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PART I



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Title 3—The President

PROCLAMATION 4118

Loyalty Day, 1972

By the President of the United States of America

A Proclamation

"I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands . . ." From earliest school days most Americans know these words as they know their own names. They constitute a solemn promise of loyalty signed in the heart and paid off lifelong in the currency of daily deeds, great and small—from the ultimate sacrifice of the soldier, to the conscientious vote of the citizen, to the productive labor of the working man or woman and the precious trust of the parent. Once again this May 1, we pause as a nation to ask ourselves how we can live our loyalty better.

Loyalty Day, although a far newer national observance than Independence Day, is in a sense equally important. Our July 4 celebration of the "unalienable rights" which America owes to each of us has meaning only as we balance it with lively awareness of the unalienable allegiance which each of us in turn owes to America.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in accordance with the joint resolution of the Congress of July 18, 1958, do call upon the people of the United States, and upon all patriotic, civic and educational organizations, to observe Monday, May 1, 1972, as Loyalty Day, with appropriate ceremonies in schools and other suitable places.

I further call upon appropriate officials of the Government to display the flag of the United States on all Government buildings on that day in witness of our "allegiance . . . to the Republic for which it stands."

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of March, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.72-4593 Filed 3-22-72; 1:02 pm]

EXECUTIVE ORDER 11657

Exemption of C. Everett Spangler From Compulsory Retirement for Age

C. Everett Spangler, a member of the Federal Farm Credit Board, reached the age of 70 on February 4, 1972. Under section 8335 of title 5, United States Code, he would be subject to compulsory retirement for age unless exempted therefrom by Executive order.

It is my judgment that the public interest requires that Mr. Spangler be exempted from such compulsory retirement:

NOW, THEREFORE, by virtue of the authority vested in me by subsection (c) of section 8335 of title 5, United States Code, I hereby exempt C. Everett Spangler from compulsory retirement for age until April 1, 1974.

This order shall be effective March 1, 1972.

Richard Nixon

THE WHITE HOUSE,
March 22, 1972.

[FR Doc.72-4590 Filed 3-22-72; 1:00 pm]

EXECUTIVE ORDER 11658

Establishment of the Missouri River Basin Commission

The Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 *et seq.*) provides for the establishment of river basin water and related land resources commissions. In conformity with the requirements of that act a majority of the Governors of the States of the Missouri River drainage basin, as defined in Section 2 of this order, and the Water Resources Council have requested, or concurred in, the establishment of such a Commission.

NOW, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b), and as President of the United States, it is ordered as follows:

SECTION 1. *Missouri River Basin Commission.* It is hereby declared that the Missouri River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*).

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Missouri River Basin Commission referred to in Section 1 of this order shall extend to the State of Nebraska and those portions of the States of Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, North Dakota, South Dakota, and Wyoming that are located within the Missouri River drainage basin, defined as the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with Section 202 of the Act (42 U.S.C. 1962b–1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture; Department of the Army; Department of Commerce; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of the Interior; Department of Transportation; Federal Power Commission; Atomic Energy Commission; and the Environmental Protection Agency; such member to be appointed by the head of the department or independent agency he represents.

(3) one member from each of the following States: Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

(4) one member from each interstate agency created by an interstate compact to which the consent of the Congress has been given and whose jurisdiction extends to the waters of the area specified in Section 2.

SEC. 4. *Functions, Powers, and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the

area specified in Section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act.

SEC. 5. *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Water Resources Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.

Richard Nixon

THE WHITE HOUSE,
March 22, 1972.

[FR Doc.72-4591 Filed 3-22-72; 1:00 pm]

EXECUTIVE ORDER 11659

Establishment of the Upper Mississippi River Basin Commission

The Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 *et seq.*) provides for the establishment of river basin water and related land resources commissions. In conformity with the requirements of that act the Governors of the States of the Upper Mississippi River drainage basin, as defined in Section 2 of this order, and the Water Resources Council have requested, or concurred in, the establishment of such a Commission.

NOW, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b), and as President of the United States, it is ordered as follows:

SECTION 1. *Upper Mississippi River Basin Commission.* It is hereby declared that the Upper Mississippi River Basin Commission is established under the provisions of Title II of the Water Resources Planning Act (42 U.S.C. 1962b *et seq.*).

SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Upper Mississippi River Basin Commission referred to in Section 1 of this order shall extend to those portions of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin that are located within the Upper Mississippi River drainage basin, defined as the drainage basin of the Mississippi River above the mouth of the Ohio River, excluding the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River.

SEC. 3. *Membership of the Commission.* It is hereby determined that, in accordance with Section 202 of the Act (42 U.S.C. 1962b–1), the Commission shall consist of the following members:

(1) a Chairman to be appointed by the President,

(2) one member from each of the following Federal departments and agencies: Department of Agriculture; Department of the Army; Department of Commerce; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of the Interior; Department of Transportation; Federal Power Commission; Atomic Energy Commission; and the Environmental Protection Agency; such member to be appointed by the head of the department or independent agency he represents,

(3) one member from each of the following States: Illinois, Iowa, Minnesota, Missouri, and Wisconsin,

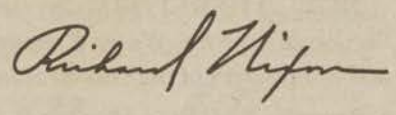
(4) one member from each interstate agency created by an interstate compact to which the consent of Congress has been given and whose jurisdiction extends to the waters of the area specified in Section 2.

SEC. 4. *Functions, Powers, and Duties.* The Commission and its officers, members, and employees shall perform and exercise, with respect to the

area specified in Section 2 of this order, their respective functions, powers, and duties as set out in Title II of the Water Resources Planning Act.

SEC. 5. *Consultation with Adjoining States.* The Commission is expected to provide for procedures for consultation with the States of Indiana, Michigan, and South Dakota on any matter which might affect the water and related land resources of the headwater drainages of the Mississippi River Basin in those States and to give notice to those States of meetings of the Commission.

SEC. 6. *Reporting to the President.* The Chairman of the Commission shall report to the President through the Water Resources Council.



THE WHITE HOUSE,
March 22, 1972.

[FR Doc.72-4592 Filed 3-22-72; 1:01 pm]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 of Schedule C is amended to reflect the following title change: From Special Assistant for Equal Employment Opportunity to Special Assistant and Director, Office of Equal Employment Opportunity and Compliance.

Effective on publication in the FEDERAL REGISTER (3–24–72), paragraph (d) of § 213.3332 is amended as set out below.

§ 213.3332 Small Business Administration.

* * * * *

(d) Special Assistant and Director, Office of Equal Employment Opportunity and Compliance.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–4485 Filed 3–23–72;8:46 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Public Information Officer, Federal Railroad Administration, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (3–24–72), subparagraph (5) is added to paragraph (e) of § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

* * * * *

(e) *Federal Railroad Administration.* * * *

(5) One Public Information Officer.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–4486 Filed 3–23–72;8:46 am]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3399 is amended to show that one position of Director and three positions of Deputy Executive Director in the American Revolution Bicentennial Commission are excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (3–24–72), paragraph (b) is added to § 213.3399 as set out below.

§ 213.3399 Temporary boards and commissions.

* * * * *

(b) *American Revolution Bicentennial Commission.* (1) Director.

(2) Deputy Executive Director for Program Development and Coordination.

(3) Deputy Executive Director for Communications and Field Services.

(4) Deputy Executive Director for Finance and Administration.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–4595 Filed 3–23–72;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11466, Amdt. 39–1417]

PART 39—AIRWORTHINESS DIRECTIVES

Dowty Rotol Propellers with Blade Root Sizes 20 and 30

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of Dowty Rotol propellers with blade root sizes 20 and 30 for evidence of loss of blade bearing preload that could result in fatigue damage to blades and blade bolts and specifying the disposition of blades, blade assemblies, and blade bolts based on the results of that inspection was published in 36 F.R. 20894 on October 30, 1971.

Interested persons have been afforded an opportunity to participate in the making of the amendment and due consideration has been given to all comments received. A number of comments were received objecting to the issuance of the proposed AD and to the 400 hour compliance time for certain bearings on the grounds that the commentators' service experience with the propellers over long periods of operation revealed no blade failures. The FAA recognizes that an operator may have had failure-free service experience. However, the AD is necessary since the operation of those propellers without proper blade bearing preload will reduce the service life of the blades and blade bolts, and may result in failure of the blade or blade bolt due to fatigue after 400 to 600 hours of operations without proper preload on the blade bearing. Investigation of bearings in service has revealed bearings that were operating without proper preload.

One commentator agreed with the proposal to require inspection of all bearings reground by an agency other than the bearing manufacturer, but objected to the provisions that would require inspection of all bearings. Preload is critical to propeller airworthiness, and the FAA's investigation has not shown that the possibility of loss of preload is limited to bearings reground by other than the manufacturer. Therefore, the FAA has determined that the preload condition of all blade bearings must be ascertained. Other comments recommended that bearings reground after the incorporation of certain FAA-approved procedures in the regrinding process be exempted from the proposed 400 hour inspection requirement. Investigation of bearings that have been reground under the updated procedures indicates that such bearings need not be inspected within the proposed 400 hours' time in service period. Accordingly, the proposed AD has been revised to limit the requirement for inspection within 400 hours' time in service after the effective date of the AD to specific bearings known to have been reground using procedures that the FAA has determined may have resulted in discrepancies in bearing ground tracks.

Another comment recommended that the AD provide relief from the 400 hour initial inspection requirement based on inspections performed prior to the adoption of the AD. The FAA agrees that certain inspections performed on a reground bearing prior to the issuance of the AD, and subsequent to its installation and use in service since it was last reground, may be substituted for the required initial inspection. The substitution would be permitted if there is a record of the inspection that shows that the blade bearing preload was determined by the methods specified in the AD, and was within the limits specified in the AD.

Several commentators suggested that in view of the possible serious consequences of in-flight failure of a propeller blade or blade bolt all blade bearings on the subject propellers should be periodically inspected. Based on further investigation since the issuance of the proposed AD, the FAA has determined that loss of preload can occur at any time and that periodic inspections are required in the interest of safety. In this connection, it should be noted that to date the FAA has not been able to determine the extent of fatigue damage to the blade or blade bolt based on length of time in

service without proper blade bearing preload. Therefore, the proposed AD has been revised to require inspection for blade bearing preload at each disassembly of a blade and its bearing assembly for cause. Inasmuch as disassembly for cause includes disassembly at blade overhaul, the longest interval between inspections of any blade subject to scheduled overhauls will be the time between overhauls. With respect to propellers that do not have established overhaul periods, a maximum interval of 5,000 hours' time in service between inspections has been established.

Finally, in response to requests by several commentators, the propeller manufacturer has advised the FAA that its U.S. facility is capable of making the required load-expansion torque test on the bearing assemblies that are returned to the manufacturer in accordance with the requirements of the AD. Accordingly, the proposed AD has been revised to include this facility as an alternate site for those determinations.

As discussed above, the FAA has determined that safety requires that blade bearing preload be ascertained each time a bearing is disassembled from its blade for cause, or, if no disassembly for cause occurs, within specified time in service since the last inspection, and that the initial inspection of the specified reground bearings be accomplished at the next disassembly for cause or within the next 400 hours' time in service, whichever occurs sooner. In view of the possible serious consequences of an in-flight failure of a propeller blade or blade bolt and the lapse of time since the issuance of the proposed AD, further notice and public procedure with respect to the repetitive inspections are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DOWTY ROTOL. Applies to all propellers with blade root sizes Nos. 20 and 30. These propellers are installed on but not limited to Fairchild F-27 Series; Fairchild Hiller F-227 Series; Armstrong Whitworth Argosy Type AW 650 Series; Vickers Viscount 745 and 810 Series; and Grumman G-159 Series airplanes.

Compliance is required as indicated unless already accomplished.

To prevent possible fatigue failure of propeller blades or blade bearings as a result of loss of bearing preload due to discrepancies in the ground tracks or improper assembly of the propeller blade bearings, accomplish the following:

(a) For propellers with any bearing identified by one of the Bearing Identification Numbers listed in subparagraph (3) that has not been last reground by an FAA-approved repair facility subsequent to April 21, 1971, or by the bearing manufacturer, comply with paragraph (c)(1) within the next 400 hours' time in service after the effective date of this AD, or at the next disassembly of a bearing from a blade for cause, whichever occurs sooner. Thereafter, comply with paragraph (c)(2) at the following intervals:

(1) For propellers for which there is a scheduled blade overhaul, at each disassembly of a bearing from a blade for cause, including disassembly at overhaul.

(2) For propellers for which there is no scheduled blade overhaul, at each disassembly of a bearing from a blade for cause, and at intervals not to exceed 5,000 hours' time in service on a blade from the last inspection.

(3) Bearing identification numbers:

11309	15071/R	18328/R
16350	15337	17078/R
13098	N15311	2280/R/R
18077/R	N13981	16970/R
N17430	N14011	16498/R
N17368	N13980	15523/R/R
N17313	N13977	15959/R
N17424	N16167/R	10571
N15257/R	N16490/R	5756/R
14731/R	N16898/R	N18287
7060/R/R	N16532	N18236
1298/R	3258/R	N12714
11766/R	4416/R	N10966
20441/R/R	2489/R	N11761
14352/R	3054/R	N14938
11751/R/R	N13837	14165/R
7049/R	N13821	12749/R/R
N16977/R	N13822	13347/R
4354/R/R	N13833	N15489/R
13993/R	N9296	N434/R/R
11764/R	N15890	15567
14364/R	N16773	5801/R
14213/R	N16706	11765
12746/R	N16647/R	12038
12571/R/R	16981/R	11754/R
13853/R	20449/R/R	4131/R/R
11756	N21048N/R	5155/R
10449/R	20823/R/R	N5007/R/R
9660/R	16331/R/R	N11724/R
13917/R/R	947/R/R	4696/R/R
2847/R/R	13345/R	N16672/R
3670/R/R	1237/R/R/R	N8225/R
7801/R/R	N15427	11781/R
2629/R	N4629/R	12825/R
N16327	20448/R	N17829/R
N16078/R	12794/R	N11240/R
N14495/R	5901/R/R	N21240N/R
N9730/R	17082/R	18119
21243	16831/R	3626/R/R
16790	15309/R	18081/R
9180/R	16512/R	11838/R/R
N18094	15302/R	N11149
18055	16339/R	N3682/R/R
16295	N15574	1400/R/R
11346/R/R	16179/R/R	14163
N11778/R/R	4786/R/R/R	14734
N20911N	1989/R/R	1851/R/R/
4709/R	315/R/R	R/R
N4689/R	14019/R/R	9048/R
N20340	13969	20045N/R
10422/R/R	14386/R/R	21280N/R/R
10554/R	15220/R	17018
13559/R/R	N15285	2753/R/R
N15703	15275	N11358/R/R
N15691	15538	N21248N/R
N16858	9668	N18103
N17408	5235	N7479/R
16726	18305/R	

(b) For all other propellers, comply with the following:

(1) For propellers for which there is a scheduled blade overhaul—

(i) Comply with paragraph (c)(1) at the next disassembly of a bearing from a blade for cause, including disassembly at overhaul; and

(ii) Thereafter comply with paragraph (c)(2) at each disassembly of a bearing from a blade for cause, including disassembly at overhaul.

(2) For propellers for which there is no scheduled blade overhaul—

(i) Comply with paragraph (c)(1) at the next disassembly of a bearing from a blade for cause or before the accumulation of 5,000 hours' time in service on the propeller from the last inspection, whichever occurs sooner; and

(ii) Thereafter comply with paragraph (c)(2) at each disassembly of a bearing from a blade for cause and at intervals not to exceed 5,000 hours' time in service on a blade from the last inspection.

(c) Inspect blade bearings in accordance with either subparagraph (1) or (2), as applicable.

(1) For the intial inspections required by paragraphs (a) and (b) disassemble the propeller to the stage where the assembly of blades complete with bearings are removed from the hub and inspect each blade bearing in accordance with paragraph (d).

(2) For the repetitive inspections required by paragraphs (a) and (b), inspect affected blade bearings in accordance with paragraph (d).

(d) Measure and record the bearing torque and the center race spigot mean diameter before and after removal of bearing preload; and compute the spigot expansion, in accordance with the procedures specified in Dowty Rotol Service Letter No. SER/SSL/1, dated August 12, 1971, or an FAA-approved equivalent. If the spigot expansion, for a bearing size and blade bearing assembly specified in Columns 1 and 2, respectively of the following table, is—

(1) Equal to or greater than Expansion Value A (Column 4), the bearing assembly, blade, and blade bolt may be returned to service.

