones, better prepare their plans in advance for the coming year. This proposal has not been adopted since the official records of the Department show that no allottee has been restricted in past years due to the 90 percent provision from marketing sugar within its ability.

In accordance with the record of the hearing (R–16, 17) provision has been made in the findings and the order to revise allotments for the calendar year 1971, without further notice or hearing for purposes of (1) giving effect to the substitution of revised estimates or final data or both for estimates of the quantity of direct-consumption sugar imported into the continental United States by each allottee, (2) allotting any quantity of an allotment to other allottees or to the residuary balance available for all persons when written notification of release of such allotment becomes a part of the official records of the Department, and (3) giving effect to any increase or decrease in the direct-consumption portion of the mainland quota. Also, as proposed in the record (R–20) the findings and order contain provisions relating to restrictions on marketing similar to those contained in the 1970 Puerto Rican allotment order since such provisions operated successfully in 1970 and no objection was made in the record to their inclusion.

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) Based upon the rate of production of refiners and processors in Puerto Rico in 1970, the potential capacity of Puerto Rican processors and refiners to produce direct-consumption sugar during the calendar year 1971 is at least 328,560 short tons, and this quantity is proportionately far greater than the total quantity of such sugar which may be marketed within the mainland and local sugar quotas for Puerto Rico for the calendar year 1971.

(2) The allotment of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1971 is necessary to prevent disorderly marketings of such sugar and to afford each interested person an equitable opportunity to market such sugar in the continental United States.

(3) Assignment of percentile weight to the "processing from proportionate shares" factor in the allotment formula would not result in fair, efficient, and equitable allotments.

(4) An allotment of 20 short tons, raw value, shall be established as a liquid sugar reserve to permit the marketing of liquid sugar in the continental United States by persons other than named allottees during the calendar year 1971.

(5) The "past marketings" factor shall be measured by each allottee's percentage of the average entries of direct-consumption sugar by all allottees into the continental United States during the years 1966 through 1970.

(6) The "ability to market" factor shall be measured for each allottee by expressing each allottee's largest entries of direct-consumption sugar into the United States during any one of the past 5 years, 1966 through 1970, as a percent of the sum of such entries for all allottees.

(7) The quantities of sugar and percentages referred to in paragraphs (5)

and (6), above, based on data involving estimates for 1970 direct-consumption entries which shall be used to establish allotments pending availability and substitution of revised or final data for such estimates, are set forth in the following table:

Processor or refiner	Average annual marketings 1966–70		Highest annual marketings 1966–70	
	Short tons raw value	Percent of total	Short tons raw value	Percent of total
	(1)	(2)	(3)	(4)
Aguirre Co	6,016	4.0316	6,785	4.0781
Central Roig Refining Co	19,411	13.0083	22,508	13.5285
Central San Francisco	1,020	.6836	1,344	.8078
Puerto Rican American Sugar Refinery, Inc	101,125	67.7691	110,769	66.5779
Western Sugar Refining Co	21,648	14.5074	24,969	15.0077
Total	149,220	100.0000	166,375	100.0000

(8) Allotments totaling the direct-consumption portion of the Puerto Rican mainland quota for the calendar year 1971, less the liquid sugar reserve provided for in finding (4), above, should be established by giving 50 percent weight to past marketings, measured as provided in finding (5), above, and 50 percent weight to ability to market, measured as provided in finding (6), above; and the sum of such weighted percentages for each allottee applied to the quantity to be allotted shall determine the allotment for each allottee.

(9) This order may be revised without further notice or hearing for the purpose of substituting revised estimates or final data or both for previous estimates of the Puerto Rican direct-consumption sugar entries by and on behalf of each allottee in 1970 when such revised data or final data or both become part of the official records of the Department.

(10) This order shall be revised without further notice or hearing to revise allotments to give effect to any change in the direct-consumption portion of the quota for Puerto Rico for the calendar year 1971 on the same basis as is provided in these findings for establishing allotments.

(11) This order shall require each allottee to submit to the Department, in writing, an estimate of the maximum quantity of direct-consumption sugar he will be able to market during the quota year within any allotment, and a release for allocation to other allottees or to a residuary balance available for all persons the portion of any allotment which may be established for him in excess of such maximum quantity. Such notice shall be submitted to the Department by each allottee in the following form on October 1, 1971, and on December 1, 1971.

I, the undersigned allottee, estimate that I will be able to market not to exceed ------ short tons, commercial weight, equivalent to ------ short tons, raw value, of sugar during the entire calendar year 1971, within any allotment of the direct-consumption portion of the 1971 mainland quota for Puerto Rico which may be established for me pursuant to S.R. 815.

I release for disposition under the provisions of S.R. 815, the portion of any allotment in excess of the above stated quantity of sugar and any increase in my allotment in excess of such stated amount which would result from either an increase in the direct-consumption portion of the Puerto Rican sugar quota or the allocation of any allotment, or a portion thereof, released by one or more, other allottees, occurring in either case, from the date of this release until the end of the calendar year.

Allottees may revise a previous notice of the maximum quantity he may market during the quota year and a previous release of allotment deficit by submitting to the Department on the prescribed form a new notice of the maximum quantity he may market during the quota year and a new release of allotment deficit. A revised notice and release may be given effect only to the extent that the allotment of any other allottee will not be reduced solely thereby as provided in finding (12).

(12) This order shall provide for reallotment without further notice or hearing of any allotment, or portion thereof, that may be released by an allottee as provided in finding (11) whenever such released allotments or portions thereof become available.

In revising allotments for the purpose of giving effect to a quota increase or decrease, or to give effect to a release by an allottee, allotment deficits shall be determined and allocated without regard to any previous determination and proration of deficits and such deficits shall be allocated proportionately among other allottees to the extent they are able to utilize additional allotments, on the basis of allotments computed for such allottees without including allocation of any allotment deficits: *Provided*, That the allotment previously in effect for an allottee which includes a deficit proration shall not be reduced solely to give effect to a revised notice received from another allottee subsequent to such deficit proration and which notice increases the declared maximum quantity such other allottee is able to market. Such deficit allocations to any allottee shall be limited in accordance with the written statement of the maximum quantity he will market submitted as provided in finding (11). In the event the total of allotment deficits released by allottees exceeds the total quantity which can be utilized by other allottees, the excess quantity shall be placed in a residual balance available for all persons.

(13) Official notice will be taken of (a) written notice to the Department by an allottee of the estimated maximum marketings of such allottee within an allotment and of the quantities of sugar released for reallotment when the notification becomes a part of the official records of the Department, (b) final data and revised estimates for 1970 calendar year marketings of sugar for direct-consumption in the mainland that become a part of the official records of the Department, and (c) any regulation issued by the Secretary which changes the mainland sugar quota for Puerto Rico and the direct-consumption portion thereof established for 1971.

(14) Each allottee during the calendar year 1971 shall be restricted from bringing into the continental United States for consumption therein any direct-consumption sugar in excess of the smaller of the sum of his allotment established herein and the quantity brought in under any residual balance available for all persons or the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico and the quantity of sugar acquired from Puerto Rican processors by the allottee during such year for shipment to the mainland within the applicable mainland quota for Puerto Rico. All other persons shall be prohibited from bringing direct-consumption sugar into the continental United States during the calendar year 1971 for consumption therein except such sugar acquired in such year from an allottee within his allotment established herein or sugar brought in within the liquid sugar reserve established for other than named allottees or within any residual balance available for all persons. All persons collectively shall be prohibited from bringing into the continental United States any direct-consumption sugar other than crystalline sugar in excess of the quantity by which the direct-consumption portion of the mainland quota exceeds 126,033 short tons, raw value. Of that part of the direct-consumption portion of the mainland quota that may be filled by either liquid or crystalline sugar, 20 short tons, raw value, shall be reserved to cover shipments of liquid sugar by other than named allottees as provided in finding (4).

(15) To facilitate full and effective use of allotments, provision shall be made in the order for transfer of allotments under circumstances of a succession of interest.

(16) Allotments established in the foregoing manner and the amounts set forth in the order provide a fair, efficient, and equitable distribution of the direct-consumption portion of the mainland quota, as required by section 205(a) of the Act.

(17) To assure that an allottee will not market a quantity of sugar in excess of his final 1971 allotment to be established later on the basis of final data; allotments established by this order should be limited to 90 percent of the direct-consumption portion of the mainland sugar quota for Puerto Rico pending the allotment of the quota based on final data.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act, and in accordance with the findings and conclusions heretofore made: *It is hereby ordered:*

§ 815.12 Allotment of the direct-consumption portion of mainland sugar quota for Puerto Rico for the calendar year 1971.

(a) *Allotments.* For the period January 1, 1971, until the date allotments of the entire 1971 direct-consumption portion of the mainland sugar quota for Puerto Rico are prescribed 90 percent of

the 1971 direct-consumption portion of the mainland sugar quota for Puerto Rico is hereby allotted as follows:

Allottee	Direct-consumption allotment (short tons, raw value)
Aguirre Co	5,966
Central Roig Refining Co	19,522
Central San Francisco	1,097
Puerto Rican American Sugar Refinery, Inc	98,834
Western Sugar Refining Co	21,713
Liquid sugar reserve for persons other than named above	18
Subtotal	147,150
Unallotted	16,350
Total	163,500

(b) *Restrictions on marketing.* (1) During the calendar year 1971, each allottee named in paragraph (a) of this section is hereby prohibited from bringing into the continental United States for consumption therein, any direct-consumption sugar from Puerto Rico in excess of the smaller of (i) the sum of the allottee's allotment established in paragraph (a) of this section and the quantity brought in within any residual balance available for all persons, or (ii) the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico, and the quantity of sugar produced from Puerto Rican sugarcane which was sugar acquired by the allottee in 1971 for further processing and shipment within the direct-consumption portion of the mainland quota, for Puerto Rico for the calendar year 1971.

(2) During the calendar year 1971, all persons other than the allottees specified in paragraph (a) of this section are hereby prohibited from bringing into the continental United States, for consumption therein, any direct-consumption sugar from Puerto Rico except that acquired from an allottee within the quantity limitations established in subparagraph (1) of this paragraph and that brought in within the liquid sugar reserve for persons other than named allottees or within any residual balance available for all persons.

(3) Of the total quantity of direct-consumption sugar allotted in paragraph (a) of this section, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure and the balance may be filled by sugar whether or not principally of crystalline structure, except that 20 short tons, raw value, of such balance is reserved to cover shipments of liquid sugar by other than named allottees.

(4) Each allottee shall submit the notices and releases as provided in finding (11) accompanying this order.

(c) *Revision of allotments.* The Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, is hereby authorized to revise the allotments established under this section without further notice or hearing to give effect to (1) the substitution of revised estimates or final data for estimates as provided in finding (9) accompanying this order, (2) any increase or decrease in the direct-consumption portion of the mainland quota for Puerto Rico for the calendar year 1971, as provided in finding (10) accompanying this order, and (3) the reallocation, as provided in finding (12) accompanying this order, of any allotment or portion thereof released by an allottee.

(d) *Transfer of marketing rights under allotments.* The Director, Sugar Division, Agricultural Stabilization and Conservation Service, of the Department of Agriculture, consistent with the provisions of the Act, may permit a quantity of sugar produced from sugarcane grown in Puerto Rico to be brought into the continental United States for direct-consumption therein by one allottee, or other person, within the allotment or portion thereof established for another allottee upon relinquishment by the latter allottee of an equivalent quantity of his allotment and upon receipt of evidence satisfactory to the Director that a merger, consolidation, transfer of sugar-processing facilities, or other action of similar effect upon the allottees or persons involved has occurred.

(Sec. 403, 61 Stat. 932, 7 U.S.C. 1153; interprets or applies secs. 205, 209; 61 Stat. 926, 928; 7 U.S.C. 1115, 1119)

Effective date: January 1, 1971.