(2) Less than Expansion Value B (Column 5), remove the bearing assembly, blade, and blade bolt from service and mark them in a manner that will prevent their further use.

(3) Less than Expansion Value A, but equal to or greater than Expansion Value B (Column 5), before further operation of the blade, blade bolt, and bearing assembly return the bearing assembly to Dowty Rotol, Inc., Arlington, Va., or Dowty-Rotol, Ltd., Service Department, Cheltenham Road, Gloucester, England, for a load-expansion torque test to determine the remaining service life of the blade and blade bolt. The measurements of bearing torque and the mean spigot diameter before and after removal of the blade bearing preload required by this paragraph must accompany the parts.

Bearing size (Col. 1)	Blade bearing assembly (Col. 2)	Normal spigot expansion (Col. 3)	Expansion value A (Col. 4)	Expansion value B (Col. 5)
		Inch	*Inch*	*Inch*
No. 20	RA38965, RA38965Z, RA38965Z-1	0.0055 to 0.0060	0.0050	0.0035
	RA54100, RA54100Z, RA54100Z-1	0.0050 to 0.0055	0.0040	0.0030
No. 30	RA57099, RA57099Z, RA57099Z-1	0.0040 to 0.0045	0.0035	0.0025
	RA22355/1, RA22355/2	0.0035 to 0.0040	0.0030	0.0022

(e) An inspection performed following any period in service since the last installation of the propeller, may be accepted in lieu of the initial inspection required by paragraph (a) to be performed within the next 400 hours' time in service after the effective date of this AD, if the records of that inspection are submitted to an FAA Maintenance Inspector and he determines that the inspection included a computation of spigot expansion performed in accordance with the procedures specified in paragraph (d) which established that the spigot expansion values were equal to or greater than the applicable Expansion Value A (Column 4) specified in paragraph (d) for the bearing size and blade bearing assembly.

This amendment becomes effective March 29, 1972.

(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 Washington, D.C., on March 20, 1972.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.72-4512 Filed 3-23-72;8:46 am]

[Docket No. 6737, Amdt. 39-1416]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH-104 "Dove" Airplanes

A proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-960 (35 F.R. 4947), AD 70-7-1, to revise the repetitive inspection interval from 2 years to 4 years for engine mounting frames affected by that amendment and to extend that inspection requirement to frames manufactured to Dove Modification PP.225 standards, with an initial inspection required within 10 years after manufacture of the engine mounting frame structures, on Hawker Siddeley Model DH-104 "Dove" airplanes was published in 36 F.R. 18532 on September 16, 1971.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-960 (35 F.R. 4947), AD 70-7-1 is amended as follows:

1. By amending paragraph (b) to read:

(b) Conduct X-ray inspections of engine mounting frames in accordance with paragraph (c) as follows:

(1) For engine mounting frames serial numbers DHB/1 and subsequent or prefixed by "DH/* * *," including those frames incorporating Modification PP.225, within the next 25 hours' time in service after the effective date of this AD, unless already accomplished within the last 4 years prior to the effective date of this AD, and thereafter at intervals not to exceed 4 years from the last inspection.

(2) For engine mounting frames serial number prefix "S4/DHB/* * *" or "BGB/DHB/* * *" (manufactured to the standards of Modification PP.225), within 10 years after the date of manufacture and thereafter at intervals not to exceed 4 years from the last inspection.

NOTE: See Hawker Siddeley Technical News Sheet Series: CT(104) No. 190, Issue 3, dated September 14, 1970, for dates of engine mount manufacture.

2. By amending the first sentence of paragraph (c) to read:

(c) Conduct an X-ray inspection in accordance with Hawker Siddeley Technical News Sheet Series: CT(104) No. 190, Issue 1, dated August 24, 1964, or Issue 3, dated September 14, 1970, or FAA-approved equivalent.

This amendment becomes effective April 24, 1972.

(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 Washington, D.C., on March 17, 1972.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.72-4513 Filed 3-23-72;8:46 am]

[Airworthiness Docket No. 71-WE-23-AD, Amdt. 39-1413]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series (Except All-Freighter)

Amendment 39-1336 (36 F.R. 22056), AD 71-24-1, requires modification of the ceiling light control wiring in DC-9 series aircraft. After issuing Amendment 39-1336, the agency determined that a subsequent modification, proposed by Douglas Aircraft Co. in Service Bulletin 33-56, is satisfactory. Therefore, the AD is being amended to provide an alternate means of compliance.

Since this amendment provides an alternative means of compliance, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 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, Amendment 39-1336 (36 F.R. 22056), AD 71-24-1, is amended as follows:

Amend the AD to read, in pertinent part, as follows:

Modify the ceiling light control wiring in accordance with either Douglas Aircraft Company Alert Service Bulletin A33-55, dated October 8, 1971, or later FAA-approved revisions, or Douglas Aircraft Company Service Bulletin No. 33-56, dated February 25, 1972, or later FAA-approved revisions, or other modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment is effective March 24, 1972.

(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 Los Angeles, Calif., on March 13, 1972.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.72-4548 Filed 3-23-72;8:51 am]

[Airspace Docket No. 72-EA-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 1407 of the FEDERAL REGISTER for January 28, 1972, the Federal Aviation Administration published a proposed rule which would alter the New York, N.Y., transition area (37 F.R. 2252).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. May 25, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 10, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71, Federal Aviation regulations so as to amend the New York, N.Y., 700-foot floor transition area as follows: Following the phrase, "to the point of beginning;" add, "including that airspace 5 miles N. and 3 miles S. of the Solberg, N.J. VORTAC 298° radial extending from the VORTAC to a point 10 miles NW. of the VORTAC."

[FR Doc.72-4514 Filed 3-23-72;8:47 am]

[Airspace Docket No. 71-EA-166]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 1409 of the FEDERAL REGISTER for January 28, 1972, the Federal Aviation Administration published proposed regulations which would alter the Huntington, W. Va., control zone (37 F.R. 2092) and transition area (37 F.R. 2213).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., May 25, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 10, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation regulations so as to delete the description of the Huntington, W. Va., control zone and substitute the following in lieu thereof:

Within a 6-mile radius of the center 38°-22'00" N., 82°33'20" W. of Tri-State Airport (Walker-Long Field), Huntington, W. Va., and within 1.5 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer east course, extending from the 6-mile-radius zone to 5 miles east of the Shoals, W. Va., FM.

2. Amend § 71.181 of Part 71 of the Federal Aviation regulations so as to delete the description of the Huntington, W. Va., 700-foot floor transition area and substitute the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center 38°22'00" N., 82°33'20" W. of Tri-State Airport (Walker-Long Field) Huntington, W. Va.; within 2 miles each side of the Tri-State Airport (Walker-Long Field) localizer east course, extending from the 11-miles-radius area to 7 miles east of the Shoals, W. Va., FM; and within 3 miles each side of the Tri-State Airport (Walker-Long Field) ILS localizer west course, extending from the 11-mile radius area to 8.5 miles west of the OM.

[FR Doc.72-4515 Filed 3-23-72;8:47 am]

[Airspace Docket No. 71-EA-168]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 1409 of the FEDERAL REGISTER for January 28, 1972, the Federal Aviation Administration published a proposed rule which would designate a Honesdale, Pa., transition area over Cherry Ridge Airport, Honesdale, Pa.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. May 25, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 10, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation regulations so as to designate a Honesdale, Pa., 700-foot floor transition area as follows:

HONESDALE, PA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center 41°30'52" N., 75°15'10" W. of Cherry Ridge Airport, Honesdale, Pa., and within 5 miles each side of the Wilkes-Barre VORTAC 054° radial extending from the 6.5-mile radius area to 10 miles northeast of the Wilkes-Barre VORTAC.

[FR Doc.72-4516 Filed 3-23-72;8:47 am]

[Airspace Docket No. 71-EA-171]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 1409 of the FEDERAL REGISTER for January 28, 1972, the Federal Aviation Administration published a proposed rule which would designate a Somerset, Pa., transition area over Somerset County Airport, Somerset, Pa.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted effective 0901 G.m.t. May 25, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 10, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation regulations so as to designate a Somerset, Pa. 700-foot floor transition area as follows:

SOMERSET, PA.

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the center (40°02'15" N., 79°01'00" W.) of Somerset County Airport, Somerset, Pa. and within 3.5 miles each side of the 056° bearing from the Stoystown RBN (40°-05'17" N., 78°55'20" W.) extending from the 9.5-mile radius area to 11 miles northeast of the RBN, excluding the portion that coincides with the Johnstown, Pa. transition area.

[FR Doc.72-4517 Filed 3-23-72;8:47 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 1B2586) filed by The Procter and Gamble Co., Ivorydale Technical Center, Cincinnati, Ohio 45217, and other relevant material, concludes that § 121.2514 (21 CFR 121.2514) of the food additive regulations should be amended as set forth below to provide for the safe use of (alkoxy C_{10}-C_{16})-2,3-epoxypropane, in which the alkyl groups consist of a maximum of 1 percent C_{10} carbon atoms and a minimum of 48 percent C_{12} carbon atoms and a minimum of 18 percent C_{14} carbon atoms, in coatings that are intended for contact with dry bulk foods at room temperature.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2514(b)(3)(viii)(*a*) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(viii) * * *

(*a*) * * *

(Alkoxy C_{10}-C_{16})-2,3-epoxypropane, in which the alkyl groups consist of a maximum of 1 percent C_{10} carbon atoms and a minimum of 48 percent C_{12} carbon atoms and a minimum of 18 percent C_{14} carbon atoms, for use only in coatings that are intended for contact with dry bulk foods at room temperature.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (3-24-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 16, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-4535 Filed 3-23-72;8:50 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SURFACE LUBRICANTS USED IN THE MANUFACTURE OF METALLIC ARTICLES

The Commissioner of Food and Drugs, having evaluated the data in a petition

(FAP 1B2656) filed by Emery Industries, Inc., Carew Tower, Cincinnati, Ohio 45202, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of di(2-ethylhexyl)azelate as a surface lubricant or component of surface lubricants employed in the manufacture of metallic articles that contact food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2531 is amended by alphabetically adding to the list of substances under paragraphs (a)(2) and (b)(2), a new item as follows:

§ 121.2531 Surface lubricants used in the manufacture of metallic articles.

* * * * * * *

(a) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Di(2-ethylhexyl)azelate	* * *
* * *	

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Di(2-ethylhexyl)azelate	* * *
* * *	

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (3-24-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 16, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-4534 Filed 3-23-72;8:50 am]

SUBCHAPTER E—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Child Protection Packaging Standards for Preparations Containing Aspirin

Correction

In F.R. Doc. 72-2358 appearing at page 3427 in the issue of Wednesday, February 16, 1972, the word "example" appearing in the 21st line of paragraph N of the introductory text should read "exemption".

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Reg. 108.656]

PART 51—PASSPORTS

Subpart D—Fees

EXEMPTION FROM PAYMENT OF PASSPORT OR EXECUTION FEE

Part 51, Chapter 1, Title 22, of the Code of Federal Regulations is amended in accordance with section 3(c) of the Act of December 31, 1970 (Public Law 91-603), authorizing appropriate departments and agencies of the U.S. Government to cooperate with the United Seamen's Service (a nonprofit, charitable organization incorporated under the laws of the State of New York) in the establishment and operation of facilities for U.S. merchant seamen in foreign areas, to promote the welfare of such seamen, essential to the overall interests of shipment of U.S. goods and supplies to such areas.

In § 51.63(a), subparagraph (4) (i), (ii), and (iii) is deleted; a new subparagraph (4) is added; and paragraph (b) is amended. As amended, § 51.63 will read as follows:

§ 51.63 Exemption from payment of passport or execution fee.

(a) * * *

(4) An employee of the United Seamen's Service who requires a passport for travel to assume or perform duties thereof. The applicant shall submit with his application a letter from the United Seamen's Service certifying that he is proceeding abroad on official business to provide facilities and services for U.S. merchant seamen.

(b) No person described in subparagraph (1), (2), (3), or (4) of paragraph (a) of this section shall be required to pay an execution fee when his application is executed before a Federal official.

(Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 211a, 2658, E.O. 11295; 3 CFR, 1966 Comp.)

Effective date. This revision shall be effective immediately upon publication in the FEDERAL REGISTER (3-24-72).

Dated: March 10, 1972.

For the Secretary of State.

[SEAL] BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs.

[FR Doc.72-4543 Filed 3-23-72;8:53 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Applicability of Certain Electrical Standards

Correction

In F.R. Doc. 72-2360 appearing at page 3431 in the issue for February 16, 1972, the following changes should be made:

1. Amendatory paragraph 8 on page 3432 should read as follows:

8. Subpart S is revised in its entirety to read as follows:

2. In § 1910.309(a) the article designated as "410-10" should read "400-10".

3. In § 1910.309(a) the word "grounding" in article 240-19 (a) and (b) should read "guarding".

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER F—PERSONNEL

PART 573—APPOINTMENT OF COMMISSIONED OFFICERS AND WARRANT OFFICERS

Because of the number and complexity of amendments to Part 573 of Chapter V of Title 32 of the Code of Federal Regulations, the part is revised and republished as set forth below. This revision, in addition to updating the eligibility requirements, describes the 13 Regular Army Officer Procurement Programs for those other than graduates of the U.S. Military, Naval, and Air Force Academies.

GENERAL PROVISIONS

Sec.
573.1 General.
573.2 Eligibility requirements.
573.3 Application.

PROCUREMENT PROGRAMS

573.4 Enlisted personnel and warrant officers.
573.5 Distinguished graduates of Army officer candidate course or WAC officer basic course.

Sec.
573.6 Distinguished military graduates, Senior Reserve Officers' Training Corps.
573.7 Scholarship cadets, Reserve Officers' Training Corps.
573.8 Army officers on active duty.
573.9 Technical specialists.
573.10 Former Regular Army officers and Reserve component commissioned officers not on active duty.
573.11 Nonobligated personnel.
573.12 Officers selected for promotion from secondary zones.
573.13 Direct appointment of college graduates.
573.14 Appointment of chaplains.
573.15 Appointment in the Judge Advocate General's Corps.
573.16 Appointment in the Corps of the Army Medical Department.

AUTHORITY: The provisions of this Part 573 issued under secs. 541, 3283–3295, 3311, 70A Stat. 19, 181–184, 192, secs. 2106, 2107, 78 Stat. 1066–1067; 10 U.S.C. 541, 2106, 2107, 3283–3295, 3311.

GENERAL PROVISIONS

§ 573.1 General.

(a) *Purpose.* This part sets forth the statutory authority, general policy, eligibility requirements, special criteria, administrative procedures, and method of submission of applications for appointment in the Regular Army except from sources described in paragraph (b)(1) of this section. The Regular Army will be brought to and maintained at its authorized strength through a procurement program designed to produce the proper numbers and types of officers of high military merit through the full utilization of all sources of potential officer material.

(b) *Sources of personnel.* Commissioned officers for the Regular Army will be obtained from the following sources:

(1) Graduates of the U.S. Military, Naval, and Air Force Academies who request initial appointment in the U.S. Army and who are acceptable to the Secretary of the Army, as provided for under title 10, U.S.C., 541.

(2) Enlisted personnel and warrant officers.

(3) Distinguished graduates of Army officer candidate courses or WAC officer basic course.

(4) Distinguished military graduates, Senior Reserve Officers' Training Corps.

(5) Graduates of the scholarship program, Senior Reserve Officers' Training Corps.

(6) Officers on active duty.

(7) Technical specialists.

(8) Former Regular Army officers and Reserve component commissioned officers not on active duty.

(9) Nonobligated personnel.

(10) Selectees for promotion from secondary zones.

(11) College students and graduates (other than those participating in ROTC) pursuing degrees.

(12) Individuals qualified for appointment as chaplains.

(13) Individuals qualified for appointment in the Judge Advocate General's Corps.

(14) Individuals qualified for appointment in the various corps of the Army Medical Department.

(c) *Statutory authority.* Statutory authority for the appointment of officers in the Regular Army under this part is title 10, U.S.C. 541, 2106, 2107, 3283–3295, and 3311.

(d) *Responsibilities.* The area commander, within whose geographical area an applicant, a selectee, or appointee resides or is assigned, is responsible for the administrative procedures contained in this part. The following are exceptions:

(1) The Commanding General, First U.S. Army, is responsible for the administrative actions pertaining to those individuals who make application under the provisions of §§ 573.6 and 573.7, who reside in the District of Columbia.

(2) The nearest commander is responsible for the administrative actions of those individuals who are within an Atlantic or Pacific area not under the jurisdiction of a specific commander.

(e) *Evaluation boards.* Boards will determine the professional and technical qualifications of the applicant.

(f) *Probationary period.* A Regular commissioned officer having less than 3 years of continuous service as a commissioned officer therein may be discharged under the provisions of title 10, U.S.C., 3814. Probationary period begins with acceptance of the appointment and runs for 3 years subsequent to that date.

(g) *Service requirements.* The service obligation for a Regular Army officer is as prescribed in subparagraphs (1), (2), or (3) of this paragraph unless the officer is sooner relieved under such regulations as the Secretary of the Army may prescribe.

(1) Officer must complete at least 3 years of active service after the date of acceptance of the Regular Army appointment, except for graduates of the Scholarship Program, Reserve Officers' Training Corps, who have an active duty service obligation of 4 years, and graduates of the U.S. Military, Naval, or Air Force Academies, who have an active duty service obligation of 5 years.

(2) A male officer must complete a total of 6 years of active and inactive military service in any capacity (exclusive of time spent as a cadet at the U.S. Military, Naval, and Air Force Academies, as a student under the "ASTP," "V–12," or similar programs); or, having less than 6 years of such service, he must agree to accept an indefinite appointment in the U.S. Army Reserve and complete at least 6 years' total service.

(3) Officer must complete any applicable additional service specified in Army Regulations.

§ 573.2 Eligibility requirements.

(a) *General.* The general eligibility requirements stated in this section will govern all appointments in the Regular Army. All of these requirements must be met.

(b) *Citizenship.* Applicant must be a citizen of the United States. An applicant who is a citizen by birth must submit documentary evidence of birth with application. An applicant who is a citizen other than by birth will submit a statement signed by an officer of the Army, notary public, or other person authorized by law to administer oaths, reading substantially as indicated in subparagraphs (1) or (2) of this paragraph, as appropriate. Facsimiles or copies, photographic or otherwise, will not be made of certificates of naturalization or certificates of citizenship, as the reproducing of these certificates or any part thereof constitutes a felony (see subsection 1426(h), title 18, United States Code).

(1) For those who are citizens by naturalization.

I have this date seen the original certificate of citizenship No. _____ (or certified copy of the court order establishing citizenship) stating that _____ was admitted
(Full name)
to United States citizenship by court _____, _____ on _____.
(County) (State) (Date)

(2) For those who claim citizenship through naturalization of parent.

I have this date seen the original certificate of citizenship No. _____ issued by the Immigration and Naturalization Service, Department of Justice, stating _____
(Full name)
acquired citizenship on _____.
(Date)

(c) *Character.* Applicant must be of good moral character.

(d) *Prior military service.* Applicant must not have been:

(1) Separated from the service by reason of resignation in lieu of elimination for the good of the service.

(2) Dropped from the rolls of any of the Armed Forces.

(3) Removed from office under the criminal laws of the United States.

(4) Eliminated (or about to be eliminated) from the active list of the Armed Forces of the United States by reason of having twice failed of selection for either temporary or permanent promotion.

(5) Separated from any of the Armed Forces of the United States with other than an honorable discharge.

(e) *No military or civil court convictions or juvenile offenses.* Applicant must not have been adjudged a youthful offender and must have a record free of convictions by any type of military or civil court, excluding minor traffic violations involving a fine or forefeiture of $50 or less and excluding action taken under Article of War 104 or Article 15, Uniform Code of Military Justice. Requests for a waiver for conviction of an offense or unfavorable juvenile court decision will be submitted in affidavit form or will be supported by documentary evidence citing the offense, the court action, and the judgment and sentence rendered. A waiver previously granted by the purpose of attendance at an Army Officer Candidate School, enrollment in ROTC, or appointment in a Reserve component will be construed as a waiver for appointment in the Regular Army.

(f) *Willingness to give unqualified military service to the United States.* Applicant must not be a conscientious objector. If applicant has been a conscientious objector, he will be required to furnish an affidavit which will express his abandonment of such beliefs and principles so far as they pertain to his unwillingness to bear arms and to give full and unqualified military service to the United States. Where appropriate, he must have demonstrated that he has changed his views by subsequent satisfactory military service. So much of this paragraph as pertains to bearing arms is applicable only to individuals applying for appointment in the Judge Advocate General's Corps and the basic branches.

(g) *Loyalty.* Applicant must not be or have been a member of any foreign or domestic organization, association, movement, group, or combination of persons advocating subversive policy or seeking to alter the form of the Government of the United States by unconstitutional means.

(h) *Service potential prior to retirement eligibility.* As of the date of the application, applicant must have a service potential of at least 1 year prior to retirement eligibility. Officers selected for retention on active duty beyond 20 years may apply and will state their status in the letter of application. However, an officer selected for retention who receives notification of mandatory retirement prior to submission of application or subsequent thereto is ineligible for consideration of appointment.

(i) *Active duty status.* Applicant must be on active duty at time of application and screening if applying under provisions of §§ 573.4, 573.5, 573.8, 573.14, 573.15, or 573.16. An applicant may be tendered an appointment subsequent to honorable release from active duty. Commissioned officers and warrant officers who are under consideration for a Regular Army commission and who are awaiting determination of final outcome of application may be considered for retention on active duty or active duty for training pending outcome of final action.

(j) *Grade.* If currently on active duty in the Army as a commissioned officer, applicant (except those being appointed in MC, DC, or JAGC) must be serving in a grade equal to or higher than that for which qualified for appointment in the Regular Army. A former officer, or a Reserve officer (except MC, DC, or JAGC) who is not on active duty or active duty for training, must have held on active duty a grade equal to or higher than that for which qualified for appointment in the Regular Army. Appointment grade is determined by the amount of service credit as follows:

(1) 2LT—with less than 3 years' credit.

(2) 1LT—with 3 but less than 7 years' credit.

(3) CPT—with 7 but less than 14 years' credit.

(4) MAJ—with 14 but less than 21 years' credit.

(5) LTC—with 21 but less than 25 years' credit.

(6) COL—with 25 or more years' credit.

Eligibility in this respect will be determined at Headquarters, Department of the Army; therefore, applications of individuals otherwise qualified under this part will continue to be forwarded.

(k) *Age.* (1) Except as indicated in subparagraphs (2) through (5) of this paragraph, applicants for appointment under this part must have reached their 21st birthday but must not have passed their 27th birthday on date of appointment. The age maximum is statutory and may not be waived. However, the age maximum is increased by:

(i) The number of years, months, and days of active commissioned service performed in the Army after attaining the age of 21 years and subsequent to December 6, 1941 and/or

(ii) A period (not to exceed 2 years) equal to the days, months, and years by which age exceeds 27 years.

(2) An applicant for appointment under the ROTC Distinguished Military Graduate Program (see § 573.6) or Scholarship Program (see § 573.7) and graduates of the U.S. Military Academy may be appointed in the grade of second lieutenant even though under 21 years of age.

(3) Applicants for appointment in the Veterinary Corps, Army Medical Specialist Corps, Army Nurse Corps, or Medical Service Corps must be eligible according to the age requirements set forth in § 573.16.

(4) Applicants for appointment as chaplains must be eligible according to the age requirements set forth in § 573.14.

(5) Applicants for appointment in the Judge Advocate General's Corps must be eligible according to the age requirements set forth in § 573.15.

(6) Applications will not be accepted from persons who will become ineligible because of over age within 4 months of the date of the application.

(l) *Education.* Educational requirements by procurement program are as follows:

(1) *Sections 573.4, 573.5, 573.8, 573.10, and 573.12.* Except for recipients of the Medal of Honor or Distinguished Service Cross, an associate degree in an academic curriculum from an accredited college, completion of at least 2 years' study at an accredited college or university leading to an academic degree, or favorable determination on the 2-year college equivalency evaluation is required. Section 573.8 applicants who have been selected under the degree completion program are excused from this requirement. (Medal of Honor and Distinguished Service Cross recipients and those applicants claiming exemption from the 2-year college requirement by reason of participation in the degree completion program will so identify themselves either in the letter application or in the remarks section of the DA Form 61.) These applicants required to meet the 2-year college requirement who do not have a bachelor's or appropriate associate degree will submit with the transcript of credits a statement from a responsible official of the issuing institution verifying that they have completed 2 or more years of the required credits for a baccalaureate. Applicants who have a 2-year equivalency evaluation will submit a photostat or a true copy of the Department of the Army letter which establishes the evaluation.

(2) *Sections 573.6, 573.7 573.10 and 573.13.* A bachelor's degree on the date of appointment.

(3) *Section 573.9.* A master or doctoral degree, or a baccalaureate with practical experience.

(4) *Section 573.14.* See § 573.14(c).

(5) *Section 573.15.* Graduate of an approved law school with professional degree.

(6) *Section 573.16.* See § 573.16(g).

(m) *Medical requirements.* Applicant must meet the standards of medical fitness prescribed in Army Regulations.

(n) *Requirements for military intelligence.* In addition to paragraphs (b) through (m) of this section, applicants for Military Intelligence must meet special requirements, information on which may be obtained by writing the Adjutant General, Washington, D.C. 20314.

§ 573.3 Application.

(a) *Forms.* (1) DA Form 61 (Application for Appointment) will be used, except that a letter application may be submitted under §§ 573.8, 573.10, 573.14, 573.15, and 573.16.

(2) Letter application formats:

(i) In-service, Reserve component officers:

_____
(Place)

_____
(Date)

Subject: Application for Commission in the Regular Army.

Through: (Enter appropriate channel).

To: HQDA (DAAG-PSA-A), Washington, D.C. 20314.

1. I hereby apply for appointment in the Regular Army under the provisions of section V, chapter 2, AR 601-100. I desire to be considered for assignment to one of the following branches, in the following order of preference:

No. 1 _____ No. 2 _____ No. 3 _____

2. I have performed (more) (less) than 5 years of active commissioned service in the Army, to date. I have performed active commissioned service:

From	To
_____	_____
_____	_____
_____	_____

Inclusive dates of my last regular efficiency report: _____ to _____.

3. My permanent home address is: _____

My military address is: _____

4. (In this paragraph mention all civil and military offenses, with final disposition of case—regardless of whether previously mentioned on any application for appointment.)

5. (In this paragraph mention any information you feel may help to justify your appointment.)

Inc.

_____
(Signature)

_____
(First, middle, last name—printed or typed)

_____
(SSN, grade, and branch)

(Applicant will always insure birth certificate and college transcript are enclosed)

(ii) Chaplains:

_____
(Place)

_____
(Date)

Subject: Application for Appointment in the Regular Army.
Through: (Enter appropriate channel.)
To: HQDA (DAAG–PSA–A), Washington, D.C. 20314.

1. I hereby apply for appointment in the Regular Army under the provisions of section XI, chapter 2, AR 601–100 (Chaplain).

2. I have performed (more) (less) than 5 years of active commissioned service in the Army, to date.

Inclusive dates of my last regular efficiency report: _____ to _____.

3. My permanent home address is: _____

_____.

My military address is: _____

_____.

4. (In this paragraph mention all civil and military offenses, with final disposition of case—regardless of whether previously mentioned on any application for appointment.)

5. (In this paragraph mention any information you feel may help to justify your appointment.)

Incl.

_____
(Signature)

_____
(First, middle, last name—printed or typed)

_____
(SSN, grade and branch)

(iii) Medical Department:

_____
(Place)

_____
(Date)

Subject: Application for Commission in the Regular Army.
Through: (Enter appropriate channel.)
To: HQDA (DAAG–PSA–A), Washington, D.C. 20314.

1. I hereby make application for appointment in the Regular Army under the provisions of section XIII, chapter 2, AR 601–100, in the following branch of the Army Medical Department.

_____ MC _____ DC _____ VC _____ MSC _____ ANC _____ AMSC (check appropriate branch).

2. My permanent home address is: _____

_____.

My military address is: _____

_____.

3. I entered upon my current tour of active duty _____.
(day) (month) (year)

4. (In this paragraph mention all civil and military offenses with final disposition of case—regardless of whether previously mentioned on any application for appointment.)

5. (In this paragraph mention any information you feel may help to justify your appointment.)

Incl. (list).

_____
(Signature)

_____
(First, middle, last name—printed or typed)

_____
(SSN, grade, and branch)

(b) *Branch preferences.* (1) Except for applicants electing to be considered for the professional fields (law, medicine, and religion) who will indicate a single branch preference, applicants may specify, in the order of preference, three or more of the following branches in which they would accept assignment:

Branch	Alphabetical code
Adjutant General's Corps	AG
Air Defense Artillery	AD
Armor	AR
Army Nurse Corps	AN
Army Medical Specialist Corps	SP
Chaplain	CH
Chemical Corps	CM
Corps of Engineers	EN
Dental Corps	DE
Field Artillery	FA
Finance Corps	FI
Infantry	IN
Judge Advocate General's Corps	JA
Medical Corps	MC
Medical Service Corps	MS
Military Intelligence	MI
Military Police Corps	MP
Ordnance Corps	OD
Quartermaster Corps	QM
Signal Corps	SC
Transportation Corps	TC
Veterinary Corps	VC
Women's Army Corps	WC

Male applicants under §§ 573.4, 573.5, 573.6, 573.7, 573.9, 573.11, 573.13, and 573.16, may also show the Medical Service Corps as one of their preferences. All applicants except those under §§ 573.14, 573.15, and 573.16, are encouraged to indicate additional branches in which appointment would be acceptable in the event quota restrictions preclude selection in the branch of first, second, or third choice. If the first choice is a branch other than that in which applicant is serving or in which the major portion of his service was performed, all special qualifications for that branch will be entered in item 32, DA Form 61. Applicants under §§ 573.9 and 573.13, should select branches having requirements for their field of specialization. Branch in which appointment would not be accepted should be listed in item 32, DA Form 61.

(2) Male applicants who prefer assignments to the Adjutant General's Corps, Chemical Corps, Finance Corps, Ordnance Corps, Quartermaster Corps, or Transportation Corps will enter in item 32, DA Form 61, the order of preference for their combat arm detail (Air Defense Artillery, Armor, Field Artillery, or Infantry). Applicants selecting Transportation Corps may show Corps of Engineers for the detail branch. Military Intelligence and Military Police Corps appointees will serve their combat arm detail in Infantry or Armor.

(3) Applicants who list Military Intelligence as a preference will state in item 32, DA Form 61, one of the following areas in which they desire to serve:

(i) Combat or strategic intelligence.

(ii) Areas of counterintelligence.

(iii) Area intelligence or counterintelligence.

(4) Female applicants, except for those qualified for the Medical Department, must show Women's Army Corps as the branch of assignment and may show in item 32, DA Form 61, a desired branch detail (Adjutant General's Corps, Chemical Corps, Corps of Engineers, Finance Corps, Judge Advocate General's Corps, Military Intelligence, Military Police Corps, Ordnance Corps, Quartermaster Corps, Signal Corps, or Transportation Corps).

(5) Applicants under §§ 573.6 and 573.7, who elect to complete their legal, medical, osteopathic, dental, or veterinary education with a view towards appointment in the Judge Advocate General's Corps, Medical Corps, Dental Corps, or Veterinary Corps, will indicate JAGC, MC, DC, or VC as their only preference in the branch preference column of DA Form 61. In addition they will list, in order of preference, three other branch choices in item 32, DA Form 61, to be used in the event they are not selected for continuance of professional education. All other applicants will indicate numerically, in order of preference, three choices of branch assignment by appropriate annotation on the application.

(6) Any applicant under § 573.6 or § 573.7, desiring to apply for Army aviation training will indicate that fact in item 32, DA Form 61. Such action constitutes application; a separate application is not required. Applicant will also enter a statement to the effect that he will accept appointment in the Regular Army with assignment to any of the 10 branches for which Army aviation flight training is authorized. If applicable, the applicant will also note if the Army ROTC Supplemental Agreement-Flight Instruction (DA Form 597–1) has been completed.

(c) *Procurement program.* The section of this part under which the application is submitted must be specified on the application form or letter.