Signed at Washington, D.C., December 28, 1970.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-17648; Filed, Dec. 31, 1970; 8:48 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-317]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e)(5) relating to the State of Missouri is amended to read:

(5) *Missouri.* (i) That portion of Lafayette County bounded by a line beginning at the junction of State Highways O and FF; thence, following State Highway FF in an easterly direction to State Highway 13; thence, following State Highway 13 in a southerly direction to Interstate Highway 70; thence, following Interstate Highway 70 in a westerly direction to State Highway O; thence, following State Highway O in a northerly direction to its junction with State Highway FF.

(ii) That portion of Lafayette County bounded by a line beginning at the junction of State Highways O and FF; thence, following State Highway FF in a westerly direction to State Highway 131; thence, following State Highway 131 in a northerly direction to U.S. Highway 24; thence, following U.S. Highway 24 in a northeasterly direction to County Home Road; thence, following County Home Road in an easterly direction to State Highway O; thence, following State Highway O in a southerly direction to its junction with State Highway FF.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines a portion of Lafayette County, Mo., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portion of such county.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of December 1970.

GEORGE W. IRVING, Jr.,
Administrator, Agricultural Research Service.

[F.R. Doc. 70-17622; Filed, Dec. 31, 1970; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10750; Amdt. 37-29]

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

Technical Data Requirements

The purpose of this amendment to Part 37 of the Federal Aviation Regulations is to provide for a reduction in the number of copies of required technical data that must be submitted by an applicant for a Technical Standard Order (TSO) Authorization.

Section 37.5(a)(2) currently provides that an applicant for a TSO authorization must submit to the Region in which he is located the number of copies of technical data required in the applicable TSO. The number of copies of technical data that must be submitted by an applicant is specified in the individual TSO's and varies with each TSO. The regions have found, however, that in many instances, they have no need for more than one copy of this data and the more recent TSO's require the applicant to submit one copy only. On the other hand, there are numerous TSO's in existence which still require that multiple copies of technical data be submitted to the FAA. The requirement for multiple copies has created storage problems for the regions and in those instances where the regions need only one copy, it results in an unnecessary burden on the applicant. It is, therefore, considered appropriate to amend the regulations to require that an applicant submit the number of copies of technical data required by the applicable TSO unless a lesser number of copies is authorized by the appropriate region.

For the foregoing reasons and since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective on less than 30 days' notice.

In consideration of the foregoing, § 37.5(a)(2) of Part 37 of the Federal Aviation Regulations is hereby amended, effective January 1, 1971, to read as follows:

§ 37.5 Application and issue.

(a) * * *

(2) Copies of the technical data required in the applicable performance standards of Subpart B of this part, unless a lesser number of copies is authorized by Chief, Engineering and Manufacturing Branch in the region in which the manufacturer is located or in the case of the Western Region, the Chief, Aircraft Engineering Division.

* * * * *

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

Issued in Washington, D.C., on December 23, 1970.

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-17628; Filed, Dec. 31, 1970; 8:46 a.m.]

[Docket No. 70-CE-23-AD; Amdt. 39-1138]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 177 and 177A Series Airplanes

There have been reports of fatigue-induced cracks in the upper end of the stabilator support angles on certain Cessna Model 177 series airplanes (Serial Nos. 17700001 through 17701164) and certain Cessna Model 177A series airplanes (Serial Nos. 17701165 through 17701370) that could result in complete separation of the stabilator brackets. Since this condition is likely to exist or develop in other airplanes of the same models, an Airworthiness Directive is being issued requiring within 25 hours' time in service after the effective date of this AD, a one time inspection of the stabilator attachment angles for cracks, and the rework or replacement thereof if cracks are found, and installation of stiffener brackets on all Cessna Model 177 series airplanes (Serial Nos. 17700001 through 17701164) and Cessna Model 177A series airplanes (Serial Nos. 17701165 through 17701370) in accordance with Cessna Service Letter SE70-32, dated December 18, 1970, and Cessna Service Kit No. SK177-11, dated December 8, 1970.

Since immediate adoption is required in the interest of safety, compliance with the notice and public procedures provision of the Administrative Procedure Act is not practicable and good cause exists for making this rule effective in less than thirty (30) days.

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

CESSNA. Applies to Model 177 series (Serial Nos. 17700001 through 17701164) and Model 177A series (Serial Nos. 17701165 through 17701370) Airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent cracks in the stabilator attachment angles P/N 1712108, accomplish the following:

(A) Within 25 hours' time in service after the effective date of this AD, remove the fuselage tail stinger and inspect the stabilator attachment angles, P/N 1712108, for evidence of cracks using the dye penetrant method in conjunction with the procedure set forth in Cessna Service Kit, No. SK 177-11, dated December 8, 1970, or any other method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. If no cracks are found during this inspection, install stiffener brackets, P/N 1709019-3 and -4, in accordance with the instructions contained in said Service Kit.

(B) If cracks are detected during the inspection required by paragraph A, prior to further flight, rework or replace the stabilator attachment angles, P/N 1712108, and then install stiffener brackets P/N 1709019-3 and -4 in accordance with the instructions contained in Cessna Service Kit SK 177-11, dated December 8, 1970, or any other method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Cessna Service Letter SE70-32, dated December 18, 1970, or later FAA-approved revisions pertain to this subject.

This amendment becomes effective January 5, 1971.

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

Issued in Kansas City, Mo., on December 24, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-17629; Filed, Dec. 31, 1970; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Subpart 5A-72.1—Procurement of Stores Stock Items

REVISION OF CONTRACT CLAUSE

Section 5A-72.105-12 is amended to provide for a simplification of the contractor reporting requirement by prescribing, as a general rule, the use of monthly reports instead of weekly, semimonthly or monthly reports, as follows:

§ 5A-72.105-12 Contractor reports.

(a) Ordinarily, national and zone indefinite delivery type contracts for stores stock items shall include a contract clause requiring contractors to submit periodic reports to the contracting officer of orders received and shipments made under such contracts. GSA Form 1227, Contractor's Report of Orders Received and Shipments Made (see § 5A-16.950-1227 of this chapter), shall be used for this purpose.

(b) The report frequency shall be not more than necessary for effective contract administration. Generally, monthly reports should suffice. If in exceptional cases more frequent reports are required, the clause in paragraph (c) of this section may be appropriately changed to prescribe weekly or semimonthly reports. Any such deviation from the monthly reporting requirement must be approved by the head of the procuring activity.

(c) When contractor's reports of orders received and shipments made are required, the following clause shall be included in the solicitation for offers:

REPORTS OF ORDERS RECEIVED AND SHIPMENTS MADE

(a) The contractor shall furnish monthly reports of orders received and shipments made under contracts awarded as a result of this solicitation. The reports shall be made on GSA Form 1227, "Contractor's Report of Orders Received and Shipments Made", and be forwarded within 15 calendar days after the close of each reporting period to: Contracting Officer, General Services Administration, Federal Supply Service (insert complete mailing address). Contractor shall also forward a copy of the completed GSA Form 1227 to the office designated to perform inspections under the contract. The reporting period shall be from the first through the end of the month.

(b) A report shall be submitted for this period even if the contract was not in force during the full reporting period. Reports shall be submitted until all shipments under purchase orders issued under the contract are made. If no orders are received during a reporting period, a report must be submitted showing orders on hand and shipments made during such period. If during a reporting period no orders are on hand and no shipments were made, a negative report must be submitted.

(c) Failure or refusal to furnish the required reports, or falsification thereof, shall constitute sufficient cause for applying the provisions of Article 11 of the General Provisions (Standard Form 32), entitled "Default".

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. This regulation is effective 30 days after the date shown below.

Dated: December 22, 1970.

L. E. SPANGLER,
Acting Commissioner,
Federal Supply Service.

[F.R. Doc. 70-17642; Filed, Dec. 31, 1970; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Swan Lake National Wildlife Refuge, Mo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

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

MISSOURI

SWAN LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Swan Lake National Wildlife refuge, Sumner, Mo., is permitted on the areas designated by signs as open to fishing. The open areas, comprising 10,500 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from March 1 through September 30, 1971, inclusive, during daylight hours only.

(2) Boats, without motors, may be used on Swan Lake, Silver Lake, and that portion of South Lake immediately adjacent to No. 5 levee.

(3) Travel is permitted on all roads except those posted with "Road Closed" signs.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1971.

ROBERT H. TIMMERMAN,
Refuge Manager, Swan Lake,
National Wildlife Refuge,
Sumner, Mo.

DECEMBER 22, 1970.

[F.R. Doc. 70-17611; Filed, Dec. 31, 1970; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Low Income Allowance and Standard Deduction

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 4, 141, 143, and 144 of the Internal Revenue Code of 1954 to section 802 of the Tax Reform Act of 1969 (83 Stat. 676), such regulations are amended as follows:

PARAGRAPH 1. Section 1.4 is amended by revising subsections (a), (c), and (f)(4) of section 4 and by revising the historical note to read as follows:

§ 1.4 Statutory provisions; rules for optional tax.

SEC. 4. *Rules for optional tax*—(a) *Number of exemptions.* For purposes of the tables prescribed by the Secretary or his delegate pursuant to section 3, the term "number of exemptions" means the number of exemptions allowed under section 151 as deductions in computing taxable income.

* * * * *

(c) *Husband or wife filing separate return.* (1) A husband or wife may not elect to pay the optional tax imposed by section 3 if the tax of the other spouse is determined under section 1 on the basis of taxable income computed without regard to the standard deduction.

(2) Except as otherwise provided in this subsection, in the case of a husband or wife filing a separate return the tax imposed by section 3 shall be the lesser of the tax shown in—

(A) The table prescribed under section 3 applicable in the case of married persons filing separate returns which applies the percentage standard deduction, or

(B) The table prescribed under section 3 applicable in the case of married persons filing separate returns which applies the low income allowance.

(3) The table referred to in paragraph (2)(B) shall not apply in the case of a husband or wife filing a separate return if the tax of the other spouse is determined with regard to the percentage standard deduction; except that an individual described in section 141(d)(2) may elect (under regulations prescribed by the Secretary or his delegate) to pay the tax shown in the table referred to in paragraph (2)(B) in lieu of the tax shown in the table referred to in paragraph (2)(A). For purposes of this title, an election under the preceding sentence shall be treated as an election made under section 141(d)(2).

(4) For purposes of this subsection, determination of marital status shall be made under section 143.

* * * * *

(f) *Cross references.* * * *

(4) For computation of tax by Secretary or his delegate, see section 6014.

[Sec. 4 as amended by secs. 232(f)(1) and 301(b)(1) and (3), Rev. Act 1964 (78 Stat. 111, 140); secs. 802(c)(1), (2), and (3), Tax Reform Act 1969 (83 Stat. 677, 678)]

PAR. 2. Section 1.4–3 is amended by revising paragraph (b)(1), by redesignating paragraph (c) as paragraph (d), by revising such redesignated paragraph, and by adding a new paragraph (c), to read as follows:

§ 1.4–3 Husband and wife filing separate returns.

* * * * *

(b) *Taxable years beginning after December 31, 1963, and before January 1, 1970.* (1) In the case of a husband and wife filing a separate return for a taxable year beginning after December 31, 1963, and before January 1, 1970, the optional tax imposed by section 3 shall be—

(i) For taxable years beginning in 1964, the lesser of the tax shown in Table IV (relating to the 10-percent standard deduction for married persons filing separate returns) or Table V (relating to the minimum standard deduction for married persons filing separate returns) of section 3(a), and

(ii) For a taxable year beginning after December 31, 1964, and before January 1, 1970, the lesser of the tax shown in Table IV (relating to the 10-percent standard deduction for married persons filing separate returns) or Table V (relating to the minimum standard deduction for married persons filing separate returns) of section 3(b).

* * * * *

(c) *Taxable years beginning after December 31, 1969.* (1) In the case of a husband and wife filing a separate return for a taxable year beginning after December 31, 1969, the optional tax imposed by section 3 shall be the lesser of the tax shown in—

(i) The table prescribed under section 3 applicable to such taxable year in the case of married persons filing separate returns which applies the percentage standard deduction, or

(ii) The table prescribed under section 3 applicable to such taxable year in the case of married persons filing separate returns which applies the low income allowance.

(2) If the tax of one spouse is determined by the table described in subparagraph (1)(i) of this paragraph or if such spouse in computing taxable income uses the percentage standard deduction provided for in section 141(b), then the table described in subparagraph (1)(ii) of this paragraph shall not apply in the case of the other spouse, if such other spouse elects to pay the optional tax imposed under section 3. Thus, if a husband and wife compute the tax with reference to the standard deduction, one cannot elect to use the percentage standard deduction and the other elect to use the low income allowance. A married individual described in section 141(d)(2) may elect pursuant to such section and the regulations thereunder to pay the tax shown in the table described by subparagraph (1)(ii) of this paragraph in lieu of the tax shown in the table described by subparagraph (1)(i) of this paragraph. See section 141(d) and the regulations thereunder for rules relating to the standard deduction in the case of married individuals filing separate returns.

(d) *Determination of marital status.* For the purpose of applying the restrictions upon the right of a married person to elect to pay the tax under section 3, (1) the determination of marital status is made as of the close of the taxpayer's taxable year or, if his spouse died during such year, as of the date of death; (2) a person legally separated from his spouse under a decree of divorce or separate maintenance on the last day of his taxable year (or the date of death of his spouse, whichever is applicable) is not considered as married; and (3) with respect to taxable years beginning after December 31, 1969, a person, although considered as married within the meaning of section 143(a), is considered as not married if he lives apart from his spouse and satisfies the requirements set forth in section 143(b). See section 143 and the regulations thereunder.

PAR. 3. Section 1.141 is revised to read as follows:

§ 1.141 Statutory provisions; standard deduction.

SEC. 141. *Standard deduction*—(a) *Standard deduction.* Except as otherwise provided in this section, the standard deduction referred to in this title is the larger of the percentage standard deduction or the low income allowance.

(b) *Percentage standard deduction.* The percentage standard deduction is an amount equal to the applicable percentage of adjusted gross income shown in the following table, but not to exceed the maximum amount shown in such table (or one-half of such maximum amount in the case of a separate return by a married individual):

Taxable years beginning in—	Applicable percentage	Maximum amount
1970	10	$1,000
1971	13	1,500
1972	14	2,000
1973 and thereafter	15	2,000

[For Code sec. 141(c) as amended effective for taxable years beginning after December 31, 1971, see sec. 141(c) immediately following this sec. 141(c)]

(c) *Low income allowance*—(1) *In general.* The low income allowance is an amount equal to the sum of—

(A) The basic allowance, and

(B) The additional allowance.

(2) *Basic allowance.* For purposes of this subsection, the basic allowance is an amount equal to the sum of—

(A) $200, plus

(B) $100, multiplied by the number of exemptions.

The basic allowance shall not exceed $1,000.

(3) *Additional allowance*—(A) *In general.* For purposes of this subsection, the additional allowance is an amount equal to the excess (if any) of $900 over the sum of—

(i) $100, multiplied by the number of exemptions, plus

(ii) The income phase-out.

(B) *Income phase-out.* For purposes of subparagraph (A)(ii), the income phase-out is an amount equal to one-half of the amount by which the adjusted gross income for the taxable year exceeds the sum of—

(i) $1,100, plus

(ii) $625, multiplied by the number of exemptions.

(4) *Married individuals filing separate returns.* In the case of a married taxpayer filing a separate return—

(A) The low income allowance is an amount equal to the basic allowance, and

(B) The basic allowance is an amount (not in excess of $500) equal to the sum of—

(i) $100, plus

(ii) $100, multiplied by the number of exemptions.

(5) *Number of exemptions.* For purposes of this subsection, the number of exemptions is the number of exemptions allowed as a deduction for the taxable year under section 151.

(6) *Special rule for 1971.* For a taxable year beginning after December 31, 1970, and before January 1, 1972,—

(A) Paragraph (3)(A) shall be applied by substituting "$850" for "$900",

(B) Paragraph (3)(B) shall be applied by substituting "one-fifteenth" for "one-half",

(C) Paragraph (3)(B)(i) shall be applied by substituting "$1,050" for "$1,100", and

(D) Paragraph (3)(B)(ii) shall be applied by substituting "$650" for "625".

[Sec. 141(c) as amended effective for taxable years beginning after Dec. 31, 1971]

(c) *Low income allowance.* The low income allowance is $1,000 ($500, in the case of a married individual filing a separate return).

(d) *Married individuals filing separate returns.* Notwithstanding subsection (a)—

(1) The low income allowance shall not apply in the case of a separate return by a married individual if the tax of the other spouse is determined with regard to the percentage standard deduction.

(2) A married individual filing a separate return may, if the low income allowance is less than the percentage standard deduction, and if the low income allowance of his spouse is greater than the percentage standard deduction of such spouse, elect (under regulations prescribed by the Secretary or his delegate) to have his tax determined with regard to the low income allowance in lieu of being determined with regard to the percentage standard deduction.

[Sec. 141 as amended by sec. 112(a), Rev. Act 1964 (78 Stat. 23); sec. 802 (a), (c)(4), and (e), Tax Reform Act 1969 (83 Stat. 676, 678)]

PAR. 4. Section 1.141–1 is amended by revising paragraph (a), redesignating paragraphs (d) and (e) as paragraphs (f) and (g), respectively, revising redesignated paragraph (f), and adding new paragraphs (d), (e), and (h), to read as follows:

§ 1.141–1 Standard deduction.

(a) *In general.* The standard deduction referred to in this section is:

(1) For taxable years beginning before January 1, 1964, the 10-percent standard deduction,

(2) For taxable years beginning after December 31, 1963, and before January 1, 1970, the larger of the 10-percent standard deduction or the minimum standard deduction, and

(3) For taxable years beginning after December 31, 1969, the larger of the percentage standard deduction or the low income allowance.

The taxpayer may elect to take, in addition to the deductions from gross income allowable in computing adjusted gross income and the deduction described in section 151, relating to personal exemptions, a standard deduction in lieu of all deductions other than those described in section 62 and in lieu of certain credits allowable to the taxpayer, had he not so elected. See section 36. Such credits include: The credit provided by section 33 for taxes imposed by foreign countries and possessions of the United States; the credit provided by section 32 for tax withheld at source under section 1451 by the obligor on tax-free covenant bonds with respect to interest on such bonds; and the credit provided by section 35 with respect to interest on United States obligations and interest on obligations of instrumentalities of the United States. In the case of a taxable year beginning before January 1, 1970, such standard deduction, however, may in no event exceed $1,000, or $500 in the case of a separate return by a married individual. For determination of marital status see § 1.143–1. See section 4 and the regulations thereunder for rules relating to standard deduction in respect of optional tax. The optional tax tables provided for in section 3 reflect the standard deduction provided for in section 141.

* * * * *

(d) *Percentage standard deduction.* The percentage standard deduction is an amount equal to the applicable percentage of adjusted gross income shown in the following table, but not to exceed the maximum amount shown in such table (or one-half of such maximum amount in the case of a separate return by a married individual):

Taxable years beginning in—	Applicable percentage	Maximum amount
1970	10	$1,000
1971	13	1,500
1972	14	2,000
1973 and thereafter	15	2,000

(e) *Low income allowance*—(1) *In general*—(i) *For taxable years beginning in 1970 and 1971.* For taxable years beginning after December 31, 1969, and before January 1, 1972, the low income allowance is an amount equal to the sum of the basic allowance and the additional allowance. The low income allowance is never less than the basic allowance. In the case of a married taxpayer (as determined by applying section 143(a), but not including an individual who is not considered as married, as determined by applying section 143(b)), filing a separate return, however, the low income allowance is equal to the basic allowance, and the basic allowance is an amount (not in excess of $500) equal to the sum of (*a*) $100, plus (*b*) $100, multiplied by the number of exemptions allowed as a deduction for the taxable year under section 151.

(ii) *For taxable years beginning after December 31, 1971.* For taxable years beginning after December 31, 1971, the low income allowance is $1,000 in the case of a return of an individual who is not married (including an individual who is not considered as married by virtue of section 143(b)) or in the case of a joint return of a married couple. The low income allowance is $500 in the case of a married individual filing a separate return.

(2) *Basic allowance.* The basic allowance is an amount, not in excess of $1,000, equal to the sum of—

(i) $200, plus

(ii) $100, multiplied by the number of exemptions allowed as a deduction for the taxable year under section 151.

(3) *Additional allowance*—(i) *In general.* The additional allowance is an amount equal to the excess (if any) of $900 ($850, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972) over the sum of—

(*a*) $100, multiplied by the number of such exemptions, plus

(b) The income phase-out, if any.

(ii) *Income phase-out.* The income phase-out is an amount equal to one-half (one-fifteenth in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972) of the amount (if any) by which the adjusted gross income for the taxable year exceeds the sum of—

(a) $1,100 ($1,050, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972), plus

(b) $625 ($650, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972) multiplied by the number of such exemptions.

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

Example (1). H, a married individual, files a joint return with W, his wife, for calendar year 1970. Their combined adjusted gross income for that year is $5,000. They are entitled to six exemptions under section 151 for the year. Their standard deduction is the low income allowance ($1,025.00) since it is larger than the percentage standard deduction ($500) and is computed as follows:

Percentage standard deduction (10% of $5,000)			$500
Low income allowance:			
(i) Basic allowance ($200, plus $100 multiplied by the number of exemptions [6], but not in excess of $1,000)			$800
Plus			
(ii) Additional allowance (Excess of $900 over the sum of $100 multiplied by the number of exemptions and the income phaseout):			
(a) $100×number of exemptions (6)		$600	
Plus			
(b) Income phaseout:			
(1) Adjusted gross income	$5,000		
(2) Less ($1,100+[625×6])	4,850		
	150		
(3) Income phaseout (½×150)		75	
(c) Additional allowance ($900−[600+75])			225
(iii) Low income allowance (basic allowance [$800] plus additional allowance [$225])			1,025

Example (2). H, a married individual, files a joint return with W, his wife, for calendar year 1971. Their combined adjusted gross income for that year is $5,000. They are entitled to six exemptions under section 151 for the year. Their standard deduction is the low income allowance ($1,046.67) since it is larger than the percentage standard deduction ($650) and is computed as follows:

Percentage standard deduction (13% of $5,000)			$650.00
Low income allowance:			
(i) Basic allowance ($200, plus $100 multiplied by the number of exemptions [6], but not in excess of $1,000)		$800.00	
Plus			
(ii) Additional allowance (Excess of $850 over the sum of $100 multiplied by the number of exemptions and the income phaseout):			
(a) $100×number of exemptions (6)		$600.00	
Plus			
(b) Income phaseout:			
(1) Adjusted gross income	$5,000.00		
(2) Less ($1,050+[650×6])	4,950.00		
	50.00		
(3) Income phaseout (1/15×50)		3.33	
(c) Additional allowance ($850−[600+3.33])			246.67
(iii) Low income allowance (basic allowance [$800] plus additional allowance [$246.67])			1,046.67

Example (3). H, a married taxpayer living with his spouse, files a separate return for 1971 and has adjusted gross income of $3,000 for that year. He is entitled to six exemptions under section 151 for the year. H's standard deduction is the low income allowance which is equal to the basic allowance (not in excess of $500), and is computed as follows:

Percentage standard deduction ($3,000×13%)		$390
Low income allowance:		
Basic allowance ($100, plus $100 multiplied by number of exemptions [6] but not in excess of $500)	$500	
Low income allowance	500	

Example (4). H, a married individual entitled to six exemptions, files a separate return for 1971, is living apart from his spouse, and qualifies under section 143(b) and paragraph (b) of § 1.143–1 to be considered as not married. H has adjusted gross income of $5,000. His standard deduction is the low income allowance ($1,046.67) and is computed in the manner shown in example (2).

(f) *Married individuals filing separate returns.* (1) In the case of a married individual filing a separate return for a taxable year beginning after December 31, 1969, the low income allowance shall not apply if the tax of the other spouse is determined with regard to the percentage standard deduction or is computed by the Internal Revenue Service pursuant to section 6014.