(d) *When submitted.* Application may be submitted when eligibility requirements are met, except that under § 573.13, students may apply any time during their final academic year at the college or university from which they will take their degree but not later than the date of graduation.

(e) *Forwarding.* Forward applications as follows:

(1) Reserve component officers on active duty (§ 573.8) through channels to the first commander in the chain of command having general court-martial jurisdiction. Exception: Distinguished graduates of Army officer candidate courses or WAC officer basic courses (§ 573.5)—direct to The Adjutant General (HQDA (DAAG–PSA–A) Washington, D.C. 20314).

(2) Warrant officers and enlisted personnel on active duty and officers assigned to ARADCOM units—through channels to the area commander having jurisdiction over the geographic area in which the applicant is located.

(3) Members of the Army National Guard not on active duty—through National Guard channels to the State Adjutant General, who will send it, with recommendation to the area commander.

(4) Members of the Army Reserve not on active duty—through the unit commander.

(5) Civilians—to the nearest major Army commander or to the nearest Army activity with a request that it be sent to the appropriate area commander for processing.

(6) ROTC cadets and other students in schools having ROTC units will submit

their applications through the Professor of Military Science.

(f) *Reapplication.* Commissioned officers on active duty who have previously applied for a Regular Army appointment under § 573.8 or § 573.16, but were not selected may reapply by letter in the formats prescribed in paragraph (a) (2) (i) or (iii), of this section, as appropriate. In the case of an officer reapplying under § 573.8 who has less than 5 years on active duty in the Army in a commissioned status, a special efficiency report as required by § 573.8(b) will be furnished.

(1) An application will not be honored from any individual who is currently under consideration under any other Regular Army procurement program.

(2) An applicant who has failed to be selected under the provisions of this part (except those under §§ 573.6 and 573.7) may reapply not earlier than 1 year after the date of the nonselection notice, provided all eligibility requirements are met at the time of latest application.

(3) Waiver of the 1-year waiting period may be granted by Headquarters, Department of the Army for cogent reasons, e.g., quality of recent efficiency reports; specific written recommendation of immediate commander or a general officer, or receipt of a significant decoration or award (recognition of heroic, extraordinary, outstanding or meritorious act, achievement or service). Request for waiver, with justification therefor, will be initiated by the applicant and will accompany the reapplication.

(g) *Marital status.* All female applicants will include a statement of marital status and the number and ages of dependents under age 18. In addition to this information, all female applicants will sign and submit the following statement:

(Place)

(Date)

I understand that if I am selected for appointment, I will be expected to accept such assignments as are in the best interest of the service regardless of my marital status and/or responsibility for dependents; and it is my responsibility to make appropriate arrangements for the care of my dependents should I be required to perform duty in an area where dependents are not permitted.

(Signature)

(First, Middle, Last Name—Printed or Typed)

(SSN, Grade, and Branch)

(h) *Required documents.* The documents listed below are required to process an appointment in the Regular Army.

Documents	Applicable section under this part and copies required												
	§ 573.4	§ 573.5	§ 573.6	§ 573.7	§ 573.8	§ 573.9	§ 573.10	§ 573.11	§ 573.12	§ 573.13	§ 573.14	§ 573.15	§ 573.16
1. Application for Appointment (DA Form 61)	1	1	1	1		1	1	1		1			
2. Application for Appointment (Ltr) [1]					1			1			1	1	1
3. Photograph (recent, head-and-shoulders type, approximately 4" x 5")	1	1	1	1	1	1	1	1		1	1		1
4. Documentary evidence of birth or statement of citizenship [2] (§ 573.2 (6))	1	1	1	1	1	1	1	1		1	1		1
5. Transcript of accumulated college credits [3]	1	1	1	1	1	1	1	1	1	1	1	1	1
6. Statement verifying completion of two or more years credit for a baccalaureate (§ 573.2 (1)) [4]	1	1			1		1		1				
7. Copy of DA letter establishing 2-year college equivalency evaluation, if applicable (§ 573.2 (1))	1	1			1		1		1				
8. Report of Medical Examination (SF 88) [5]	1	1	1	1	1	1	1	1	1	1	1	1	1
9. Report of Medical History (SF 93) [5]	1	1	1	1	1	1	1	1	1	1	1	1	1
10. Officer's Assignment Preference Statement (DA Form 483)	1	1				1	1	1		1			
11. National Agency Check (statement of initiation)	1	1	1	1	1	1	1	1		1	1		1
OR													
12. National Agency Check (statement of favorable completion)	1	1	1	1	1	1	1	1	1	1	1	1	1
13. Conscientious objector affidavit [6]	1	1	1	1	1	1	1	1		1	1		1
14. Statement of final class standing		1								1			
15. Designation as distinguished graduate of OCS		1											
16. Letters of recommendation (character reference) from three individuals (§§ 573.9(b) or 573.13(e)(1)(i) as applicable)						3				3			
17. Letter of recommendation (§ 573.13(e)(1)(ii))										1			
18. Officer Qualification Inventory, OQI–1 (Answer Sheet, DA Form 6263) [7]	1							1					
19. Officer Leadership Qualification Report, OLR–1 (Report Form, DA Form 6233) [7]	1												
20. Officer Leadership Board Interview, OLB–1 (Interview Record, DA Form 6227) [7]	3							3		3			
21. WAC OCS Evaluation Report (WAC Officer Candidate Applicant Evaluation Report, DA Form 6226) [8]	1							1					
22. WAC OCS Interview (WAC Officer Candidate Applicant Interview Record, DA Form 6220) [8]	3							3					
23. WAC OCS Biographical Information Blank (Answer Sheet, DA Form 6215–1) [8]	1							1					
24. Interview Blank, Form 4, Work Sheet C DA Form 6217 and Board Rating and Recommendation, Form 4, Work Sheet D, DA Form 6217–1 [9]						3		3					
25. Biographical Information Blank, Form F (Answer Sheet, DA Form 6211–1) [9]						1		1					
26. ROTC Inventory, RI–1 (Answer Sheet, DA Form 6201–1)			1	1						1			
27. Interview Appraisal Sheet S (Appraisal Sheet S, DA Form 6225)						3							
28. Statement of Personal History (DD Form 398) [10]	4	4	4	4	4	4	4	4		4			
29. FBI Fingerprint Card (FD Form 258) [10]	2	2	2	2	2	2	2	2		2			
30. Evaluation letter [11]					1						1		
31. Punched card	1	1	1	1	1	1	1	1		1	1		1
32. Invitation letter [12]					1								
33. DA Form 67–6 (Officer Efficiency Report) [13]					1						1		1
34. Designation as a distinguished military student			1										
35. Statement relative to appointment in JAGC, MC or DC (§ 573.6(g)(2)(ii))			1	1									
36. ROTC Evaluation Report Form, ROE–2 (Report Form, DA Form 6223)			1	1									
37. ROTC Advanced Camp Cadet Evaluation [14]			1	1									
38. Photostatic copy of current registration as a nurse [15]													1
39. Photostatic evidence of internship, residencies, fellowships completed (as appropriate) [16]													1

See footnote at end of table.

Documents	Applicable section under this part and copies required												
	§ 573.4	§ 573.5	§ 573.6	§ 573.7	§ 573.8	§ 573.9	§ 573.10	§ 573.11	§ 573.12	§ 573.13	§ 573.14	§ 573.15	§ 573.16
40. Evidence of license [17]													1
41. Evidence of certification for foreign medical graduates [18]													1
42. Statement of admission to practice law (§ 573.15 (c)(2))												1	
43. Affidavit of legal experience (§ 573.15 (c) (4))												1	
44. Dependents Statement (§ 573.3 (g))		1	1		1		1	1	1				1

[1] See § 573.2(a)(2)
[2] § 573.14 applicants (chaplains) will submit only if not of record in DA Personnel Record.
[3] § 573.14 applicants (chaplains) will also include transcript of seminary credits.
§ 573.15 applicants (JAGC) will also include transcript of law school credits.
§ 573.16 applicants (medical department)—not required if previously submitted and retained by HQDA. Transcript of any additional credits must be submitted. For MC, DC and VC applicants only credits accumulated subsequent to baccalaureate are required.
[4] To be submitted by applicant not having a baccalaureate and submitting a transcript of college credits.
[5] Action to undergo medical examination and/or forward reports of same will not be accomplished prior to official announcement of selection for appointment. *Exception.* Applicants under §§ 573.6 and 573.7 (ROTC DMG's and scholarship cadets).
[6] See § 573.2(f).
[7] EM and male WO only.
[8] Enlisted women and female WO only.
[9] Male commissioned officers only.
[10] Required of applicants for MI only (submitted only where 1st choice is MI). Reserve officers currently serving on active duty in MI are exempt from this requirement. DD Form 398 will carry following statement in remarks section: "I have executed DD Form 98 (Armed Forces Security Questionnaire) with qualification on—.
[11] See § 573.8(b) (2), (5) or § 573.14(e), as applicable.
[12] Copy of any letter received from in-service officer's career branch inviting or recommending submission of an application for commission in the Regular Army.
[13] Required if officer has had less than 5 years active commissioned service in the Army and has not received a report during the previous 30 days of current tour or has served 5 or more years and a complete report has not been submitted during current active duty tour.
[14] Prepared at summer camp (sec. A, B, and C). (Furnish computer print out of sec. C.)
[15] Army Nurse Corps applicants only.
[16] Required of MC, DC, and AMSC applicants only.
[17] Applicants for assignment in pharmacy, optometry or podiatry specialties only.
[18] Required only of MC applicants. See § 573.16(g)(1).

PROCUREMENT PROGRAMS

§ 573.4 Enlisted personnel and warrant officers.

Commanders are authorized to recommend outstanding enlisted men, enlisted women, and warrant officers of the Army for direct appointment as second lieutenants, Regular Army. Individuals so recommended must meet the eligibility requirements prescribed in § 573.2, and, in addition, must—

(a) Have distinguished themselves by demonstrating outstanding qualities of leadership and aptitude for military service.

(b) Possess an exemplary record of efficiency and personal conduct.

(c) Possess those personal attributes which are considered requisite to a successful career as a commissioned officer of the Regular Army.

§ 573.5 Distinguished graduates of Army officer candidate course or WAC officer basic course.

(a) *Action by school commandant.* (1) For each class of the Army officer candidate course or WAC officer basic course, the school commandant, under such procedure as may be established, will determine those students who have distinguished themselves by demonstrating outstanding qualities of leadership in the military service. Individuals must be within the upper 10th in final class standing and possess personal attributes which are considered requisite to a successful career as a Regular Army officer. Upon graduation, the school commandant will designate such individuals as distinguished graduates of Army officer candidate course or WAC officer basic course. The school commandant will, by letter, inform each individual concerned of this designation as well as its implications.

(2) A senior field grade Regular Army officer designated by the commandant will interview distinguished graduates individually and encourage them to apply for appointment.

(b) *Application.* Application will be submitted as prescribed in § 573.3.

§ 573.6 Distinguished military graduates, Senior Reserve Officers' Training Corps.

(a) *General.* This section prescribes the administrative procedure for appointment of distinguished military graduates of the Reserve Officers' Training Corps and the processing of their applications for appointment.

(b) *Eligibility.* The eligibility requirements for appointment in the Regular Army are prescribed in § 573.2, all of which must be fulfilled prior to execution of oath of office. In addition the cadet must not have been a nonselect for appointment under the scholarship program.

(c) *Application period.* Application may be submitted at any time after registration for the final academic year, but not later than the date upon which designation as a distinguished military graduate occurs. A distinguished military student who declines appointment when notified of selection may request reconsideration of his application for appointment at any time prior to date of designation as DMG. Notwithstanding this authorized period of application, only applications submitted by deadlines set up in paragraph (e) of this section can be assured of early notification of selection and appointment on date of graduation. Nonselection under this program does not preclude later application under other Regular Army Procurement Programs for which an applicant may become eligible.

(d) *Responsibility of applicant.* The applicant will—

(1) Prepare DA Form 61 on a typewriter or by printing in ink. All applicable items will be completed in detail. Any items requiring more explanation than space permits will be completed in item 32, "Remarks," or on an attached sheet. When the proper answer is "no" or "none" the applicant will so state. School address will be indicated in item 10, and the permanent address in item 11.

(2) If seeking appointment in the Judge Advocate General's Corps, Medical Corps, Dental Corps, or Veterinary Corps prepare and furnish the following statement:

Date _____

In consideration of being allowed to complete my (legal) (medical) (osteopathic) (dental) (veterinary) training, I agree, upon its successful completion, to accept appointment in the (Judge Advocate General's Corps) (Medical Corps) (Dental Corps) (Veterinary Corps), Regular Army, if tendered.

I understand that my completion of (legal) (medical) (osteopathic) (dental) (veterinary) training will not automatically lead to my appointment in the (Judge Advocate General's Corps) (Medical Corps) (Dental Corps) Veterinary Corps), since I have been informed that the number of persons eligible for such appointment may exceed the number of vacancies which can be filled.

I also understand that, if I do not elect to accept a commission in the (Judge Advocate General's Corps) (Medical Corps) (Dental Corps) (Veterinary Corps), if tendered, or if I fail of final selection by (The Judge Advocate General) (The Surgeon General) or otherwise fail to qualify for appointment, I may be ordered to active duty under my Reserve commission in the branch to which I am assigned for a minimum of 2 years (4 years for scholarship cadets).

_____
(Signature)

_____
(First, Middle, Last Name—Printed or Typed)

_____
(SSN)

(3) Enter in item 32, DA Form 61, the law, medical, osteopathic, dental, or veterinary school attending or to be attended, date of entrance, and anticipated date of graduation if statement in subparagraph (2) of this paragraph is furnished.

(4) Enter in item 12d, DA Form 61, the date upon which designation as a distinguished military graduate will occur.

(5) Enter the major and minor academic fields of study in 13c, DA Form 61, using item 32, "Remarks," if additional space is required.

(6) Individuals who were not designated as a DMS and who attend the ROTC advanced camp after completion of MS–IV may, upon favorable recommendation of the camp commander, be

designated a DMS with subsequent designation as a DMG by the PMS after reevaluation of the student's standing in academic and military subjects. The designation need not be made during camp but must be accomplished in sufficient time so that application for commission in the Regular Army may be submitted by October 31, of the same calendar year. Individuals in this category will enter in item 32, DA Form 61, the following notation: "Application authorized by paragraph 2–9, AR 601–100."

(e) *Notification of selection.* (1) To insure early notification of selection and appointment on date of graduation, applications should be submitted so as to reach HQDA (DAAG–PSA–A), not later than November 1, for cadets scheduled to graduate and receive commissions April 1, through September 30, of the following year. Selections will be announced as expeditiously as possible for those applicants meeting the November 1, deadline. Likewise, applications should reach the Adjutant General not later than April 30, for those cadets graduating and receiving commissions between October 1, of that year through March 31, of the next year. Selections of those cadets whose applications fail to meet these deadlines will be announced at periodic intervals through the year, as they occur.

(2) When designation as a distinguished military graduate is the only remaining contingency, the PMS will be responsible for its fulfillment prior to tender of appointment.

(f) *Branch assignments.* The Department of the Army policy is to assign individuals to either their first, second, or third choice branch whenever possible. If not selected for assignment in one of the three branch preferences, he will be considered for all other branches in precedence of branch needs within established quotas.

(g) *Graduate study.* (1) Nonscholarship DMG's selected for appointment in the Regular Army with assignment to basic branches.

(i) The top 5 percent of nonscholarship DMG's selected for Regular Army appointment with assignment to a basic branch may attend graduate school under the ROTC Fellowship Program at Army expense for the purpose of attaining a master's degree in a field of study for which the Army has a valid requirement. Officer will be on active duty with full pay and allowances. A selected nonscholarship DMG will have the option of attending graduate school immediately upon graduation and commissioning in the Regular Army or deferring graduate schooling up to the end of his fifth year on active duty. After receipt of notification of selection under this program, cadet will comply with instructions contained in the annual "Graduate Study Letter." The active duty service obligation will be as prescribed by § 573.7(f)(2)(i) for scholarship cadets.

(ii) A nonscholarship DMG selected for appointment in the Regular Army with assignment to a basic branch may delay active duty for up to 2 years for the purpose of earning a master's degree. Individual will be required to accept a commission in the U.S. Army Reserve and pursue graduate study in a delay status. No active duty service obligation is incurred under this program.