(2) A married individual filing a separate return for a taxable year beginning after December 31, 1969, may elect to determine his tax with regard to the low income allowance in lieu of determining it under the percentage standard deduction although his low income allowance is less than the percentage standard deduction if the low income allowance of his spouse is greater than the percentage standard deduction of such spouse. A taxpayer shall signify on his return his election to determine his tax with regard to the low income allowance by claiming thereon the deduction in the amount provided for in section 141(c) instead of the amount provided for in section 141(b).

(3) In the case of a taxable year beginning after December 31, 1963, and before January 1, 1970, subparagraphs (1) and (2) of this paragraph shall be applied by substituting "minimum standard deduction", "the 10-percent standard deduction" and "December 31, 1963, and before January 1, 1970" for "low income allowance", "percentage standard deduction", and "December 31, 1969", respectively.

(4) For rules relating to the election to pay the optional tax imposed by section 3 when married individuals file separate returns, see section 4(c) and the regulations thereunder.

(g) *Short taxable year due to death of taxpayer.* An election to take the standard deduction may be made for a taxable year which is less than 12 months on account of the death of the taxpayer.

(h) *Cross reference.* For the computation of the standard deduction for a fiscal year beginning in 1969, 1970, 1971, or 1972, see section 21(d) and the regulations thereunder.

PAR. 5. Section 1.143 is amended by revising section 143 and by adding a historical note to read as follows:

§ 1.143 Statutory provisions; determination of marital status.

SEC. 143. *Determination of marital status*—(a) *General rule.* For purposes of this part—

(1) The determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(b) *Certain married individuals living apart.* For purposes of this part, if—

(1) An individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a dependent (A) who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the individual, and (B) with respect to whom such individual is entitled to a deduction for the taxable year under section 151,

(2) Such individual furnishes over half of the cost of maintaining such household during the taxable year, and

(3) During the entire taxable year such individual's spouse is not a member of such household,

such individual shall not be considered as married.

[Sec. 143 as amended by sec. 802(b), Tax Reform Act 1969 (83 Stat. 677)]

PAR. 6. Section 1.143–1 is amended to read as follows:

§ 1.143–1 Determination of marital status.

(a) *General rule.* The determination of whether an individual is married shall be made as of the close of his taxable

year unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and, except as provided in paragraph (b) of this section, an individual shall be considered as married even though living apart from his spouse unless legally separated under a decree of divorce or separate maintenance. The provisions of this paragraph may be illustrated by the following examples:

Example (1). Taxpayer A and his wife B both make their returns on a calendar year basis. In July 1954, they enter into a separation agreement and thereafter live apart, but no decree of divorce or separate maintenance is issued until March 1955. If A itemizes and claims his actual deductions on his return for the calendar year 1954, B may not elect the standard deduction on her return since B is considered as married to A (although permanently separated by agreement) on the last day of 1954.

Example (2). Taxpayer A makes his returns on the basis of a fiscal year ending June 30. His wife B makes her returns on the calendar year basis. A died in October 1954. In such case, since A and B were married as of the date of death, B may not elect the standard deduction for the calendar year 1954 if the income of A for the short taxable year ending with the date of his death is determined without regard to the standard deduction.

(b) *Certain married individuals living apart.* (1) For purposes of part IV of subchapter B of chapter 1 of the Code, an individual is not considered as married for taxable years beginning after December 31, 1969, if (i) such individual is married (within the meaning of paragraph (a) of this section) but files a separate return; (ii) such individual maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a dependent (*a*) who (within the meaning of section 152 and the regulations thereunder) is a son, stepson, daughter, or stepdaughter of the individual, and (*b*) with respect to whom such individual is entitled to a deduction for the taxable year under section 151; (iii) such individual furnishes over half of the cost of maintaining such household during the taxable year; and (iv) during the entire taxable year such individual's spouse is not a member of such household.

(2) For purposes of subparagraph (1)(ii)(*a*) of this paragraph, a legally adopted son or daughter of an individual, a child (described in paragraph (c)(2) of § 1.152–2) who is a member of an individual's household if placed with such individual by an authorized placement agency (as defined in paragraph (c)(2) of § 1.152–2) for legal adoption by such individual, or a foster child (described in paragraph (c)(4) of § 1.152–2) of an individual if such child satisfies the requirements of section 152(a)(9) of the Code and paragraph (b) of § 1.152–1 with respect to such individual, shall be treated as a son or daughter of such individual by blood.

(3) For purposes of subparagraph (1)(ii) of this paragraph, the household must actually constitute the home of the individual for his taxable year. However, a physical change in the location of such home will not prevent an individual from qualifying for the treatment provided in subparagraph (1) of this paragraph. It is not sufficient that the individual maintain the household without being its occupant. The individual and the dependent described in subparagraph (1)(ii)(*a*) of this paragraph must occupy the household for more than one-half of the taxable year of the individual. However, the fact that such dependent is born or dies within the taxable year will not prevent an individual from qualifying for such treatment if the household constitutes the principal place of abode of such dependent for the remaining or preceding part of such taxable year. The individual and such dependent will be considered as occupying the household during temporary absences from the household due to special circumstances. A nonpermanent failure to occupy the common abode by reason of illness, education, business, vacation, military service, or a custody agreement under which a child or stepchild is absent for less than 6 months in the taxable year of the taxpayer, shall be considered a temporary absence due to special circumstances. Such absence will not prevent an individual from qualifying for the treatment provided in subparagraph (1) of this paragraph if (i) it is reasonable to assume that such individual or the dependent will return to the household and (ii) such individual continues to maintain such household or a substantially equivalent household in anticipation of such return.

(4) An individual shall be considered as maintaining a household only if he pays more than one-half of the cost thereof for his taxable year. The cost of maintaining a household shall be the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of such occupants for such taxable year. The cost of maintaining a household shall not include expenses otherwise incurred. The expenses of maintaining a household include property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance, and food consumed on the premises. Such expenses do not include the cost of clothing, education, medical treatment, vacations, life insurance, and transportation. In addition, the cost of maintaining a household shall not include any amount which represents the value of services rendered in the household by the taxpayer or by a dependent described in subparagraph (1)(ii)(*a*) of this paragraph.

(5) For purposes of subparagraph (1)(iv) of this paragraph, an individual's spouse is not a member of the household during a taxable year if such household does not constitute such spouse's place of abode at any time during such year. An individual's spouse will be considered to be a member of the household during temporary absences from the household due to special circumstances. A nonpermanent failure to occupy such household as his abode by reason of illness, education, business, vacation, or military service shall be considered a mere temporary absence due to special circumstances.

(6) The provisions of this paragraph may be illustrated by the following example:

Example. Taxpayer A, married to B at the close of the calendar year 1971, his taxable year, is living apart from B, but A is not legally separated from B under a decree of divorce or separate maintenance. A maintains a household as his home which is for 7 months of 1971 the principal place of abode of C, his son, with respect to whom A is entitled to a deduction under section 151. A pays for more than one-half the cost of maintaining that household. At no time during 1971 was B a member of the household occupied by A and C. A files a separate return for 1971. Under these circumstances, A is considered as not married under section 143(b) for purposes of the standard deduction. Even though A is married and files a separate return A may claim for 1971 as his standard deduction the larger of the low income allowance up to a maximum of $1,050 consisting of both the basic allowance and additional allowance (rather than the basic allowance only subject to the $500 limitation applicable to a separate return of a married individual) or the percentage standard deduction subject to the $1,500 limitation (rather than the $750 limitation applicable to a separate return of a married individual). See § 1.141–1. For purposes of the provisions of part IV of subchapter B of chapter 1 of the Code and the regulations thereunder, A is treated as unmarried.

PAR. 7. Section 1.144–1 is amended by adding a new paragraph (d) to read as follows:

§ 1.144–1 Manner and effect of election to take the standard deduction.

* * * * *

(d) For determination of marital status, see § 1.143–1.

PAR. 8. Section 1.144–2 is amended by adding a new paragraph (e) to read as follows:

§ 1.144–2 Change of election with respect to the standard deduction.

* * * * *

(e) For determination of marital status, see § 1.143–1.

[F.R. Doc. 70–17596; Filed, Dec. 31, 1970; 8:45 a.m.]

[26 CFR Part 31]
EMPLOYMENT TAX
Voluntary Withholding Agreements

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner

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

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

In order to conform the Employment Tax Regulations (26 CFR Part 31) under sections 3401, 3402, 6011, and 6302 of the Internal Revenue Code of 1954 to the portion of section 805(g) of the Tax Reform Act of 1969 (83 Stat. 708) relating to new subsection (p)(1) of section 3402 of the Code, such regulations are amended as follows:

PARAGRAPH 1. Section 31.3401(a)-2 is amended by adding a new paragraph (a)(4). This added provision reads as follows:

§ 31.3401(a)-2 Exclusions from wages.

(a) *In general.* * * *

(4) For provisions relating to payments with respect to which a voluntary withholding agreement is in effect, which are not defined as wages in section 3401(a) but which are nevertheless deemed to be wages, see §§ 31.3401(a)-3 and 31.3402(p)-1.

* * * * *

PAR. 2. The following new section is added immediately after § 31.3401(a)-2.

§ 31.3401(a)-3 Amounts deemed wages under voluntary withholding agreements.

(a) *In general.* Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§ 31.3401(a)-3).

(b) *Remuneration for services.* (1) Except as provided in subparagraph (2) of this paragraph, the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a). For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§ 31.3401(c)-1 and 31.3401(d)-1 for the definitions of "employee" and "employer".

(2) For purposes of this paragraph, remuneration for services shall not include amounts not subject to withholding under § 31.3401(a)-1(b)(12) (relating to remuneration for services performed by a permanent resident of the Virgin Islands), § 31.3401(a)-2(b) (relating to fees paid to a public official), section 3401(a)(5) (relating to remuneration for services for foreign government or international organization), section 3401(a)(8)(B) (relating to remuneration for services performed in a possession of the United States (other than Puerto Rico) by citizens of the United States), section 3401(a)(8)(C) (relating to remuneration for services performed in Puerto Rico by citizens of the United States), section 3401(a)(11) (relating to remuneration other than in cash for service not in the course of employer's trade or business), section 3401(a)(12) (relating to payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans), section 3401(a)(14) (relating to group-term life insurance), section 3401(a)(15) (relating to moving expenses), or section 3401(a)(16)(A) (relating to tips paid in any medium other than cash).

PAR. 3. The following new sections are added immediately after § 31.3402(o)-1.

§ 31.3402(p) Statutory provisions; income tax collected at source; voluntary withholding agreements.

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

(p) *Voluntary withholding agreements.* The Secretary or his delegate is authorized by regulations to provide for withholding—

(1) From remuneration for services performed by an employee for his employer which (without regard to this subsection) does not constitute wages, and

(2) From any other type of payment with respect to which the Secretary or his delegate finds that withholding would be appropriate under the provisions of this chapter, if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to such withholding. Such agreement shall be made in such form and manner as the Secretary or his delegate may by regulations provide. For purposes of this chapter (and so much of subtitle F as relates to this chapter) remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

[Sec. 3402(p) as added by sec. 805(g), Tax Reform Act of 1969 (83 Stat. 708)]

§ 31.3402(p)-1 Voluntary withholding agreements.

(a) *In general.* An employee and his employer may enter into an agreement under section 3402(p) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of § 31.3401(a)-3, made after December 31, 1970. An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee. The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder.

(b) *Form and duration of agreement.* (1) An employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with a request for withholding. He shall also furnish the employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. If accepted by the employer as provided below in this paragraph, the request shall be attached to, and constitute part of, the employee's Form W-4. The request shall be signed by the employee, and shall contain—

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

(ii) The name and address of the employer,

(iii) A statement that the employee desires withholding of Federal income tax, and

(iv) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement.

No request for withholding under section 3402(p) shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made.

(2) An agreement under section 3402(p) shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree on an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402(p) is based shall be attached to, and constitute a part of, such new Form W-4.

PAR. 4. Section 31.6011(a)-4 is amended by revising paragraph (a) thereof to read as follows:

§ 31.6011(a)-4 Returns of income tax withheld from wages.

(a) *In general.* (1) Except as otherwise provided in subparagraph (3) of this paragraph and in § 31.6011(a)-5, every person required to make a return of income tax withheld from wages pursuant to section 1622 of the Internal Revenue Code of 1939 for the calendar quarter ended December 31, 1954, shall make a return for each subsequent calendar quarter (whether or not wages are paid therein) until he has filed a final return in accordance with § 31.6011(a)-6. Except as otherwise provided in subparagraph (3) of this paragraph and in § 31.6011(a)-5, every person not required to make a return for the calendar

quarter ended December 31, 1954, shall make a return of income tax withheld from wages pursuant to section 3402 for the first calendar quarter thereafter in which he is required to deduct and withhold such tax and for each subsequent calendar quarter (whether or not wages are paid therein) until he has filed a final return in accordance with § 31.6011(a)-6. Except as otherwise provided in subparagraph (2) or (3) of this paragraph, Form 941 is the form prescribed for making the return required under this paragraph.

(2) Form 942 is the form prescribed for making the return required under subparagraph (1) of this paragraph with respect to income tax withheld, pursuant to an agreement under section 3402(p), from wages paid for domestic service in a private home of the employer not on a farm operated for profit. The preceding sentence shall not apply in the case of an employer who has elected under paragraph (a)(3) of § 31.6011(a)-1 to use Form 941 as his return with respect to such payments for purposes of the Federal Insurance Contributions Act.

(3) Every person shall make a return of income tax withheld, pursuant to an agreement under section 3402(p), from wages paid for agricultural labor for the first calendar year in which he is required (by reason of such agreement) to deduct and withhold such tax and for each subsequent calendar year (whether or not wages for agricultural labor are paid therein) until he has filed a final return in accordance with § 31.6011(a)-6. Form 943 is the form prescribed for making the return required under this subparagraph.

* * * * *

PAR. 5. Paragraph (a) of § 31.6302(c)-1, is amended by revising subdivision (iii) of subparagraph (1), by revising the heading and subdivisions (ii) and (iii) of subparagraph (2), and by revising subdivision (iii) of subparagraph (3) thereof. These revised provisions read as follows:

§ 31.6302(c)-1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement*—(1) *In general.* * * *

(iii) As used in subdivisions (i) and (ii) of this subparagraph, the term "taxes" means—

(*a*) The employee tax withheld under section 3102,

(*b*) The employer tax under section 3111, and

(*c*) The income tax withheld under section 3402,

exclusive of taxes with respect to wages for domestic service in a private home of the employer or, if paid before February 1, 1971, wages for agricultural labor. In addition, any taxes described in subparagraph (2)(ii) of this paragraph, with respect to wages paid during January 1971, which are not required under such subparagraph to be deposited shall be deemed included within the term "taxes".

* * * * *

(2) *Wages paid before February 1, 1971, with respect to agricultural labor.* * * *

(ii) *Requirement for taxes with respect to wages paid after December 31, 1955, and before February 1, 1971.* Except as provided in paragraph (b) of this section, if during any calendar month other than December, after December 31, 1955, and before February 1, 1971, the aggregate amount of—

(*a*) The employee tax withheld under section 3102 during such month with respect to wages for agricultural labor, plus any such employee tax which was previously withheld in the same calendar year with respect to such wages but which was neither deposited nor required to be deposited on or before the last day of such month,

(*b*) The employer tax under section 3111 for such month with respect to wages for agricultural labor, plus any such employer tax, which was neither deposited nor required to be deposited on or before the last day of such month, for any prior month of the same calendar year with respect to wages for agricultural labor, and

(*c*) The income tax withheld under section 3402 during such month with respect to wages paid after December 31, 1970, and before February 1, 1971, for agricultural labor,

exceeds $100 in the case of an employer, such employer shall deposit such aggregate amount within 15 days after the close of such calendar month with a Federal Reserve bank or authorized commercial bank.

(iii) *Additional requirement for 1968, 1969, and 1970.* If the aggregate amount of taxes reportable on a return on Form 943 for calendar year 1968, 1969, or 1970, exceeds by more than $100 the total amount deposited by the employer pursuant to subdivision (ii) of this subparagraph for such calendar year, the employer shall, on or before the last day of the first calendar month following the period for which the return is required to be filed, deposit with a Federal Reserve bank or authorized commercial bank an amount equal to the amount by which the taxes reportable on the return exceed the total deposits (if any) made pursuant to subdivision (ii) of this subparagraph for such calendar year.

(3) *Depositary forms.* * * *

(iii) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited under subparagraph (1) of this paragraph for periods subsequent to 1967 shall be accompanied by a Federal Tax Deposit, Withheld Income and FICA Taxes, form (Form 501), or the Federal tax deposit form applicable to FICA taxes and withheld income taxes with respect to agricultural workers (Form 511), or both, as the case may be. Each remittance of amounts required to be deposited under paragraph (2) of this paragraph for years subsequent to 1967 and before 1971 and for January 1971 shall be accompanied by the Federal tax deposit form applicable to FICA taxes and withheld income taxes with respect to agricultural workers (Form 511). Such forms shall be prepared in accordance with the instructions applicable thereto. The remittance, together with the required form or forms, shall be forwarded to a Federal Reserve bank or, at the election of the employer, to a commercial bank authorized in accordance with Treasury Department Circular No. 1079, 31 CFR Part 214, to accept remittances of the taxes for transmission to a Federal Reserve bank. The timeliness of the deposit will be determined by the date the deposit is received (or is deemed received under section 7502(e)) by a Federal Reserve bank or by the authorized commercial bank, whichever is earlier. Each employer making deposits pursuant to this section shall report on the return for the period with respect to which such deposits are made information regarding such deposits in accordance with the instructions applicable to such return and pay therewith (or deposit by the due date of such return) the balance, if any, of the taxes due for such period.

* * * * *

[F.R. Doc. 70-17621; Filed, Dec. 31, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 907, 908]

NAVEL AND VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Handling

Notice is hereby given that the Department is considering proposed amendments, as hereinafter set forth, to the rules and regulations (Subparts—Rules and Regulations; §§ 907.100-907.142 and §§ 908.100-908.142; 35 F.R. 457), respectively, currently in effect pursuant to the applicable provisions of the marketing agreements, as amended, and Order Nos. 907 and 908, as amended (7 CFR Parts 907 and 908; 35 F.R. 16625 and 16359), regulating, respectively, the handling of Navel oranges and Valencia oranges grown in Arizona and designated part of California. These are regulatory programs effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendments of said rules and regulations were proposed by the Navel Orange Administrative Committee and the Valencia Orange Administrative Committee, established under said amended marketing agreements and orders as the agencies to administer, respectively, the terms and provisions thereof. The proposal involving the Navel orange program concerns only the changing from seven to five the number of meetings required for nomination of committee members to represent independent growers. The proposal involving the Valencia orange program would make the same change in the required number of nomination meetings. In addition, it would (1) specify that handlers shall make a certification to the Valencia Orange Administrative Committee as to

their control of oranges rather than submitting copies of their written contracts with growers, (2) prescribe a procedure to be followed by handlers and the committee relative to lending of allotment, and (3) establish a procedure for the allocation of "Early maturity allotment."

The proposed amendments are as follows:

§§ 907.102, 908.102 [Amended]

1. Amend § 907.102(a)(3) *Nomination procedure* and § 908.102(a)(3) *Nomination procedure* by deleting the word "seven" in the first sentence of each subparagraph and inserting in lieu thereof the word "five."

2. Amend § 908.108 *Prorate bases and allotments* by deleting paragraph (b) and revising the second sentence of paragraph (a) to read as follows:

§ 908.108 Prorate bases and allotments.

(a) *Application to be filed.* * * * Such application shall contain the information required pursuant to § 908.53 (b) and a certification to the United States Department of Agriculture and the Valencia Orange Administrative Committee by the handler that the information in the application is true and that he has control, for all purposes relating to this part, of the oranges described in the application. * * *

(b) [Deleted]

* * * * *

3. Amend § 908.111 *Allotment loans* by redesignating paragraph (b) (4), (5), and (6) as paragraph (b) (5), (6), and (7), respectively, revising the second sentence of paragraph (a)(1), and adding a new paragraph (b)(4) to read, respectively, as follows:

§ 908.111 Allotment loans.

(a) * * *

(1) *Payback date.* * * * Each loan agreement entered into between handlers in the same district to whom short-life allotments have been issued shall provide for the repayment of the loan during the time the borrowing short-life handler will be issued allotment.

* * * * *

(b) * * *

(4) In arranging loans for handlers to whom short-life allotments have been issued, the committee shall offer such loans first, to other handlers within the same district to whom short-life allotments have been issued; second, to handlers within the same district to whom general maturity allotments have been issued; and third, to handlers in other districts to whom allotments have been issued. All such loans to handlers to whom general maturity allotments have been issued shall provide for a payback date within the scheduled shipping period of the lending short-life handler.

* * * * *

4. Add a new paragraph (c) to § 908.113 *Early maturity allotments* to read as follows:

§ 908.113 Early maturity allotments.

* * * * *

(c) Whenever the total amount of early maturity allotment the committee determines should be granted to handlers within a prorate district equals or is larger than the total amount applied for in such district, the full amount applied for in each application shall be granted. Whenever the total amount applied for exceeds the total amount of early maturity allotment the committee deems should be granted in the district, the request of each handler in such district shall be granted in the same proportion as the handler's tree crop bears to the total tree crop of requesting handlers in that district, but not in excess of the amount requested, and any allotment then remaining shall be granted in successive increments, as necessary, to handlers filing requests, in proportion to the tree crop controlled by each, but not in excess of the amount requested.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 28, 1970.

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

[F.R. Doc. 70-17623; Filed, Dec. 31, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 37]

[Docket No. 10749; Notice 70-52]

AIRBORNE RADIO RECEIVING AND DIRECTION FINDING EQUIPMENT

Proposed Technical Standard Order

The Federal Aviation Administration is considering amending § 37.139 of Part 37 of the Federal Aviation Regulations to update the minimum performance standards for airborne radio receiving and direction finding equipment.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before April 5, 1971, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The FAA proposes to amend § 37.139 by requiring airborne radio receiving and direction finding equipment operating within the radio frequency range of 200–415 kilohertz to meet the requirements of Radio Technical Commission for Aeronautics (RTCA) Document No. DO–142 entitled, "Minimum Performance Standards—Airborne Radio Receiving and Direction Finding Equipment Operating Within the Radio Frequency Range of 200–850 Kilohertz", dated January 8, 1970, and RTCA Document No. DO–138 entitled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments", dated June 27, 1968. RTCA Document No. DO–142 has had wide distribution and acceptance within the aviation industry. It has also been coordinated with the European Organization for Civil Aviation Electronics. The FAA plans to incorporate RTCA Document DO–138 in all future revisions to TSO's covering electronic equipment.

A number of technical changes would be made to TSO–C41b in accomplishing the foregoing. The rf frequency operating range requirements for Class A equipment would be changed to 200–850 KHz. This would insure that the equipment is capable of selecting any assignable frequency which may be required when operating in the European-Mediterranean area.

The CW rf energy that may be present across the sense antenna terminals of the receiver, in the band 70 KHz to 150 KHz, would be limited to 200 microvolts. This would limit the allowable emission of spurious radio levels of interfering signals that may be radiated.

Based on service experience, the null sharpness and directivity response (manual direction finder function) requirements have been relaxed. The rf signal field strength that was required at all positions of the loop within 45° of its null position is now required only at all positions of the loop within 30° of its null position.

The time allowed for equipment warm-up has been reduced to insure the availability of operable equipment at takeoff. In addition, a new standard is proposed which requires that the equipment be capable of effecting an instituted frequency or function selection within 15 seconds.

Finally, the title to the TSO would be changed to make it more consistent with present terminology for such equipment.

In consideration of the foregoing, it is proposed to amend § 37.139 of the Federal Aviation Regulations to read as follows:

§ 37.139 Airborne radio receiving and direction finding equipment TSO–C41c.