(2) Nonscholarship DMGs selected for appointment in the Judge Advocate General's Corps, Medical Corps, Dental Corps, and Veterinary Corps. Cadets may be tentatively selected for appointment in the Judge Advocate General's Corps, Medical Corps, Dental Corps or Veterinary Corps contingent upon completion of the required professional training. This may be accomplished either by the selectee accepting appointment in the Regular Army in a basic branch and completing his professional training in a subsidized or excess leave status, or through acceptance of an appointment in the U.S. Army Reserve and completion of legal, medical, osteopathic, dental, or veterinary training while in a delay status. Selections for subsequent appointment in the Judge Advocate General's Corps are made by The Judge Advocate General. Selection for appointment in the Medical Corps, Dental Corps, and Veterinary Corps are made by The Surgeon General. Branch selections for Reserve appointments of Regular Army selectees for the Judge Advocate General's Corps, Medical Corps, Dental Corps, and Veterinary Corps will be made except that the Medical Corps, Dental Corps, and Veterinary Corps selectees will be assigned to the Medical Service Corps without regard to the fact that the individual is an applicant for appointment in the Regular Army. Tentative selection for the Judge Advocate General's Corps, Medical Corps, Dental Corps, or Veterinary Corps, followed by failure to complete the required professional schooling or to qualify for appointment, for any reason, nullifies further consideration for appointment in the Regular Army under the DMG program. It does not preclude consideration for appointment under any other Regular Army officer procurement program for which the cadet may later become eligible.

(i) *Subsidized or excess leave status.* Qualified applicants may be placed in a subsidized or excess leave status, as appropriate, for the purpose of obtaining a medical, osteopathic, dental, or veterinary medicine degree; or may be placed in an excess leave status for the purpose of obtaining a law degree. Participants in an excess leave status do not receive pay or allowances and will defray all expenses incident to this training.

(*a*) Qualified applicants tentatively selected for appointment in the Medical Corps, Dental Corps, or Veterinary Corps will be appointed in the Medical Service Corps and may be placed in a subsidized or an excess leave status (without pay and allowances) as appropriate, for a maximum of 4 consecutive years to obtain a degree in medicine, osteopathy, dentistry, or veterinary medicine.

(*b*) Distinguished military graduates tentatively selected for appointment in The Judge Advocate General's Corps will be appointed in the Regular Army and assigned to one of the basic branches with detail to The Judge Advocate General's Corps upon attainment of a baccalaureate. They will be carried in an excess leave status except when performing on-the-job training.

(ii) *Delay status.* Qualified applicants tentatively selected for appointment in The Judge Advocate General's Corps, Medical Corps, Dental Corps, or Veterinary Corps may be appointed in the U.S. Army Reserve, and placed in a delay status to complete graduate study at their own expense. (Applicants for appointment in The Judge Advocate General's Corps must not have attained their 28th birthday on date of appointment in the U.S. Army Reserve.) Upon completion of training, tender of appointment in The Judge Advocate General's Corps, Medical Corps, Dental Corps, or Veterinary Corps, Regular Army, will be effected under the provisions of § 573.15 or § 573.16, upon recommendations of The Judge Advocate General or The Surgeon General, as appropriate. Applicants desiring to complete their professional education under these provisions will prepare and furnish a statement as shown in paragraph (d)(2) of this section. Applicants who apply and are permitted to accept a scholarship, fellowship, or grant may attend graduate school.

§ 573.7 Scholarship cadets, Reserve Officers' Training Corps.

(a) *General.* This section prescribes the administrative procedures for appointment of Reserve Officers' Training Corps scholarship cadets as commissioned officers in the Regular Army.

(b) *Eligibility.* In addition to having met the requirements for admission to the Army ROTC Financial Assistance Program, applicant must meet the general eligibility requirements prescribed in § 573.2.

(c) *Application.* Each scholarship cadet will submit a DA Form 61 (Application for Appointment) as prescribed in §§ 573.3 and 573.6 (c) and (d) regardless of whether designated as a distinguished military student. The words "Scholarship Cadet" will be entered under "Governing Regulation or Circular." This application will be reviewed by a Department of Army Scholarship/Distinguished Military Graduate Selection Board, which will select the best qualified applicants for Regular Army appointments. Individuals not selected for Regular Army will be processed for appointment in the USAR by the area commander. For cadets selected for appointment in the Regular Army, USAR appointments will be tendered if the Regular Army appointment is not available at time of commissioning.

(d) *Assignments.* Assignments to branches are made in the same manner as for the DMG program (§ 573.6(f)).

(e) *Date of submission.* All applications under this section will be submitted so as to reach HQDA (DAAG–PSA–A)

Washington, D.C. 20314 not later than October 15 for all cadets scheduled to graduate and receive commissions from April 1 of the following year through March 31 next.

(f) *Graduate study programs.* ROTC scholarship cadets will be afforded the opportunity to pursue graduate studies under one of the programs described below. Schooling must be in a field for which the Army has a valid requirement.

(1) *Programs.* (i) Cadets who fall within the top 5 percent of the scholarship applicants, based on the order of merit ranking and Graduate Record Examination (GRE) Score, and are selected for a Regular Army appointment may attend graduate school at Government expense under the ROTC Fellowship Program. After acceptance of appointment, officer will attend school on active duty with full pay and allowances. Announcement of eligible cadets will be made concurrently with announcement of Regular Army selections or soon thereafter. Attainment of a law, religious, medical, osteopathic, dental, or veterinary degree is not included under this program. The maximum period of time allowed for completion of a graduate degree requirement will be 2 years.

(ii) Scholarship cadets not selected for the ROTC Fellowship Program (top 5 percent) may delay acceptance of appointment in the Regular Army for the purpose of pursuing graduate study. Such cadets, if selected for appointment in the Regular Army, will be commissioned in the USAR and delayed from call to active duty until such time as graduate study is completed. After completion of graduate study (normally not more than 2 years), the cadet will be required to accept the Regular Army appointment for which he was selected. No additional service obligation will be incurred under this program.

(iii) Applicants who apply and are permitted to accept a scholarship, fellowship, or grant may attend graduate school.

(iv) Cadets wishing to pursue courses leading to a commission in the professional branches will be authorized to continue their education with the approval of The Surgeon General or The Judge Advocate General as prescribed for the DMG program under § 573.6(g).

(2) *Active duty service obligation.* (i) Fellowship Program (top 5 percent) participants will incur an active duty service obligation of 2 calendar years for each academic year or fraction thereof of graduate schooling completed, and in any event not less than 3 years. Such obligation will run concurrently with that incurred under the scholarship program. The total accrued active duty obligation will at no time exceed 4 years. A period of time spent in graduate study following commissioning will not be credited toward fulfillment of an active duty obligation previously incurred, e.g., through the ROTC Scholarship Program.

(ii) Regular Army selectees accepting a scholarship, fellowship, or grant for schooling not to exceed 2 years, with full pay and allowances as a commissioned officer, will incur an active duty service obligation of three times the period of graduate study.

(iii) Information concerning service obligations for the professional programs may be obtained from The Adjutant General, Department of the Army, Attention: DAAG–PSA–A, Washington, D.C. 20314.

§ 573.8 Army officers on active duty.

(a) *General.* This section prescribes the program and procedures whereby male and female Reserve component commissioned officers serving on active duty or active duty for training may apply for a Regular Army commission. Applicants for assignment in military intelligence must meet the prerequisites outlined in § 573.2(n). This program provides for the selection of the best qualified and most outstanding officers who have demonstrated their capabilities in an active capacity.

(b) *Application.* (1) An officer will apply by letter through channels in the format prescribed in § 573.3(a)(2)(i). Appearance before an evaluation board is not required. Applicants are subject to medical qualification and security clearance. Medical examination will be performed only after notification of tentative selection.

(2) If an officer has had less than 5 years' active commissioned service in the Army and has received no report during the previous 30 days of his current tour of active duty, a complete Officer Efficiency Report (DA Form 67–6), will be submitted with the application file, unless report is required under subparagraph (5) of this paragraph. If an efficiency report cannot be prepared because the officer is a student attending a service or civilian school, an evaluation letter will be completed by the individual who would normally prepare an academic report.

(3) Officers serving on initial tour of active duty may not apply until they have completed 8 months of active duty. Officers serving an initial tour of active duty for training may not apply until they have completed at least 60 days of duty with an Army unit.

(4) Officers on an obligated tour are eligible under the provisions of AR 135–215 to extend their tours of duty, if necessary, for the purpose of processing Regular Army applications.

(5) The applicant's commanding officer will review the application and allied papers. If a complete Officer Efficiency Report has not been submitted in applicant's current active duty tour, a special complete efficiency report or an evaluation letter as prescribed in subparagraph (2) of this paragraph, if appropriate, will be submitted with the application file.

§ 573.9 Technical specialists.

(a) *General.* (1) This section prescribes the program whereby highly qualified individuals with degrees from accredited colleges or universities in any of the technical specialties listed below, and who are eligible in accordance with § 573.2, may apply for appointment in the Regular Army.

TECHNICAL SPECIALTIES

Specialty	Branch										
	AG	EN	CM	FI	MS	MI	MP	OD	QM	SC	TC
Administration:											
Business (trans major rqr for TC)	X	X	X	X	X	X	X	X	X	X	X
Hospital					X				X		
Hotel									X		
Personnel	X	X			X			X	X		X
Public	X				X	X	X		X		X
Aerodynamics								X		X	X
Agriculture									X		
Animal husbandry									X		
Architecture		X			X						
Bacteriology			X		X				X		
Biochemistry			X		X				X		
Business and commerce	X								X		
Cartography		X				X					
Chemistry:											
Analytical			X		X						
Hi-polymer			X						X		
Industrial			X			X					
Organic and physical			X		X			X			
Paper			X						X		
Commercial science			X								
Criminology						X	X				
Dairy science									X		
Economics	X		X	X	X	X		X	X		X
Education	X		X		X	X		X	X		X
Electronics		X				X		X		X	
Engineering:											
Administrative								X			
Aeronautical		X						X	X	X	X
Automotive								X			X
Biological			X		X						
Chemical			X		X			X	X		
Chemical research			X								
Civil		X			X				X		X
Communications		X				X				X	X
Computer systems		X	X	X	X	X		X	X	X	X
Electrical		X				X		X	X	X	X
Electronic		X	X			X		X		X	
Explosive		X	X					X			
Industrial		X	X					X	X	X	X
Inspection			X					X			
Management					X			X		X	X
Mechanical		X	X			X		X	X	X	
Metallurgical		X						X			
Mining		X							X		
Nuclear		X	X		X			X		X	
Nuclear effects		X	X		X			X	X	X	X

TECHNICAL SPECIALTIES—Continued

Specialty	Branch										
	AG	EN	CM	FI	MS	MI	MP	OD	QM	SC	TC
Engineering—Continued											
Petroleum		X				X			X		
Radio						X				X	
Radiological defense		X	X					X			
Safety		X					X	X			X
Sanitary		X	X		X						
Structural		X						X			X
Textile									X		
Traffic							X				X
Wire communications		X				X				X	
Entomology			X		X				X		
Food technology									X		
Foreign affairs						X	X				
Geodesy		X									
Geography and climatology		X				X			X		
Geology		X				X					
Horticulture									X		
Law						X	X				
Leather technology									X		
Linguist						X	X				
Management:											
Accounting and financial				X	X	X		X	X		
Industrial	X	X	X	X	X		X	X	X	X	X
Institutional	X			X	X			X	X		X
Personnel	X				X			X	X		X
Production			X					X			X
Mathematics (Statistics Inc.)		X	X	X	X	X		X	X	X	X
Metallurgy								X			
Meteorology		X	X								
Motion picture and television										X	
Naval architecture											X
Nuclear medical science					X						
Nuclear physics		X	X		X	X		X	X	X	X
Nutrition									X		
Operations research	X	X	X			X		X	X	X	X
Optometry					X						
Pharmacy					X						
Photo interpretation		X				X					
Photography						X				X	
Physics		X	X		X	X		X		X	X
Plant pathology			X								
Political science	X					X					X
Portable and flexible structures		X							X		
Psychology:											
Clinical	X				X	X					
Experimental	X				X	X			X		
Public health					X						
Radiobiology or health physics			X		X						
Social science	X					X	X				X
Social work	X				X		X		X		
Soils		X									

(2) Each officer appointed in the Regular Army under this program, if he has not completed appropriate Army training, will attend the basic course at the Infantry School and the basic course of the branch to which assigned.

(b) *Application.* In addition to the eligibility requirements of § 573.2, three letters of recommendation from persons not related to applicant who have personal knowledge of his character, reputation, and community standing will be submitted with the application. If the applicant does not have a master's or doctoral degree, a résumé of practical experience justifying qualification as a specialist in the particular field for which applying will be included with the application.

§ 573.10 Former Regular Army officers, and Reserve component commissioned officers not on active duty.

(a) *General.* (1) This section is applicable only to the following categories of personnel:

(i) Former Regular Army officers, not on active duty, who were appointed and commissioned as officers in the Regular Army of the United States and who subsequently relinquish such commissions under honorable conditions.

(ii) Reserve component officers in civil life who have been commissioned as officers in one of the Reserve components of the Army, have served as commissioned officers on active duty or active duty for training in the Army, and are currently holding commissions in the ARNGUS or Army Reserve.

(2) This program provides a means whereby those individuals possessing outstanding qualifications, as indicated by official records, may be considered for Regular Army appointment. Applicants for assignment in military intelligence must meet the prerequisites outlined in § 573.2(n).

(b) *Application.* Application and allied papers will be submitted direct to the commander having general court-martial jurisdiction or to the appropriate area commander.

§ 573.11 Nonobligated personnel.

(a) *General.* This section provides for the appointment in the Regular Army of individuals who have served in any of the Armed Forces of the United States, have satisfied the active duty or active duty for training obligation required by law, and are not eligible to apply under other sections of this part. Former Armed Forces personnel must have been separated from the service under honorable conditions.

(b) *Application.* DA Form 61 (Application for Appointment) will be completed in accordance with § 573.3.

(c) *Special training.* Each individual appointed in the Regular Army under the provisions of this program will attend a special course of training in basic military fundamentals which is the same as that prescribed in § 573.13(a)(2).

§ 573.12 Officers selected for promotion from secondary zones.

(a) *Selection.* Nonregular Army officers serving on active duty, except for chaplains, who are selected from secondary zones for temporary promotion will be tendered an appointment in the Regular Army, with the concurrence of their career branches, provided they are otherwise eligible, without processing an application and evaluation by a field board. Those selected for promotion to the grade of major and above who do not meet the educational requirement will be tendered appointments provided the appropriate career branch concurs.

(b) *Notification of selection.* Eligible officers will be informed by Department of the Army letter, through channels, of their selection for appointment subject to medical qualifications, favorable review of the official military personnel file and security clearances, and satisfactory current performance. Officer must accept the offer of appointment within 30 days of receipt of the letter to be eligible under this provision.

§ 573.13 Direct appointment of college graduates.

(a) *General.* (1) This section prescribes the Department of the Army procurement program, policies, and procedures for the direct appointment in the Regular Army of male graduates from accredited colleges and universities not having Army ROTC units (except as provided herein).

(2) Each individual appointed in the Regular Army under this program will attend a special course for training in basic military fundamentals at one of the combat arms schools. After completion of his training the individual will attend the basic course of the branch to which appointed or detailed.

(b) *Eligibility.* In addition to the eligibility requirements prescribed in § 573.2, students must be—

(1) Graduates of colleges and universities which do not participate in the ROTC program; or

(2) Graduates of colleges and universities maintaining ROTC units, who could not participate in the ROTC program because of valid reasons (heavy academic schedules, active in campus activities, etc.). These individuals will be considered only if recommended by the professor of military science and the dean of the academic board as scholastically outstanding.

(c) *Application.* (1) DA Form 61 will be completed in accordance with § 573.3, to include the following:

(i) Letters based on personal acquaintanceship from not less than three disinterested individuals relative to the applicant's character, reputation, and community standing.

(ii) Signed copy of letter of recommendation by the professor of military science and the dean of the academic board, if individual is applying under paragraph (b) of this section.

(2) Notwithstanding the provisions of § 573.3(e), all applications from students in schools maintaining ROTC units will be forwarded direct to the professor of military science for further processing.

§ 573.14 Appointment of chaplains.