(a) Applicability: This technical standard order prescribes the minimum performance standards that airborne radio receiving and direction finding equipment must meet in order to be identified with the applicable TSO marking. New models of equipment that are to be so identified, and that are manufactured on or after (the effective date of this section) must meet the requirements of Radio Technical Commission for Aeronautics Document No. DO–142 entitled "Minimum Performance Standards—Airborne Radio Receiving and Direction Finding Equipment Operating within the Radio Frequency Range of 200–850 kiloHertz" dated January 8, 1970, and Radio Technical Commission for Aeronautics Document No. DO–138 entitled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments" dated June 27, 1968. RTCA Documents Nos. DO–142 and DO–138 are incorporated herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23. Additionally, RTCA Documents Nos. DO–142 and DO–138 may be examined at any FAA regional office of the Chief of Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division), and may be obtained from the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, DC 20006, at a cost of $4 per copy for Document No. DO–142 and $4 per copy for Document No. DO–138.

(b) Marking: In addition to the markings specified in § 37.7 the equipment must be permanently and legibly marked with the following:

(1) The equipment must be marked to indicate the environmental categories over which it has been designed to operate in accordance with Appendix B of RTCA Document DO–138.

(2) The equipment must be marked to indicate its class as follows:

Class A. Equipment intended for operation in the European-Mediterranean area (EUM) and in other areas where the frequency separation and geographical separation of ground facilities and their output powers are similar to the EUM area. The equipment must be capable of selecting any assignable frequency within the range 200 to 850 KHz. Assignable frequencies may exist in 0.5 KHz increments from 200 to 850 KHz.

Class B. Equipment intended for operation in the United States of America and its possessions, and in other areas where the frequency and geographical separation of ground facilities and their output powers are similar to the U.S.A. areas. The equipment must be capable of selecting any assignable frequency within the range 200 to 415 KHz. Assignable frequencies may exist in 1 KHz increments from 200 to 415 KHz.

Equipment which complies with both Class A and Class B requirements need only be marked as Class A equipment.

(3) Each separate component of the equipment (antenna, receiver, indicator, etc.) must be identified with at least the name of the manufacturer, the TSO number, and the environmental categories over which the component is designed to operate. Where an environmental test procedure described in DO–138 is not applicable to that component and the test is not conducted, an X should be placed in the space assigned for that environmental category.

(c) Data requirements: In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division (or in the case of the Western Region, the Chief, Aircraft Engineering Division), Federal Aviation Administration, in the region in which the manufacturer is located, the following technical data:

(1) One copy of the manufacturer's operating instructions and equipment limitations including a statement specifying the class of the equipment.

(2) One copy of the installation procedures with applicable schematic drawings, wiring diagrams, and specifications, and a list of components (by part number) or possible combinations thereof, which make up a system complying with this TSO. The procedures must show all limitations, restrictions, or other conditions pertinent to the installation.

(3) One copy of the manufacturer's test report.

(d) One copy of the installation procedures with the data identified in paragraph (c)(2) of this section, including limitations, restrictions, or other conditions pertinent to the installation must be furnished with each equipment manufactured under this TSO.

(e) Previously approved equipment: Airborne radio receiving and direction finding equipment approved prior to the effective date of this section may continue to be manufactured under the provisions of its original approval.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), and 1421, and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 29, 1970.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 70–17627; Filed, Dec. 31, 1970; 8:46 a.m.]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 745]

CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Notice of Proposed Rule Making

On Wednesday, December 16, 1970, notice of proposed rule making regarding Clarification and Definition of Account Insurance was published in the FEDERAL REGISTER (35 F.R. 19027). The following addition is made:

This notice was published pursuant to section 553 of title 5 of the United States Code.

To aid in the consideration of the matter by the Administrator, interested persons are invited to submit relevant data, views, or arguments.

Any such material should be submitted in writing to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456, to be received not later than January 17, 1971.

H. NICKERSON, Jr.,
Administrator.

[F.R. Doc. 70–17619; Filed, Dec. 31, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

FREDERICK J. BRADSHAW

Notice of Granting of Relief

Notice is hereby given that Frederick J. Bradshaw, 5833 Banks Avenue, Superior, WI 54880, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 4, 1935, in the U.S. District Court, St. Paul, Minn., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Frederick J. Bradshaw because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Frederick J. Bradshaw to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Frederick J. Bradshaw's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Frederick J. Bradshaw be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 22d day of December 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-17634; Filed, Dec. 31, 1970; 8:47 a.m.]

DENNIS R. DUNCAN

Notice of Granting of Relief

Notice is hereby given that Mr. Dennis R. Duncan, 8310 Sacramento Street, Portland, OR 97220, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 2, 1967, in the District Court of Grant County, Oreg., of a crime punishable by imprisonment for a team exceeding 1 year. Unless relief is granted, it will be unlawful for Dennis R. Duncan because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Dennis R. Duncan to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Dennis R. Duncan's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Dennis R. Duncan be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 22d day of December 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-17635; Filed, Dec. 31, 1970; 8:47 a.m.]

DALE ELDRED FELDPAUSCH

Notice of Granting of Relief

Notice is hereby given that Dale Eldred Feldpausch, 607½ North Clinton Street, St. Johns, MI 48879, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on November 10, 1969, in the Circuit Court of Clinton County, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Dale E. Feldpausch because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Dale E. Feldpausch to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Dale E. Feldpausch's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Dale E. Feldpausch be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 18th day of December 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-17636; Filed, Dec. 31, 1970; 8:47 a.m.]

ROBERT C. LEWIS

Notice of Granting of Relief

Notice is hereby given that Robert C. Lewis, 508 Presidio Avenue, San Francisco, CA 94115, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 23, 1954, in the Superior Court of the State of California in and for the City and County of San Francisco, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Robert C. Lewis because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Robert C. Lewis to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Robert C. Lewis' application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Robert C. Lewis be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 22d day of December, 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-17637; Filed, Dec. 31, 1970; 8:47 a.m.]

HENRY FREDERICK WELZIN

Notice of Granting of Relief

Notice is hereby given that Henry Frederick Welzin, 1536 Emily Street, Saginaw, MI 48601 has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on February 26, 1944, in the Genesee County Circuit Court, Flint, Mich., and on May 15, 1948, in the Saginaw County Circuit Court, Saginaw, Mich., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Henry Frederick Welzin, because of such convictions to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Henry Frederick Welzin to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Henry Frederick Welzin's application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Henry Frederick Welzin be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 18th day of December 1970.

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

[F.R. Doc. 70-17638; Filed, Dec. 31, 1970; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CIBA-GEIGY CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2617) has been filed by Ciba-Geigy Corp., Plastics and Additives Division, Ardsley, N.Y. 10502, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to revise the limitation on octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate so that it may be used in olefin polymers that contact fatty food where the percentage concentration of the additive multiplied by the thickness in inches of the finished olefin polymer shall not exceed a factor of 0.0025, except that concentrations of not more than 0.05 percent of the additive may be used without limitation on the thickness of the finished olefin polymer.

Dated: December 15, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-17616; Filed, Dec. 31, 1970; 8:45 a.m.]

EASTMAN CHEMICAL PRODUCTS, INC.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2615) has been filed by Eastman Chemical Products, Inc., Kingsport, Tenn. 37662, proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) be amended in paragraph (b)(3)(vii)(c) to provide for the safe use of 2,2-dimethyl-1,3-propanediol in the preparation of polyester resins used in the production of resinous and polymeric coatings for food-contact use.

Dated: December 15, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-17617; Filed, Dec. 31, 1970; 8:45 a.m.]

STOKELY-VAN CAMP, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Stokely-Van Camp, Inc., Post Office Box 1113, Indianapolis, Ind., 46206, has withdrawn its petition (FAP 0A2538), notice of which was published in the FEDERAL REGISTER of May 21, 1970 (35 F.R. 7828), proposing that § 121.1017 *Calcium disodium EDTA* (21 CFR 121.1017) be amended in paragraph (b)(1) to provide for the safe use of calcium disodium EDTA as a color stabilizer in canned, cooked hominy.

Dated: December 15, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-17618; Filed, Dec. 31, 1970; 8:45 a.m.]

NATIONAL HEALTH-RELATED ITEMS CODE SYSTEM

Notice Requesting Manufacturers and Repackagers of Health-Related Items To Apply for Labeler Identity Code Designations

The Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare, has delegated to the Food and Drug Administration the responsibility for establishing a National Health-Related Items Code (NHRIC) System. Like its counterpart the National Drug Code System (NDC), the NHRIC System will provide an identification system in computer language to permit the automated processing of health-related item information.

Health-related items include products generally used in the diagnosis, care, and treatment of patients in hospitals, clinics, and nursing homes as well as those treated on an outpatient or home care basis. Examples of these products are surgical instruments and dressings, hypodermic syringes and needles, intravenous administration sets, anesthesia apparatus, and wheelchairs.

The NHRIC System will exclude drug products (covered under the National Drug Code System); text books; dental equipment and supplies; eyeglass frames and lenses; clinical and research laboratory equipment and supplies; pipeline equipment for gas and vacuum services; food and laundry service equipment; and all equipment, furniture, and supplies not directly patient care related.

The system has been developed as a result of Government-industry agreement and will consist of a 10-character NHRIC code. The first four characters are the Labeler Identity Code and will be assigned by the Food and Drug Administration. The next six characters are the Health-Related Product (Item) Identity Code and will identify the health-related item and its packaging and will be assigned by the manufacturing or repackaging firm within parameters defined by FDA.

When codes have been assigned and product information has been processed, a National Health-Related Items Code Directory will be published by the Government to provide a complete listing of the products in the NHRIC System and their codes.

The Commissioner of Food and Drugs, therefore, requests all firms which manufacture and label or which repackage and label health-related items to apply for Labeler Identity Code designations. It is preferable that such application be submitted within 30 days of publication of this notice in the FEDERAL REGISTER. Applications should be addressed to the Director, Center for Drug Information (BD–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

Along with their Labeler Identity Codes, firms will be sent an instruction package outlining how product codes should be assigned, how health-related product information should be returned to FDA for processing, and how the code should be imprinted on trade package labels.

Dated: December 15, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70–17644; Filed, Dec. 31, 1970; 8:47 a.m.]

NATIONAL DRUG CODE SYSTEM

Notice Requesting Drug Distribution Firms To Apply for Labeler Identity Code Designations

A notice in the FEDERAL REGISTER of July 2, 1969 (34 F.R. 11157), requested drug firms to apply for Labeler Identity Code designations as a prerequisite to participation in the National Drug Code System. At that time, participation was limited to "all firms which manufacture and label or which repackage and label drugs." The notice further stipulated that "initially, a code designation cannot be assigned to a person whose only connection with drugs is that of a retailer, wholesaler, jobber, or distributor, even though his name appears on the label as such."

To aid in drug utilization review procedures and to facilitate third party processing of drug reimbursement claims, the National Drug Code System is being expanded. Participation in the system is now being extended to distributors who are marketing drug products in interstate commerce, under their own name (label), and through multiple wholesale outlets and/or five or more retail outlets.

The Commissioner of Food and Drugs therefore invites all firms engaged in the type of drug distribution business described above to apply for Labeler Identity Code designations. Applications should be directed to the Food and Drug Administration, Center for Drug Information (BD–214), Bureau of Drugs, 5600 Fishers Lane, Rockville, Maryland 20852.

Dated: December 17, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–17645; Filed, Dec. 31, 1970; 8:47 a.m.]

Office of Education

EXPERIMENTAL SCHOOLS

Closing Date for Receipt of Applications

Notice of establishment of closing date for receipt of letter of interest for the Experimental Schools Program, phase one, to be conducted during fiscal year 1972 under the Cooperative Research Act (Public Law 83–531) as amended, and regulations issued pursuant thereto (45 CFR Part 151).

The Cooperative Research Act (Title IV of the Elementary and Secondary Education Act of 1965, as amended) provides for programs of research, surveys, demonstrations in the field of education, and dissemination of information derived from educational research.

The Experimental Schools program in fiscal year 1972 will be in two phases:

Phase one. Operational projects (to be in operation, in schools, in September 1971), with emphasis on evaluation, focusing on educational reform through a comprehensive design that includes use of selected promising practices and products of research in a K–12 framework (hereinafter called Operational Projects).

Phase two. Developmental projects (to be planned in fiscal year 1972) with emphasis on evaluation, focusing on educational reform through a comprehensive design that presents alternatives to current school structures, practices and performance (hereinafter called Developmental Projects). Support in fiscal year 1972 will be limited to planning. Detailed information regarding developmental projects will not be available until March 1971.

Parties eligible to participate in the Experimental Schools program are universities or colleges or other public (including State and local education agencies) or private nonprofit agencies, institutions, or organizations.

Notice is hereby given that in order to be assured of consideration for planning awards for phase one operational projects, letters of interest, which constitute formal submission of applications (and therefore must comply with 45 CFR 151.4), from eligible parties must be received in the U.S. Office of Education within 30 days after date of publication of this notice in the FEDERAL REGISTER. The award of contracts for conducting a phase one operational project will be limited to those who have been selected to receive a phase one planning award pursuant to this notice.

The Government will fund the total incremental cost of a selected experimental schools program. The incremental cost is the difference between the total cost of the project and the product of the number of students in the program and the prevailing average per pupil expenditure.

In connection with the criteria in 45 CFR 151.7, the following will be considered in the selection of grantees:

1. Demonstration of applicant's experience with educational innovations on a large scale.

2. Capabilities of applicant's staff to manage comprehensive experimentation.

3. Development of a plan for broad participation in the design, implementation and governance of a project.

4. Identification of the targeted population for a potential project.

5. Extent to which design fulfills the aims of the Experimental Schools Program, including:

a. A primary target population of low-income children;

b. A student population approximately 2,000 to 5,000;

c. A longitudinal K–12 design; and

d. A comprehensive approach to the learning environment, including, but not

limited to, curriculum development, community participation, teacher performance, administration, and organization.

6. Attention to evaluation and documentation of the total project.

Letters of interest should address themselves explicitly to the above criteria. In addition, applicants should define the goals they wish to accomplish by participating in this program.

Basic information, which includes specific instructions for preparation of letters of interest, is being sent to all persons, organizations, and agencies which have expressed interest in the program and to all State and local education agencies. This information may also be obtained from the Experimental Schools Program, U.S. Office of Education, Washington, D.C. 20202.

Dated: December 28, 1970.

PETER P. MUIRHEAD,
Acting Commissioner of Education.

Approved: December 29, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-17652; Filed, Dec. 31, 1970; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Notice of Application for Construction Permit and Facility License

The Toledo Edison Co., 420 Madison Avenue, Toledo, OH 43601, and The Cleveland Electric Illuminating Co., 55 Public Square, Cleveland, OH 44101, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, have filed an application dated August 1, 1969, for a construction permit and facility license to authorize construction and operation of a pressurized water nuclear reactor on the applicants' approximately 900-acre site on the southwest shore of Lake Erie, about 21 miles east of Toledo and about 9 miles northwest of Port Clinton, in Ottawa County, Ohio.

The proposed reactor, designated by the applicants as the Davis-Besse Nuclear Power Station (the station), is designed for initial operation at approximately 2,633 megawatts thermal, with a net electrical output of approximately 872 megawatts.

The Toledo Edison Co. and The Cleveland Electric Illuminating Co. as tenants in common will share undivided ownership of the station and the site, with each sharing the costs of construction and operation of the station. Toledo Edison will have complete responsibility for the design, installation and operation of the facility.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Ida Rupp Public Library, Port Clinton, Ohio.

Dated at Bethesda, Md., this 4th day of December 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-16672; Filed, Dec. 10, 1970; 8:46 a.m.]

[Docket No. 50-1]

IIT RESEARCH INSTITUTE

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission (the Commission) has issued, effective as of the date of issuance, Amendment No. 10 to Facility License No. R-3. The license presently authorizes the IIT Research Institute (IITRI) to possess, but not to operate, its homogeneous solution-type nuclear research reactor located in Chicago, Ill. Amendment No. 9 to the license issued on September 15, 1970, authorized IITRI to remove the fuel solution from the reactor for return to the Commission's Savannah River Plant using two shipping containers. Amendment No. 10 authorizes a change in the loading plans with the major difference being that of using three shipping containers for return of the fuel rather than two. Shipment of the fuel solution in three containers provides a safer configuration than with two; therefore, there are no new safety considerations involved in the changes to the loading procedures not previously considered.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within fifteen (15) days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this action, see (1) the licensee's application for license amendment dated August 6, 1970, and amendment thereto dated December 7, 1970, (2) Amendments 9 and 10 to Facility License No. R-3, and (3) the related Safety Evaluation by the Division of Reactor Licensing dated September 15, 1970 (issued with Amendment No. 9), all of which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Copies of items (2) and (3) above may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, DC 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 18th day of December 1970.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-17641; Filed, Dec. 31, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 22946, 22859; Order 70-12-143]

AMERICAN AIRLINES, INC., AND UNITED AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of December 1970.

By tariff revisions[1] bearing various posting and filing dates in November and December 1970, American Airlines, Inc. (American), and United Air Lines, Inc. (United), propose general air freight increases marked to become effective January 15, and January 12, 1971, respectively.

General commodity rates. United proposes increases according to the following formula:

Weight	Increases by distance		
	Under 1,050 miles	1,051-1,100 miles	Over 1,100 miles
Under 100 lbs.—per lb	$0.02	$0.02	$0.02
100 lbs.—per 100 lbs	2.00	1.40	1.25
500 lbs.—per 100 lbs	1.25	1.25	1.25
1,000, 2,000, 3,000 lbs.—per 100 lbs	1.25	1.25	1.25

The only exception to the formula is in the Hawaiian market where United proposes no changes in rates for weight breaks below 1,000 pounds and increases of $1.25 per 100 pounds for 1,000, 2,000, and 3,000 pounds.

American proposes to increase all general commodity rates by approximately 6 percent, with the exception of eastbound directional rates, which are being increased by 10 percent.

Specific commodity rates. United proposes the following revisions to its specific commodity rates:

(A) Cancel all rates at 100-pound weight breaks with the exception of rates on fish, flowers, and periodicals in the

[1] Revisions to Airline Tariff Publishers, Inc., Agent's Tariffs CAB Nos. 8 (Agent J. Aniello series), 26, 115, and United Air Lines, Inc., Tariffs CAB Nos. 164 and 302.

Hawaiian market, which are being increased $1.25 per 100 pounds. (Rates on fish, flowers and periodicals which are currently under investigation are not being changed).

(B) Cancel rates on auto parts from Detroit to San Francisco.

(C) Cancel "Basket Group" rates from the West Coast to eastern destinations.

(D) Establish rates on electrical appliances and tape recorders in a few markets affected by the cancellation of the basket groups by increasing the current basket group levels by $1.25 per 100 pounds. (These items are currently contained in these basket groups).

(E) Revise rates on strawberries, involving both moderate increases and decreases.

(F) Increase all other rates by $1.50 per 100 pounds for segments under 1,000 miles and by $1.25 per 100 pounds for segments 1,000 miles and over.

American proposes the following revisions to its specific commodity rates:

(A) Cancel all rates at the 100-pound weight break and establish a 200-pound weight break by adding the dollar increment in the increase of the 100-pound general commodity rate to the current 100-pound specific commodity rates in each market.

(B) Adjust strawberry rates to "reflect competitive rate levels," involving both increases and decreases.

(C) Increase all other rates by the same dollar increment as the increase in the general commodity rate for each segment and weight break, subject to maximum increases of 10 percent (with the exception of rates on fish, flowers, and periodicals which are under investigation and are not being changed).

Parcel post rates. American proposes to increase its parcel post rates by the same dollar increment as the increase in the general commodity rate for each segment and weight break, subject to a maximum increase of 10 percent.

United proposes no increase in its parcel post rates at this time.

Container rates. United proposes to increase all container rates and minimum charges to reflect the rates for bulk movements described above.

American proposes no increase in container rates at this time, but states in its transmittal that it intends to do so in the near future.

Complaints against one or both proposals requesting suspension and investigation were filed by Allied American Bird Co., Aquarium Supply Co., Domestic Air Express, Inc., Emery Air Freight Corp., Wings and Wheels Express, Inc., jointly by the Society of American Florists and the National Fisheries Institute Inc., and jointly by Airborne Freight Corp., Jet Air Freight, Profit By Air, Inc., Shulman Air Freight, and WTC Air Freight. Additionally, a complaint against United's proposals requesting only investigation was filed by the State of Hawaii.[2]

[2] Several informal letters of protest have been received from various shippers and Members of Congress.

The complaints variously assert, inter alia, (1) that the higher rates proposed would result in sharp increases on top of increases previously effected; (2) that the rates are unsupported by valid cost data; (3) that the container rates, which are proposed to be raised proportionately more than most bulk rates, are not supported by any cost or other data; (4) that the rates would force some shippers to curtail their air movements and depress the volume of air freight traffic and load factors; (5) that the proposals are inconsistent with previous Board policy; (6) that forwarders will be forced to raise their rates to shippers, thus widening the gap between such rates and air express rates; (7) that the increases in premium-rated commodities would raise such rates by higher dollar amounts than for other commodities, although such rates are already under investigation.

In their justifications and in answer to complaints, the carriers variously assert, inter alia, that the proposed rates are justified by a critical need for additional freight revenues as a result of substantial losses in their cargo operations, that greater losses will be incurred in 1971 because of severe inflationary pressures, and that the current proposals would increase revenues by smaller amounts than required for a fair return. United has submitted a detailed cost justification for its rates, according to shipment size and length of haul.

In response to forwarders' protests of higher container rates, United claims (1) that its losses are primarily the result of increasing capacity costs, not ground handling costs, and, therefore, container rates should bear the same increase as general commodity rates and (2) that these increasing costs and low load factors are caused to a great degree by the workload peaking and low density characteristics of forwarder traffic.

All the rates and charges involved in the instant tariff filings are automatically under investigation in the proceeding recently instituted in Docket 22859, Domestic Air Freight Rate Investigation. The question now before the Board is whether to permit them to become effective pending investigation or to suspend them.

The Board concludes that American and United have adequately demonstrated that they require an immediate increase in air freight revenues. For the 12 months ended June 30, 1970, these carriers reported operating losses of $1,100,000 and $13,500,000, respectively, in their domestic services with all-cargo aircraft. These results are typical of the domestic trunkline and all-cargo carriers as a group. In the same 12-month period, the combined results showed an operating loss in all-cargo services of $27 million on operating revenues of $254 million, most of which were from air freight. All cargo services accounted for over 60 percent of total domestic scheduled air freight ton-miles and thus are a fair indicator of the profitability of air freight services in general. Moreover, these operating losses must be viewed in the context of the depressed economic results being experienced by these carriers in their overall domestic services.

Accordingly, the Board has determined to permit the American filing, except in one respect, to become effective as an interim matter pending investigation. The increases in general commodity rates proposed by American—6 percent westbound and 10 percent eastbound—and the increases in specific commodity rates not exceeding 10 percent do not appear unreasonably large in view of the carrier's revenue needs, and should not adversely affect most shippers to a significant degree since all the increases are within a moderate range and none exceeds 10 percent. The one exception in American's filing relates to the so-called premium rates.[3] No showing has been made that existing rates and charges, which range from 150 to 250 percent of general commodity rates, do not cover the costs of transporting premium-rated traffic. Accordingly, we will suspend, pending investigation,[4] American's proposed increases in general commodity rates insofar as they would be used in the determination of rates and minimum charges in conjunction with exception ratings to general commodity rates where the exception ratings exceed 100 percent.

United's proposals similarly represent a moderate increase on the average, namely about 10 percent. However, the increases are applied to the mainland general commodity rates in a fashion that a great many shippers would sustain far greater increases, up to 28 percent, and others would sustain much smaller increases. While United contends its proposed rates structure comports with its unit cost patterns, this is a highly complex and controversial area. The increases resulting from the application of United's formula are so great in many instances and have the potential for very significant adverse effects on many shippers, that the Board concludes they should not be permitted to become effective pending investigation. Although many of United's rate increases are moderate in extent, we shall suspend all the mainland general commodity rates because suspension of only the larger increases would leave in force a distorted general rate structure not proposed by United. We shall also suspend United's increased container rates because they are based on the suspended rates for bulk shipments, and the increased rates on personal effects from Honolulu to the mainland,[5] resulting from the cancellation of the 100-pound rate, in view of the magnitude, up to 420 percent, of the resulting increases.