(a) *General.* This section prescribes the special requirements and procedures for appointment of chaplains, Regular Army. This program permits the selection of the best qualified and most outstanding officers who have demonstrated their capabilities in an active capacity. In addition it provides for a gradual intake of those individuals possessing certain necessary service credit to maintain a balanced promotion structure, subject to the limitations imposed by statute.

(b) *General eligibility requirements.* Applicant must meet the general eligibility requirements outlined in § 573.2 in addition to those prescribed in this section.

(c) *Age and special eligibility requirements*—(1) *Age.* Applicant must have reached his 21st birthday, but must not have passed his 34th birthday on the date of appointment. The latter date may be increased by the number of years, months, and days of active Federal commissioned service performed in Army after attaining the age of 21 years and subsequent to December 6, 1941, and one of the following if applicable:

(i) If he was a commissioned officer on active duty on July 20, 1956, a period of not more than 8 years, computed by—

(*a*) Taking the period of commissioned service that may be credited to him in computing his basic pay, but not more than the period computed by subtracting 27 years from his age on the date of his appointment; and

(*b*) Subtracting the period of active commissioned service in the Army that he performed after December 6, 1941, after becoming 21 years of age, and before his appointment, but not more than the difference in age computed under subparagraph (1) of this paragraph.

(ii) The number of days, months, and years by which the appointee's age exceeds 27 years, but not more than 2 years. No person may be appointed a Regular Army officer under this section if his age is above that which would permit him to complete 20 years of active commissioned service before he attains his 55th birthday.

(2) *Active duty.* Applicant must be on active duty as a commissioned officer in the Army.

(3) *Education.* Applicant must possess consolidated transcripts showing that he has completed a minimum of—

(i) One hundred and twenty semester hours of undergraduate credits from a college or university accredited by one of the six regional accrediting associations shown in the Education Directory, Higher Education, published by the U.S. Department of Health, Education, and Welfare.

(ii) Ninety semester hours' graduate credits or an appropriate graduate theological degree from a theological school accepted as a member of the American Association of Theological Schools, or from a graduate school which is a component part of a college or university accredited by an appropriate regional accrediting agency.

(4) *Ecclesiastical indorsement.* Applicant must present an ecclesiastical indorsement from the authorized indorsing agency of his denomination showing that he is approved and recommended for appointment in the Regular Army. This statement may be forwarded direct to Chief of Chaplains (HQDA (DACH–ZA) Washington, D.C. 20314) by the denominational indorsing agency.

(d) *Medical requirements.* See § 573.2 (m).

(e) *Application.* (1) An officer will apply by letter, through channels, in the format prescribed in § 573.3(a)(2)(ii). Documents listed in § 573.3(h) will be submitted with the letter application. Appearance before an evaluation board is not required. Applicants are subject to medical qualification and security clearance.

(2) If officer has had less than 5 years' active commissioned service in the Army and has received no report during the previous 30 days or if he has had more than 5 years' such service and a complete report has not been submitted during his current tour the provisions of § 573.8(b)(2) and (5) apply.

(3) Applications from individuals who meet the eligibility requirements may be submitted at any time.

(4) The service agreement of the applicant, to include date of expiration, will be included in the application.

(5) Applications will be forwarded to the first commander of the applicant's chain of command exercising general court-martial jurisdiction for processing. Forwarding indorsement will indicate recommended approval or disapproval with the reasons therefor.

(6) Chaplains on active duty, who have previously applied for a Regular Army appointment but were not selected, may reapply by letter. See § 573.3(f). Applicant should first contact the Chief of Chaplains relative to the existence of a denominational vacancy.

(f) *Service credit.* Each appointee will, at time of appointment, be credited with an amount of service equivalent to the total period of active Federal service performed after attaining the age of 21 years as a commissioned officer in the Army subsequent to December 6, 1941, and prior to appointment in the Regular Army. In addition, each appointee will be given 3 years' service credit for professional training upon appointment as a Chaplain, Regular Army: *Provided, however,* That, if the constructive credit authorized in paragraph (c)(1)(i) or (ii) of this section is credited to establish eligibility, the 3-year period will not be credited, but the period authorized by paragraph (c)(1)(i) or (ii) of this section, whichever is used to establish eligibility, will be credited instead.

§ 573.15 Appointment in the Judge Advocate General's Corps.

(a) *General.* This section prescribes the special requirements for the appointment of commissioned officers in the Judge Advocate General's Corps, Regular Army. Individuals considered under this section must meet the general eligibility requirements prescribed in § 573.2 and this section.

(b) *Sources of personnel.* Personnel will be procured from graduates of the ROTC Distinguished Military Graduate and Army ROTC Scholarship programs (§§ 573.6 and 573.7), those officers successfully completing the Judge Advocate General's Excess Leave Program, and Reserve component officers on active duty.

(c) *Age and special eligibility requirements.* Individual must—

(1) Have reached his 21st birthday, but not have passed his 32d birthday, on date of his appointment. The maximum age may be increased by a period equal to the number of years, months, and days of active commissioned service performed in the Army after attaining the age of 21 years and subsequent to December 6, 1941, and one of the following if applicable:

(i) If he was a commissioned officer on active duty on July 20, 1956, a period of not more than 8 years, computed by—

(*a*) Taking the period of commissioned service that may be credited to him in computing his basic pay, but not more than the period computed by subtracting 27 years from his age on the date of his appointment; and

(*b*) Subtracting the period of active commissioned service in the Army that he performed after December 6, 1941, after becoming 21 years of age, and before his appointment, but not more than the difference in age computed under (*a*) of this subdivision.

(ii) The number of days, months, and years by which the appointee's age exceeds 27 years, but not more than 2 years. No person may be appointed a Regular Army officer under this part if his age is above that which would permit him to complete 20 years of active commissioned service before he attains his 55th birthday.

(2) Be a graduate of an approved law school with a professional degree. Transcript of law school credits will be furnished.

(3) Be admitted to practice before the highest court of a State of the United States or a Federal court and be in good standing before the bar. Applicant will furnish a statement from proper authority showing admission to practice and standing before the bar or a statement by the applicant that he has taken a bar examination and the date thereof.

(4) Applicant will furnish an affidavit containing a statement of his full-time or part-time legal experience. Legal experience may include governmental, judicial, teaching, military legal experience, and private practice. If he has practiced law, he should include a list of the more important cases handled by him, showing the nature of each, and a general statement of the character of his practice; if he has taught law, he should state the subjects which he teaches or has taught; if he has held judicial office, he would show the extent of jurisdiction of his court; and if he has had governmental or military legal

experience, he should give a description of his position and rating.

(d) *Active duty.* The individual must be on active duty as a commissioned officer. Individuals not on active duty, but desiring consideration for appointment should contact The Judge Advocate General (HQDA (DAJA–PT) Washington, D.C. 20310).

(e) *Medical requirements.* See § 573.2 (m).

(f) *Period of observation.* (1) The Judge Advocate General's Corps period of observation is a period of closely observed extended active duty, during which time, individuals serve on active duty as Reserve officers and demonstrate their qualifications for appointment in the Regular Army. Individuals with no commissioned service prior to entrance on the period of observation may be required to attend basic courses at a service school for the purpose of receiving training of a basic or generalized nature.

(2) The type and duration of assignments during the period of observation will be as directed by Headquarters, Department of the Army.

(3) Orders detailing individuals to schools or assigning them to organizations will state, specifically, the purpose of the assignment. Similar statements will be incorporated in orders reassigning such individuals to another organization if reassignment becomes necessary.

(4) Those individuals participating in the tour will be appointed or detailed in the Judge Advocate General's Corps, U.S. Army Reserve, unless already a member thereof. Members of the Army Reserve holding appointments in the grade of second lieutenant will be appointed first lieutenants, Judge Advocate General's Corps, USAR. Officers of the Army National Guard of the United States holding appointments in the grade of second lieutenant must effect a transfer to the Army Reserve in order to be appointed as first lieutenants, Judge Advocate General's Corps.

(5) The selection, notification, and appointment of successful individuals will be accomplished upon the completion of the period of observation.

(6) Appropriate entries will be made on DA Form 66 (Officer Qualification Record).

(7) Those individuals whose appointments in the Regular Army are not favorably considered may, at the discretion of the Secretary of the Army or upon their own application, be relieved from active duty and may be discharged from their commissions in the U.S. Army Reserve in accordance with the procedures set forth in regulations governing the discharge of Army Reserve officers. Those individuals who are fully qualified and who decline a Regular Army appointment when tendered may, at the discretion of the Secretary of the Army, be relieved from active duty, but in the absence of such a determination these individuals will complete the period of active service for which committed.

(g) *Service credit.* Under the provisions of title 10, United States Code, section 3287, each appointee will, at the time of his appointment, be credited with an amount of service equivalent to the total period of active Federal service performed after attaining the age of 21 years as a commissioned officer in the Army subsequent to December 6, 1941, and prior to appointment in the Regular Army. In addition, each appointee will be given 3 years' service credit for professional training upon appointment in the Judge Advocate General's Corps, Regular Army: *Provided, however,* That if the constructive credit authorized in paragraph (c)(1) (i) or (ii) of this section is credited to establish eligibility, the 3-year period will not be credited, but the period authorized by paragraph (c)(1) (i) or (ii) of this section, whichever is used to establish eligibility will be credited instead.

§ 573.16 Appointment in the corps of the Army Medical Department.

(a) *General.* This section prescribes the special requirements and procedures for appointment of commissioned officers in the Regular Army in the various corps of the Army Medical Department.

(b) *Applicability.* (1) Initial Regular Army appointments in the Medical Corps, Dental Corps, Veterinary Corps, Army Nurse Corps, and the Army Medical Specialist Corps will be made under this section.

(2) Initial Regular Army appointments in the Medical Service Corps for the purpose of completion of medical, osteopathic, dental, or veterinary school on a subsidized for excess leave basis will be made under this part.

(3) Initial Regular Army appointments for active service in the Medical Service Corps will be made under §§ 573.4, 573.5, 573.7 573.9, 573.11, 573.12, or 573.13, and this section. Applications will be processed as provided for in applicable sections. Warrant officers and enlisted personnel on active duty (other than ADT) may apply only under §§ 573.4 or 573.9.

(c) *General eligibility requirements.* Applicants must meet the general eligibility requirements specified in § 573.2, in addition to the special requirements in this section.

(d) *Restrictions on appointment in the Medical Service Corps and Veterinary Corps.* No individual with prior active commissioned service in the Army will be appointed in the Medical Service Corps or Veterinary Corps if the amount of service with which he would be credited under paragraph (m)(2) of this section would require his appointment in a permanent grade higher than that previously held on active duty for a period of at least 90 consecutive days in any of the components of the active Army.

(e) *Marital status.* Female applicants will submit information and furnish statement as prescribed by § 573.3(g).

(f) *Age.* Applicants for any corps of the Army Medical Department must be at least 21 years of age. Except for the Medical and Dental Corps, applicants must also meet the age requirements indicated in subparagraphs (1) and (2) of this paragraph for the corps concerned.

(1) Veterinary Corps and Medical Service Corps. Applicant must not have passed his—

(i) Thirty-second birthday on date of appointment in the Veterinary Corps; or

(ii) Thirtieth birthday on date of appointment in the Medical Service corps. These age maximums are statutory and may not be waived. However, the maximum age is increased by—

(*a*) The number of years, months, and days of active commissioned service performed in the Army after attaining the age of 21 years and after December 6, 1941; and/or

(*b*) A period (not to exceed 2 years) equal to the years, months, and days by which age exceeds 27 years.

(2) Army Nurse Corps and Army Medical Specialist Corps. Applicant must not have passed the—

(i) Twenty-seventh birthday for appointment in the grade of second lieutenant;

(ii) Thirtieth birthday for appointment in the grade of first lieutenant; or

(iii) Thirty-ninth birthday for appointment in the grade of captain, on the date of nomination for appointment by the President. The maximum ages specified in subdivisions (i) and (ii) of this subparagraph are increased by an amount equal to the commissioned service performed on active duty (including ADT) in the Armed Forces after December 7, 1941, but not by more than 5 years.

(g) *Educational and professional requirements.* Final determination of the acceptibility of an applicant's credentials will be made by The Surgeon General. Requirements by specialty area are as follows:

(1) *Medical Corps.* (i) Graduate of an accredited medical school or have received permanent certification by the Educational Council for Foreign Medical Graduates.

(ii) Have completed a 1-year internship or its equivalent after graduation from medical school, except as noted in subdivision (iii) of this subparagraph. (Application may be submitted before internship is completed.)

(iii) Regular Army officers selected to enter the Army Medical Intern or Residency Programs may be appointed in the Medical Corps immediately upon graduation from medical school.

(iv) A doctor of osteopathy will be considered professionally acceptable for appointment in the Medical Corps, Regular Army: *Provided,* That applicant:

(*a*) Is a graduate and possesses a degree of doctor of osteopathy from a college of osteopathy approved by the Bureau of Professional Education, Committee on Coleges of the American Osteopathic Association and whose graduates are eligible to be licensed to practice medicine or surgery in a majority of the States;

(*b*) Has completed a minimum of 3 years of preosteopathic college education prior to entrance into a college of osteopathy;

(c) Has completed a 4-year course with a degree of doctor of osteopathy approved by the American Osteopathic Association; and

(d) Subsequent to graduation from an approved school of osteopathy has had 12 months or more of intern or residency training in a hospital approved by the American Osteopathic Association or the American Medical Association.

(2) *Dental Corps.* Graduate of an accredited dental school.

(3) *Veterinary Corps.* Graduate of a veterinary school located in the United States or Canada and accredited by the Council on Education for the American Veterinary Medical Association.

(4) *Medical Service Corps.* Applicant must have the qualifications indicated for the section or specialty concerned. The required degree must have been awarded by an accredited institution or program.

(i) Pharmacy, supply, and administration section. Bachelor's degree. For assignment to the specialty of pharmacy officer (MOS 3318), applicant also must be licensed to practice pharmacy in the United States or the Commonwealth of Puerto Rico.

(ii) Medical allied sciences section.

(a) *Medical entomology.* Master's degree with a major in the field of entomology, including at least one course in medical entomology.

(b) *Medical laboratory sciences.* Master's degree in bacteriology, biochemistry, immunology, microbiology, parasitology, or other laboratory science allied to medicine, or a bachelor's degree with a major in one of the laboratory sciences and 1 year of hospital laboratory training approved by The Surgeon General. For assignment to the specialty of physiologist (MOS 3327), applicants must possess a doctor's degree in physiology.

(c) *Podiatry.* Degree in podiatry and be currently licensed to practice podiatry in the United States or in the Commonwealth of Puerto Rico.

(d) *Psychology.* Doctor's degree in clinical counseling; industrial, social, experimental, or psychophysiological psychology; or other subspecialty of psychology designated by The Surgeon General.

(e) *Social work.* Master's degree in social work acceptable to The Surgeon General.

(f) *Audiology.* Master's degree in audiology, or in speech pathology and audiology with major emphasis on audiology.

(g) *Nuclear medical science.* Master's degree or its equivalent in the specialty of radiobiology, health physics, or radiological physics.

(iii) Sanitary engineering section. Master's degree in sanitary, civil, or chemical engineering or a masters degree in the environmental sciences acceptable to The Surgeon General.

(iv) Optometry section. Degree in optometry and be currently licensed to practice optometry in the United States or the Commonwealth of Puerto Rico.

(5) *Army Nurse Corps.* An applicant must—

(i) Be a graduate of an educational program in nursing which prepares the individual to become eligible for license as a registered nurse and which is nationally accredited by an agency recognized by the U.S. Commissioner on Education and acceptable to Department of the Army;

(ii) Possess a baccalaureate degree in nursing or furnish statements from institutions evidencing progress toward achieving such degree requirements; and

(iii) Be currently licensed to practice as a registered nurse in the United States or Commonwealth of Puerto Rico.

(6) *Army Medical Specialist Corps.* Bachelor's degree from an accredited institution which has been followed by accredited professional training acceptable to The Surgeon General as indicated below—

(i) Dietitian section. Dietetic internship or equivalent training.

(ii) Physical therapist section. Curriculum in physical therapy.

(iii) Occupational therapist section. Curriculum in occupational therapy.

(h) *Medical requirements.* See § 573.2 (m).

(i) *Procurement of applicants.* Any individual who meets the basic eligibility requirements and possesses the qualities desired for appointment in the Regular Army should be encouraged to initiate application. The primary source of Army Medical Department Regular Army officers are those nonregular officers who have demonstrated their qualifications during military service. Each officer so identified will be thoroughly oriented in the advantages of a Regular Army career and furnished such assistance as he requires in the submission of an application.

(j) *Time of application.* Applications may not be submitted earlier than 8 months after entry on active duty, except those former Regular Army officers who may apply for reappointment upon entry on active duty.

(k) *Application*—(1) *Format.* Officers on active duty will apply by letter in the format prescribed in § 573.3(a)(2)(iii) through the responsible commander who will forward the application direct to HQDA DAAG–PSA–A) Washington, D.C. 20314, with appropriate comment. Documents listed in § 573.3(h) will be submitted with the letter application. Appearance before an evaluation board is not required. Appointment is subject to medical qualification and security clearance.

(2) *Service agreement.* The current service agreement of applicants on active duty (including ADT) to include expiration date, if applicable, will be indicated in the letter application.

(l) *Reapplication.* See § 573.3(f).

(m) *Service credit.* For purposes of determining permanent grade, position on the appropriate promotion list, seniority in permanent grade, and eligibility for permanent promotion, each officer appointed in the Regular Army under this section will be credited at time of appointment with service as computed by Headquarters, Department of the Army.

[AR 601–100, November 15, 1971] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.72–4319 Filed 3–23–72;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGFR 72–44R]

PART 25—CLAIMS

The purpose of this amendment is to revise Part 25 of Subchapter A.

Part 25 presently consists of Subpart C which covers the administrative processing of claims in favor of the United States arising out of Coast Guard activities and Subparts A and B, which are reserved. As revised, Part 25 will consist of two internal divisions. "Claims Against the United States" is the division heading for Subparts A through K covering the adminisrative processing of claims against the United States growing out of Coast Gurad activities. "Claims in Favor of the United States" is the division heading for Subparts L through N covering the administrative processing of claims in favor of the United States.

This document includes Subparts A through N of the revised Part 25. Subpart A contains general instructions for the administrative processing of claims growing out of Coast Guard activities. Subparts B through G implement the laws referenced in those Subparts concerning claims against the United States and delegate certain authority to the Chief Counsel and to other designated Coast Guard officers. Subparts H through K are reserved for other claims regulations. Subparts L through N implement the laws referenced in those subparts concerning claims in favor of the United States and delegate certain authority to the Chief Counsel and other designated Coast Guard officers.

Since this amendment relates to agency management, procedure, and practice, it is exempted from notice of proposed rule making and public procedure thereon by 5 U.S.C. 553. Since the amendments impose no additional burden on any person they may be made effective in less than 30 days after publication in the FEDERAL REGISTER. Accordingly, Part 25 of Subchapter A of Title 33, Code of Federal Regulations, is revised to read as follows:

CLAIMS AGAINST THE GOVERNMENT

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25.101 Purpose.
25.103 Scope.

Sec.
25.105 Information and assistance.
25.107 Investigation.
25.109 Definitions and explanations.
25.111 Treaties and international agreements.
25.113 Who may present claims.
25.115 Subrogation.
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25.119 Action by claimant.
25.121 Evidence to be submitted by claimant.
25.123 Determination of compensation for damage to or loss of property.
25.125 Particular types of property damage.
25.127 Applicable law, property loss or damage.
25.129 Proof of damage.
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25.133 Applicable law, personal injury or death.
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25.137 Effect on award of other payments to claimant.
25.139 Settlement and notice to claimant.
25.141 Appeals.
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Subpart B—Federal Tort Claims

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25.203 Scope.
25.205 Claims payable.
25.207 Law applicable.
25.209 Subrogation.
25.211 Indemnity or contribution.
25.213 Claims not payable.
25.215 Procedure.
25.217 Payment of claims.
25.219 Acceptance of award.
25.221 Attorneys' fees.
25.223 Delegation of authority.
25.225 Consultation with the Department of Justice.
25.227 Litigation.
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Subpart C—Claims Arising From Activities of Military and Civilian Personnel or Otherwise Incident to Noncombat Activities of the Coast Guard

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25.313 When claim must be presented.
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Subpart D—Claims Arising in Foreign Countries

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25.433 Appointing authority action on claims in excess of $2,500.
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25.439 Foreign Claims Commission's Action.
25.441 Notification of award and payment.
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Subpart E—Claims Incident to the Use of Government Property Not Cognizable Under Other Law

25.501 Statutory authority.
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Subpart F—Admiralty Claims

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Subpart G—Military Personnel and Civilian Employees' Claims

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25.719 Form of demand on carrier, contractor, or insurer.
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Subparts H, I, J, K [Reserved]

CLAIMS IN FAVOR OF THE GOVERNMENT

Subpart L—Federal Claims Collection Act

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25.1201 Delegations of authority.
25.1203 Exceptions to delegated authority.
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Subpart M—Admiralty Claims

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Subpart N—Aids to Navigation Damage Claims

25.1401 Damage to aid to navigation.
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25.1411 Settlement authority.
25.1413 Disposition of payments.

AUTHORITY: The provisions of this Part 25 issued under 33 U.S.C. 412, 28 U.S.C. 2671–2680, 14 U.S.C. 633, 642, 645, 647, 10 U.S.C. 2733, 2734, 2734a, 2737, 31 U.S.C. 240–242, 951, 952, 49 U.S.C. 1655(b)(1); 4 CFR 101.1–105.1, 28 CFR 14.1–14.11, 49 CFR 1.45(a) and (b), 1.46(b), 89.1(b).

Subpart A—General Provisions

§ 25.101 Purpose.

The regulations in this subpart govern the administrative processes leading to the settlement of claims against the United States and its instrumentalities. They are intended to insure that incidents which may result in claims are promptly and efficiently investigated under supervision adequate to insure a sound basis for official action and that all claims resulting from these incidents are expeditiously settled.

§ 25.103 Scope.

(a) *Applicability.* The regulations of this subpart apply to incidents that may give rise to claims under other subparts of this Part 25, as far as consistent with those subparts.

(b) *Nonappropriated fund activities.* Claims arising from acts or omissions of employees of nonappropriated fund activities within the United States, its Territories, and possessions, are processed in the manner prescribed in this subpart. In overseas areas these claims will be processed in accordance with treaties or agreements between the United States and foreign governments with respect to the settlement of claims arising from acts or omissions of military and civilian personnel of the United States in those countries, or in accordance with applicable regulations, as appropriate.

(c) *Nonapplicability.* This subpart does not apply to contract or admiralty claims.

§ 25.105 Information and assistance.

Any person who indicates a desire to file a claim against the United States will be instructed generally as to procedures. He will be furnished forms, as prescribed in appropriate regulations and, when necessary, assisted in preparing the form and assembling evidence. When the government of a foreign country in which U.S. Armed Forces are stationed has assumed responsibility for the settlement of certain claims against the United States, officials of that country will be furnished information and evidence so far as security considerations permit.

§ 25.107 Investigation.

Whenever an incident occurs which results in property loss or damage, personal injury, or death, and which is likely to result in a claim against the United States, a fact-finding body will be appointed and an investigation of the incident will be made in accordance with the pertinent provisions of the Coast Guard Supplement, MCM.

§ 25.109 Definitions and explanations.

The following terms used in this part have the meanings set forth below except as otherwise provided:

(a) *Accrues.* Except in medical malpractice cases, a claim accrues on the date on which the alleged wrongful act or omission results in some actionable injury or damage to the claimant or his decedent. In medical malpractice cases, if the claimant is unaware that he has sustained a compensable injury, the claim does not accrue until he, or if he is a minor, some person acting for him discovers, or reasonably should have discovered, the acts or omissions which are alleged to be wrongful.

(b) *Claim.* Normally a written demand for the payment of a specified sum of money, other than for ordinary obligations incurred for services, supplies, or equipment.

(c) *Claimant.* An individual, partnership, association, corporation, country, State, or territory, presenting a claim. The term does not include the U.S. Government or any of its instrumentalities, except as prescribed by statute.

(d) *Compromise.* A mutually agreed equitable arrangement having regard to the uncertainties of the facts, the law, or the application of the law to the facts in the area of either liability or damages.

(e) *The Government.* The Government of the United States.

(f) *Government property.* Real or personal property in the possession, custody, or control of the Coast Guard or its nonappropriated fund activities.

(g) *Inhabitant of a foreign country.* A person whose usual place of abode is in a foreign country, including a corporation or other business association. A corporation organized in the United States is an inhabitant of a foreign country if it has been admitted to do business in the foreign country and maintains a permanent office there.

(h) *Military personnel.* Armed Forces or their individual members.

(i) *Negligence.* Failure to exercise the degree of care required or prescribed by law, or that which an ordinarily prudent person would use under the same or similar circumstances.

(j) *Noncombat activities.* Activities which are peculiarly military activities having little parallel in civilian pursuits and which historically have been considered as furnishing a proper basis for the payment of claims, such as maneuvers and special exercises, practice firing of heavy guns or other weapons or missiles, operation of military aircraft, use of barrage balloons, movement of combat vehicles or other equipment designed for military use, such as prime movers, amphibious vehicles, and other vehicles not primarily designed or used for civilian purposes and use and occupancy of real property in connection with noncombat activities.

(k) *Owner.* The person vested with ownership, custody, or title to property, and includes bailee, lessee, mortgagor, and conditional vendee, but does not include mortgagee, conditional vendor, or another having title for purposes of security only.

(l) *Proximate cause.* An act or omission which in natural and continuous unbroken sequence produced the result and without which that result would not have occurred. An act or omission except for which an incident would not have occurred but which cannot be said to have caused it will not sustain liability or (if committed by the claimant) justify denial of the claim. Proximate cause will normally be determined in accordance with local law.

(m) *Settle.* Consider, ascertain, adjust, determine, or dispose of a claim either by full or partial allowance or by disallowance.

(n) *Settlement authority.* The Coast Guard official having authority to settle claims under the various subparts of this part.

(o) *Scope of employment.* An activity expressly or impliedly directed or authorized by competent authority, or within the design, aim, purpose, or instructions of the unit's or organization's mission, or in the interest of the Government. Determining of scope of employment under the Federal Tort Claims Act is governed by local law.

(p) *Subrogation.* Substitution by operation of law of one person for another as owner of a right; for example, an insurer (subrogee) who, by paying a claim under a policy, succeeds to the rights of the insured (subrogor).

§ 25.111 Treaties and international agreements.

(a) The governments of some foreign countries have by treaty or agreement waived or assumed, or may hereafter waive or assume, certain claims against the United States. In these instances, the claims will not be settled under laws or regulations of the United States.

(b) The prohibition stated in paragraph (a) of this section is not applicable to claims within the purview of Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty or similar type agreements which normally will be investigated and settled as therein provided.

§ 25.113 Who may present claims.

(a) A claim for property loss or damage may be presented by the owner of the property, or in his name by a duly authorized agent, legal representative, or survivor, or by a subrogee, as authorized under the regulations applicable to the type of claim involved.

(b) A claim for personal injury may be presented by the injured person or in his name by a duly authorized agent or legal representative.

(c) A claim based on death may be presented by the executor, executrix, administrator, or administratrix of the deceased's estate, or by any person determined to be legally or beneficially entitled to do so under local law governing the rights of survivors.

(d) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has, in fact, incurred the expenses for which the claim is made.

(e) A claim presented by an agent or legal representative will be made in the name of the claimant and signed by the agent or legal representative showing his title or capacity. Evidence of the authority of such person to act will not be required except when the laws of the State or county of claimant's residence, or the exigencies of the situation, require such evidence.

(f) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, they represent only parts of a single claim or cause of action. Accordingly, if applicable, when a claim is submitted it should include all damages alleged to have been sustained by the claimant as a result of the incident giving rise to the claim.

(g) A claim may be presented in the name of a subrogee if authorized by the law of the place where the incident giving rise to the claim occurred, provided subrogation is not barred by the regulations applicable to the type of claim involved.

§ 25.115 Subrogation.

(a) A subrogated claim is not cognizable under Subpart D or Subpart G of this part.

(b) The claims of a subrogor (insured) and subrogee (insurer) for damages arising out of the same incident constitute the basis of a single claim, and thus the total of such claims may not exceed the monetary jurisdictions of the settlement authority. If the total of the combined claims exceeds, or is expected to exceed settlement limits, neither claim will be considered for payment, but the claim file will be forwarded

to the authorized settlement authority. Care will be exercised to avoid the splitting of subrogated claims through improper settlement procedures.

(c) A subrogor and a subrogee may file a claim jointly or individually. A fully subrogated claim is payable only to the subrogee. A joint claim must be asserted in the names of and signed by the parties in interest, and the approved payment will be made by a check to the joint claimants and sent to the subrogee. If separate claims are filed, payment will be made by check issued to each claimant to the extent of his undisputed interest.

(d) Each claimant will, as a part of his claim, make a written disclosure concerning insurance coverage as to:

(1) The names and addresses of all insurers;

(2) The kind and amount of insurance;

(3) The policy number;

(4) Whether a claim has been or will be presented to an insurer, and, if so, the amount of that claim; and

(5) Whether the insurer has paid the claim in whole or in part, or has indicated payment will be made. Care will be exercised to require insurance disclosures consistent with the type of incident generating the claim.

(e) Each subrogee must substantiate his interest or right to file a claim by appropriate documentary evidence and should support his claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence of liability of the Government or conclusive evidence of the amount of damages. The settlement authority will make an independent determination upon the evidence of record and the law.

§ 25.117 Transfer and assignment.

Except as they occur by operation of law (i.e., court order, insurer subrogation, etc.), each purported transfer or assignment of a claim against the United States, or of any part of or interest in a claim, whether absolute or conditional, and each power of attorney, or other purported authority to receive payment of all or any part of that claim, is null and void (R.S. 3477, as amended by the Acts of 9 October 1940, 54 Stat. 1029, and of 15 May 1951, 65 Stat. 41; 31 U.S.C. 203), unless made after a voucher for the payment has been issued, or unless within the exceptions set forth in the acts cited in this paragraph.

§ 25.119 Action by claimant.

(a) *Form of claim.* The claimant must submit his claim using authorized official forms whenever practicable.

(b) *Signatures.* The claim and all other papers must be signed in ink by the claimant or by his duly authorized agent or legal representative. His signature must include the first name, middle initial, and surname. A married woman must sign her claim by her given name, e.g., "Mary A. Doe," rather than "Mrs. John Doe."

(c) *Presentation.* The claim should be presented to the commanding officer of the Coast Guard unit involved, to a Coast Guard unit convenient to the claimant, or to the Commandant, USCG, Coast Guard Headquarters, Washington, D.C. In a foreign country, where the accident occurs in a remote area, or where there is no Coast Guard unit, the claim will be treated as if presented to the Coast Guard if it is submitted to any attaché of the U.S. Armed Forces or to the commander or commanding officer of any unit of the U.S. Armed Forces.

§ 25.121 Evidence to be submitted by claimant.

The claimant should submit the evidence necessary to substantiate his claim. Only the original of such substantiating evidence need be submitted. It is essential that independent evidence be submitted which will substantiate the correctness of the amount claimed.

§ 25.123 Determination of compensation for damage to or loss of property.

Unless otherwise prescribed by local law, statute, or implementing regulations, compensation for damage to or loss of property is determined in accordance with the following principles:

(a) If the property has been or can be economically repaired, the measure of damages is the actual or estimated net cost of the repairs necessary to restore the property to substantially the condition which existed immediately prior to the incident. Damages so determined may not, however, exceed the value of the property immediately prior to the incident less the value thereof immediately after the incident. To determine the actual or estimated net cost of repairs, the value of any salvaged parts or materials and the amount of any net appreciation in value (betterment) effected through the repair is deducted from the actual or estimated gross cost of repairs, and the amount of any net depreciation in the value of the property is added to such gross cost of repairs, provided such adjustments are sufficiently substantial in amount to warrant consideration. All cost of repair awards are based upon the lower or lowest of two or more competitive bids, or upon statements or estimates by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(b) If the property cannot be economically repaired, the measure of damages is the value of the property immediately prior to the incident less the value thereof immediately after the incident. All estimates of value should be made, if possible, by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost or destroyed.