[3] These apply to certain live animals and birds, uncrated automobiles, and human remains.

[4] Most of the premium rates are under investigation in Docket 21474. In the matter of air freight rates on live animals and birds, which will be processed to final decision. The tariffs on this traffic, as well as the tariffs on other premium traffic, are also included in Docket 22859.

[5] These rates are available only to the Department of Defense for shipments moving on Government bills of lading.

We will permit the remainder of United's filing to become effective pending investigation. As earlier noted, these relate principally to specific commodity rates and to limited increases in general commodity rates in the Hawaii markets. We believe adjustments to specific commodity rates aimed at improving the economics of such transportation lie to a substantial degree within the discretion of the carriers. Many of the specific rates proposed to be increased appear to be very low and questionable from an economic standpoint. The increased general commodity rates in the Hawaii markets will still be lower than mainland general rates for similar distances and shipment sizes.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, the rates, minimum charges, and provisions described in Appendix A attached hereto[6] (except rates, minimum charges, and provisions applying to or from Canadian points) are suspended and their use deferred to and including April 11, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Docket 22946 initiated herein, be consolidated into Docket 22859, Domestic Air Freight Rate Investigation;

3. The complaints filed by Emery Air Freight Corp., in Dockets 22878 and 22819; Allied American Bird Co., in Dockets 22808 and 22848; Domestic Air Express, Inc., in Dockets 22849 and 22826; Aquarium Supply Co., in Docket 22821; The State of Hawaii, in Docket 22873; Society of American Florists and the National Fisheries Institute, Inc., in Dockets 22882 and 22814; Airborne Freight Corp., Jet Air Freight, Profit By Air, Inc., Shulman Air Freight, and WTC Air Freight, in Dockets 22829 and 22885, Wings and Wheels Express, Inc., in Docket 22820 will be dismissed except to the extent granted herein; and

4. A copy of this order shall be filed with the tariff and shall be served upon American Airlines, Inc., United Air Lines, Inc., Emery Air Freight Corp.; Allied American Bird Co.; Domestic Air Express, Inc.; Aquarium Supply Co.; State of Hawaii; Society of American Florists and the National Fisheries Institute, Inc.; Airborne Freight Corp.; Jet Air Freight; Profit By Air, Inc.; Shulman Air Freight; WTC Air Freight; and Wings and Wheels Express, Inc., which are hereby made parties to Docket 22946 and upon all parties to Docket 22859.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-17626; Filed, Dec. 31, 1970; 8:46 a.m.]

[6] Filed as part of the original document.

[Docket No. 22916]

AMERICAN AIRLINES, INC., AND WESTERN AIR LINES, INC.

Notice of Prehearing Conference Regarding Merger Agreement

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 26, 1971, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner William J. Madden.

Requests for information and evidence, statements of proposed issues, proposed procedural dates, and motions shall be filed with the Examiner and served upon Bureau Counsel and the applicants on or before January 18, 1971.

Dated at Washington, D.C., December 28, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-17633; Filed, Dec. 31, 1970; 8:46 a.m.]

[Docket No. 20993; Order 70-12-132]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority December 23, 1970.

By Order 70-11-131, dated November 25, 1970, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 70-11-131 will herein be made final.

Agreement C.A.B. 21753, R-36 and R-37, be and it hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-17630; Filed, Dec. 31, 1970; 8:46 a.m.]

[Docket No. 20993; Order 70-12-140]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Rate Matters

Issued under delegated authority December 24, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted by mail votes. The agreement has been assigned the above-designated CAB agreement number.

The agreement would amend the resolution governing the rounding-off of cargo rates by the inclusion of the currency of Malawi.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the following resolutions, which are incorporated in the agreement indicated, are adverse to the public interest or in violation of the Act:

CAB Agreement:	*IATA Resolutions*
22121	100(Mail 868)023b.
	200(Mail 082)023b.
	300(Mail 348)023b.
	JT12(Mail 759)023b.
	JT23(Mail 267)023b.
	JT31(Mail 191)023b.
	JT123(Mail 656)023b.

Accordingly, it is ordered, That:

Action on Agreement C.A.B. 22121 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-17631; Filed, Dec. 31, 1970; 8:46 a.m.]

[Docket No. 22868]

OUT ISLAND AIRWAYS, LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on January 8, 1971, at 11:00 a.m., e.s.t., immediately following the prehearing conference, in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Examiner.

Dated at Washington, D.C., December 28, 1970.

[SEAL] RICHARD M. HARTSOCK,
Hearing Examiner.

[F.R. Doc. 70-17632; Filed, Dec. 31, 1970; 8:46 a.m.]

TARIFF COMMISSION

WILTON AND VELVET CARPETS AND RUGS

Report to the President

DECEMBER 29, 1970.

The U.S. Tariff Commission, in a report sent to the President today on recent developments in the trade in Wilton and velvet carpet rugs, indicated that U.S. producers' annual shipments of all carpets and rugs (including tufted) may decline in 1970 for the first time in recent years. The Commission reported that the output of Wiltons and velvets in the first half of 1970 was 6 percent less than in the corresponding period of 1969, continuing the downward trend in output of those types of carpets and rugs that started in 1959. In most of the 17 firms producing Wiltons and velvets, such floor coverings account for a minor part of their total output, but in some four or five smaller firms Wiltons and velvets account for all or a major part of total production of the firms.

U.S. imports of Wiltons and velvets also declined in 1970, following a gradual increase during 1965–69. Of the total imports during January–September 1970, about 60 percent were imitation oriental types on which the escape-clause rate was terminated as of the close of 1969. It is estimated that imports of the non-oriental types in 1970 will equal about 1.3 percent of U.S. consumption of such floor coverings.

The Commission report was submitted to the President in accordance with section 351(d)(1) of the Trade Expansion Act of 1962, which provides as follows:

> So long as any increase in, or imposition of, any duty or other import restriction pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned, and shall make annual reports to the President concerning such developments.

Although the President permitted the increased rate of duty on imitation oriental types of carpeting to revert to 21 percent ad valorem at the close of 1969, he extended the escape-clause rate (40 percent ad valorem) on Wilton and velvets other than the imitation oriental types to the close of December 31, 1972.

Copies of the public report (TC Publication No. 350) will be available on request as long as the supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, DC 20436.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70–17625; Filed, Dec. 31, 1970; 8:46 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

EVERETT PIANO CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of October 21, 1970, a petition requesting certification of eligibility to apply for adjustment assistance was filed with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Furniture Workers of America, AFL–CIO on behalf of workers at the plant of the Everett Piano Co. at South Haven, Mich. The certification request was made under the terms of Presidential Proclamation 3964 ("Modification of Trade Agreement Concessions and Adjustment of Duty on Certain Pianos") of February 21, 1970. In that Proclamation the President, among other things, acted to provide under section 302(a)(3) with respect to the piano industry that its workers may request the Secretary of Labor for certification of eligibility to apply for adjustment assistance under Chapter 3, Title III, of the Trade Expansion Act of 1962.

The Trade Expansion Act, section 302(b)(2) provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under Chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3) upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof. The same degree of causal connection is applicable here as under the tariff adjustment and other adjustment assistance provisions; that is, the increased imports have been the major factor.

Upon receipt of the petition, the Department's Director of the Office of Foreign Economic Policy instituted an investigation, following which he made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority, 34 F.R. 18342; Notice of Investigation, 35 F.R. 16613). The Director reported that increased imports of pianos of the types covered by Presidential Proclamation 3964 have been the major factor in causing the unemployment or underemployment of a significant number or proportion of workers of the Everett Piano Co. plant at South Haven, Mich. He further reported that this employment or underemployment began July 18, 1969.

After due consideration, I make the following certification:

Those hourly and salaried employees of the Everett Piano Company plant at South Haven, Mich., who became or will become unemployed or underemployed after July 18, 1969, are eligible to apply for adjustment assistance under Chaper 3, Title III, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 23d day of December 1970.

GEORGE H. HILDEBRAND,
Deputy Under Secretary, International Affairs.

[F.R. Doc. 70–17649; Filed, Dec. 31, 1970; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 40]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 24, 1970.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC–30504 (Deviation No. 9), TUCKER FREIGHT LINES, INC., 1415 South Olive Street, South Bend, IN 46621, filed December 14, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 131 and Michigan Highway 11, over Michigan Highway 11 to junction Interstate Highway 96, thence over Interstate Highway 96 to junction U.S. Highway 23, thence over U.S. Highway 23 to junction U.S. Highway 20, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from South Bend, Ind., over U.S. Highway 20 to Elkhart, Ind. (also from South Bend over U.S. Highway 33 to Elkhart), thence over U.S. Highway 20 to junction Ohio Highway 120 (formerly Business Route U.S. Highway 20), thence over Ohio Highway 120 to Toledo, Ohio; and

(2) from Grand Rapids, Mich., over U.S. Highway 131 to the Michigan-Indiana State line, thence over Indiana Highway 15 to Bristol, Ind., thence over Indiana Highway 120 to Elkhart, Ind., thence over U.S. Highway 33 to South Bend, Ind., thence over U.S. Highway 31 to Indianapolis, Ind., and return over the same routes.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-17640; Filed, Dec. 31, 1970; 8:47 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

DECEMBER 24, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket Case MT-863, filed November 5, 1970. Applicant: SHAY'S SERVICE, INC., North Main Street, Dansville, N.Y. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, as defined in the contemporaneously effective order of the Commission in Case MT-4467, between Dansville, N.Y., on the one hand, and, on the other, points and places on and west of U.S. Highway 14, in New York. Restriction: The proposed service is restricted to the transportation of shipments having a prior or subsequent movement within New York State and movement in and out of New York State. Both intrastate and interstate authority sought.

HEARING: To be hereafter fixed. Requests for procedural information including the time for filing protests concerning this application should be addressed to the New York Public Service Commission, 44 Holland Avenue, Albany, NY 12208, and should not be directed to the Interstate Commerce Commission.

State Docket No. MC-4470 Sub 7, filed December 14, 1970. Applicant: POTTER FREIGHT LINES, INC., Post Office Box 428, Sparta, TN 38583. Applicant's representative: Clarence Evans, 1800 Third National Bank Building, Nashville, TN 37219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* excluding used household goods and commodities in bulk, between Spencer, Tenn., and Fall Creek Falls State Park, Tenn., and all points within 10 miles of the boundary of the said park, over any available routes, to be used in conjunction with all of applicant's other authority. Both intrastate and interstate authority sought.

HEARING: January 28, 1971, at 1:30 p.m. Commission's Courtroom, C-1 Cordell Hull Building, Nashville, Tenn. Requests for procedural information including the time for filing protests concerning this application should be addressed to Tennessee Public Service Commission, Cordell Hull Building, Nashville, TN 37219 and should not be directed to the Interstate Commerce Commission.

State Docket No. 70468-CCT, filed October 23, 1970. Applicant: NATIONAL COLD TRANSPORT, INC., 1801 Northwest First Avenue, Miami, FL 33136. Applicant's representative: Robert M. Gosselin, 9940 West Suburban Drive, Miami, FL 33156. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *commercially packaged food, foodstuffs, and foodstuff materials*, irrespective of their use and whether they require temperature-controlled equipment, restricted, however, against the transportation of bulk commodities moving in tank vehicles, between all points and places within Collier, Dade, Broward, Palm Beach, Hillsborough, Pinellas, Orange, and Duval Counties, Fla., and all points between said counties: Provided, however, all transportation performed shall be as a regulated carrier without benefit of any exemption of any kind and to engage in transportation in interstate and foreign commerce within the limits of the intrastate authority granted.

HEARING: Not known at this time. Requests for procedural information including the time for filing protests concerning this application should be addressed to Florida Public Service Commission, Tallahassee, Fla. 32304, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 70-17639; Filed, Dec. 31, 1970; 8:47 a.m.]