(c) Loss of use of damaged property which is economically repairable may, if claimed, be included as an additional element of damage to the extent of the reasonable expense actually incurred for appropriate substitute property, but only for such period as is reasonably necessary for repairs, and provided that idle substitute property of the claimant was not employed. When substitute property is not obtainable, other competent evidence such as rental value, if not speculative or remote, may be considered. When substitute property is reasonably available but is not obtained and used by the claimant, loss of use is normally not payable.

§ 25.125 Particular types of property damage.

Generally, allowable compensation for the following types of property damage includes or is based on—

(a) Registered or insured mail—postal fees and postage paid.

(b) Annual crops—the number of acres or other unit of measure, the average yield per acre in the neighborhood, the degree of maturity of the crop, the price on the local market at maturity reduced by the anticipated cost of cultivation, harvesting, storage, and marketing;

(c) Perennial crops or pasture land—the amount of damage to the growing crop plus the diminution in value of the land;

(d) Timberland—generally the difference between the value of the land and the stand before the incident and the value afterwards;

(e) Turf and soil—generally the cost of reconditioning the soil to its former state, unless the damage is of a permanent nature, in which case the allowable compensation is the difference between the value of the land before the incident and the value afterwards; and

(f) Domestic animals and fowl—the market value. In determining this, the particular qualities and capabilities of an animal may be considered. When an animal has no market value, damages may be based upon its actual or extrinsic value, or its value to the owner. The measure of damages for animals which have a special value for breeding purposes, or which have been bred, is generally based upon the market value only. Normally an allowance for the anticipated progeny is not authorized as it would constitute a double award, as the market value is presumably established and determined by the special value of the injured animals as breeders, i.e., the value of anticipated progeny is included in determining the market value of the animal. Allowable compensation in cases involving damage to agricultural ventures conducted for profit, e.g., dairy, poultry, and mink farming, is usually measured by determining the extent of loss profits and additional expenses resulting from the incident causing such damages. Property damage such as loss of milk base or Government subsidy payments are also compensable if definitely ascertainable, but once liability has been established recovery cannot be denied because the extent of the damages is difficult to ascertain or impossible of precise measurement. The measure of damages in these cases can usually be determined by claimant's records from previous

years (if an established business). Factual or opinion reports of dealers, veterinarians, and agricultural extension agents are likewise relevant in determining or verifying production statistics, normal mortality rates and similar data necessary to an informed computation of a claimant's net loss.

§ 25.127 Applicable law, property loss or damage.

Ordinarily the law of the place where the act or omission occurred is applied for claims for property loss or damage arising under the Federal Tort Claims Act, 10 U.S.C. 2734, and for claims arising in the United States, its territories, Commonwealths, and possessions under 10 U.S.C. 2733. In claims in foreign countries under 10 U.S.C. 2733, compensation for property loss or damage determined in accordance with the law of the State of legal residence of the person whose property was damaged or lost. Compensation for property loss or damage under other administrative claims statutes is determined in accordance with the applicable statute and implementing regulations.

§ 25.129 Proof of damage.

The cost of repairs may be established by a receipted bill or estimate signed by or for a reputable dealer or repairman. Value may be established by the written appraisal of a disinterested, competent, licensed dealer or broker, by market quotations, by commercial catalogs, or by other evidence of the price at which like property can be obtained in the community. Estimates of recognized local authorities such as tax appraisers, highway commission officials, insurance officials, or local agricultural organizations or agents may be considered. The assistance of such persons in determining amount should be sought to the extent practical. Although only one estimate or appraisal is ordinarily necessary except in automobile damage cases, in some circumstances the claimant may be required to submit other evidence, including an estimate or appraisal from another source, or the settlement authority may obtain such information. The settlement authority or the investigating body should personally examine damaged property to determine the physical damage sustained and its condition at the time of the incident, whenever practicable. The reasonable cost of obtaining required supporting evidence from a professional private appraiser is a compensable item of damages, provided—

(a) The claimant is required by claims authorities to submit the appraisal;

(b) The appraisal satisfactorily meets the legal requirements for computing damages;

(c) The fee charged by the appraiser is reasonable and is not deductible from any repair bills submitted to claimant; and

(d) The amount of the appraiser's fee is substantiated by a paid bill.

§ 25.131 Determination of compensation for personal injury or death.

Unless otherwise prescribed by local law, statute or implementing regulations, allowable compensation for personal injury or death includes reasonable medical, hospital or burial expenses necessarily incurred, loss of earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering.

§ 25.133 Applicable law, personal injury or death.

Claims for personal injury or death arising under the Federal Tort Claims Act, 10 U.S.C. 2734 or claims arising in the United States, its territories, Commonwealths, and possessions under 10 U.S.C. 2733, are determined in accordance with the law of the place where the act or omission occurred. Claims for compensation for personal injury or death arising in foreign countries under 10 U.S.C. 2733 are determined in accordance with the law of the State of legal residence of the person who sustained the injury or death.

§ 25.135 Proof of damage.

The allowable compensation may be established as to—

(a) Medical, hospital, or burial expenses, by itemized bills;

(b) Loss of time and earnings, by a written statement of claimant's age, occupation, wage or salary, time lost from work as a result of the incident, whether the person injured was a full-time employee, and his actual period of employment by dates. If the claimant is self-employed, written statements or other evidence showing the amount of earnings actually lost may be considered. A written statement by the attending physician should set forth the nature and extent of the injury and the treatment, the duration and extent of the disability involved, the prognosis, including diminution of earning capacity; and the period of hospitalization and anticipated future medical expenses. Where personal injury is involved, the claimant may, with his consent, be examined at a Government medical facility to provide independent medical evidence against which to evaluate the statement of the claimant's physician;

(c) Loss of services, by a statement of the cost necessarily incurred to replace the services to which the claimant was entitled in accordance with the law of the place where the incident occurred; and

(d) Physical disfigurement and pain and suffering, by a physician's statement indicating the extent and duration of either. A determination of compensation due on this basis should be supported by a written statement of the precedents and law in effect in the place where the incident occurred.

§ 25.137 Effect on award of other payments to claimant.

The total award to which the claimant (and his subrogees) may be entitled normally will be computed as follows:

(a) Determine the total of the loss or damage suffered.

(b) Deduct from the total loss or damage suffered any payment the claimant has received from the following sources:

(1) The U.S. employee who caused the incident.

(2) The U.S. employee's insurer.

(3) Any person or agency in a surety relationship with the U.S. employee.

(4) Any joint tort-feasor or his insurer.

(c) No deduction may be made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

(d) Where a payment has been made to the claimant by his insurer or other subrogee, or under workmen's compensation insurance coverage as to which subrogated interests are allowable, the award based on the total damages is apportioned as their separate interests shall appear (§ 25.115). Payments made by an insurer for losses cognizable under Subpart G are deducted from the total award otherwise allowable to the claimant (§ 25.705(1)).

§ 25.139 Settlement and notice to claimant.

(a) *General.* When a settlement authority has determined that a claim within his monetary jurisdiction is meritorious, he may approve the claim in full or in part, subject to acceptance by the claimant of the reduced amount, or disallow the claim.

(b) *Award of full amount claimed.* When the claim is approved in full, he will certify the claim for payment to the appropriate disbursing officer, forwarding the claim and attachments. If the time involved in settling the claim has been extensive, he will notify the claimant of the action taken on the claim.

(c) *Award of less than full amount.* When the claim is determined to be meritorious in part he will—

(1) Notify the claimant in writing of his determination;

(2) Request the execution of SF–1145 (Voucher for Payment Under the Federal Tort Claims Act), modified as appropriate, or claims settlement agreement for payment of the claim in the reduced amount. Normally this requirement does not apply to claims under Subpart G; and

(3) Advise the claimant, in the event he does not desire to accept the award, to reply within 30 days giving his reasons for rejection.

(d) *Nonacceptance of reduced award.* (1) Except upon a showing of good cause for nonacceptance of a proposed settlement within 30 days, the nonacceptance constitutes a rejection. Rejection by a claimant of an offer of settlement renders the offer void.

(2) When a claimant rejects an offer of a reduced amount or fails to reply

thereto within 30 days, the settlement authority may reconsider the matter and, if justified, make further efforts to settle the claim. However, when further efforts to settle are unproductive he will notify the claimant that his claim has been disallowed for the reason that the amount demanded is excessive.

§ 25.141 Appeals.

If a settlement authority disallows a claim either initially or after claimant's rejection of a reduced offer under Subpart C of this part, he will inform claimant of that action and of his right to appeal.

§ 25.143 Effect of payment.

Acceptance of an award by the claimant constitutes for the United States as well as the military personnel or civilian employee whose act or omission gave rise to the claim, a release from all liability to the claimant based on the act or omission.

Subpart B—Federal Tort Claims

§ 25.201 Statutory authority.

The statutory authority for this subpart is the Federal Tort Claims Act (60 Stat. 842; 28 U.S.C. 2671–2680), as amended by the Act of 18 July 1966 (Public Law 89–506; 80 Stat. 306), and as implemented by the Department of Justice regulations (28 CFR 14.1–14.11).

§ 25.203 Scope.

This subpart prescribes the substantive basis and special procedural requirements for the administrative settlement of claims against the United States under the Federal Tort Claims Act based on death, personal injury, or damage to or loss of property. The Department of Justice regulations (28 CFR 14.1–14.11) are incorporated by reference and made a part of this subpart. Should there appear to be a conflict between the provisions of this subpart and the provisions of the Department of Justice regulations, the latter govern.

§ 25.205 Claims payable.

Unless otherwise prescribed, claims for death, personal injury, or damage to or loss of property (real or personal) are payable under this subpart when the injury or damage is caused by a negligent or wrongful act or omission of military personnel or a civilian employee of the Coast Guard while acting within the scope of their employment under circumstances in which the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

§ 25.207 Law applicable.

The whole law of the place where the act or omission occurred including choice of law rules will be applied in the determination of liability and quantum of damages. Where there is a conflict between the local law and an express provision of the Federal Tort Claims Act, the latter governs.

§ 25.209 Subrogation.

Claims involving subrogation will be processed as prescribed in § 25.115(b), except where inconsistent with the provisions of this subpart or the Department of Justice regulations.

§ 25.211 Indemnity or contribution.

(a) *Sought by the United States.* If the claim arises under circumstances in which the United States is entitled to contribution or indemnity under a contract or the applicable law governing joint tort-feasors, the third party will be notified of the claim, and will be requested to honor its obligation to the United States or to accept its share of joint liability. If the issue of indemnity or contribution is not satisfactorily adjusted, the claim will be compromised or settled only after consultation with the Department of Justice as provided in § 25.225(a)(3).

(b) *Claims for indemnity or contribution from the United States.* Claims for indemnity or contribution from the United States will be compromised or settled under this subpart if liability exists under the applicable law, provided the incident giving rise to the claim is otherwise cognizable under this subpart.

(c) *Setoff.* Except to the extent that such factors are included in a compromise settlement, an amount otherwise to be awarded on account of injury to or death of military personnel, incurred as a result of activities not incident to service, will be reduced by the amount of benefits paid and the present cash value of benefits to be paid by the United States. (See Brooks v. United States, 337 U.S. 49 [1949].)

§ 25.213 Claims not payable.

This subpart does not apply to a claim which—

(a) Is based upon an act or omission of military personnel or a civilian employee, exercising due care, in the execution of a statute or regulation, whether or not the statute or regulation is valid, or in the exercise or performance of, or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused;

(b) Arises out of the loss, miscarriage, or negligent transmission of letters or postal matter;

(c) Arises in respect to the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer of customs or excise or any other law enforcement officer;

(d) Is cognizable under the Suits in Admiralty Act (41 Stat. 525, 46 U.S.C. 741–752) or the Public Vessels Act (43 Stat. 1112, 46 U.S.C. 781–790);

(e) Arises out of an act or omission of any employee of the Government in administering the provisions of the Trading with the Enemy Act (40 Stat. 411, 50 U.S.C. app. 1–31);

(f) Is for personal injury or death of a member of the Armed Forces of the United States incurred incident to service (10 U.S.C. 101(4), 261, 3062(c), 5001(a)(1) and (2), and 8062(d), and 14 U.S.C. 1), or for damage to his property incurred incident to service. (See Feres v. United States, 340 U.S. 135 [1950]; Preferred Insurance Company v. United States, 222 F. 2d 942 (9th Cir. 1955); Zoula v. United States, 217 F. 2d 81 (5th Cir. 1954);

(g) Arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(h) Arises out of combatant activities of the Coast Guard during time of war;

(i) Arises in a foreign country;

(j) Arises from the operations of a nonappropriated fund activity and is payable from nonappropriated funds;

(k) Is for taking of private property by trespass implied under local law or of a type contemplated by the Fifth Amendment to the U.S. Constitution; or

(l) Is for disability or death of a civilian employee of the United States for whom benefits are provided by the Federal Employees' Compensation Act (5 U.S.C. 8101–8150) which is an exclusive remedy against the United States.

§ 25.215 Procedure.

(a) *General.* Unless inconsistent with the provisions of this subpart, the procedures for processing of claims in Subpart A should be followed.

(b) *Claims*—(1) *Time prescribed for filing.* A claim may be settled under this section only if presented in writing within 2 years after it accrues.

(2) *Claim accrual.* The time of claim accrual is governed by Federal, not State law. A claim accrues at the time the claimant discovers, or in the exercise of reasonable care should have discovered, the existence of the act which resulted in the damage for which the claim is made. (Hungerford v. United States, 307 F. 2d 99 (9th Cir. 1962)).

(3) *When presented.* For the purpose of the two year statute of limitations, a claim will be deemed to have been presented when any command of the Coast Guard receives from a claimant, his duly authorized agent or legal representative, an executed Standard Form 95 or written notification of an incident, together with a claim for money damages, in a sum certain, for damage to or loss of property or personal injury or death. When a claim has been received by a Coast Guard command which does not have settlement authority over the claim, it will be transmitted to the proper settlement authority without delay. Upon receipt, the claim should be stamped or otherwise marked to show the date it is received. The two year statute of limitations within which a Federal tort claim must be filed is based upon the date the claim is received, and not the date the claim was signed or the date of the transmittal letter.

(c) *Non-Coast Guard claims.* Claims based on acts or omissions of employees of the United States other than military and civilian personnel of the Coast Guard, and employees of nonappropriated fund activities of the Coast Guard

will be transmitted forthwith to the nearest official of the employing agency and the claimant will be advised of the referral.

(d) *Investigation.* Each accident which may result in a claim cognizable under this section will be investigated and processed on a priority basis in order that settlement may be accomplished within the six months prescribed by statute.

(e) *Notification to claimant of action on claim.* (1) The filing of an administrative claim and its denial are prerequisite to filing suit. A suit may be filed after notification by certified or registered mail of the denial of an administrative claim and it must be filed within 6 months after the date of that notification. Failure of a settlement authority to take final action on a claim within 6 months after the date of filing of the claim may be treated by the claimant as a final denial for the purposes of filing suit.

(2) Upon final denial of a claim, the settlement authority will inform the claimant of the disposition of his claim by certified or registered mail. Notification of final denial will include a statement that, if the claimant does not accept or is dissatisfied with the action, he may institute suit against the United States and that if he does so he must institute it within 6 months after the date of mailing of the notice of final denial.

§ 25.217 Payment of claims.

(a) *Awards of $2,500 or less are paid from Coast Guard appropriations.* Payment is accomplished by forwarding the following documents to the appropriate paying officer in the number of copies needed:

(1) Standard Form 1145.
(2) Standard Form 95.
(3) Adjudication Memo.

A settlement agreement and power of attorney should also be forwarded if executed in connection with the claims settlement.

(b) *Awards in excess of $2,500 but not more than $100,000.* Payment of awards in excess of $2,500 but not more than $100,000 is accomplished by forwarding the original and two copies of an executed SF–1145 to the Claims Division, General Accounting Office, 441 G Street NW., Washington, DC 20548, together with a statement that the officer signing as the approving authority has been duly authorized to do so. When an award is in excess of $25,000, evidence that the award has been approved by the Attorney General or his designee will also be required.

(c) *Awards over $100,000.* When the award is in excess of $100,000, the materials listed in subparagraph (b) of this section will be forwarded to the Bureau of Accounts, Department of the Treasury, Washington, D.C. 20226.

(d) *Attorney as payee.* If a claimant is represented by an attorney, both the claimant and his attorney are designated as "payees" on the voucher (SF–1145) and the check is delivered to the attorney whose address will appear on the voucher.

§ 25.219 Acceptance of award.

The acceptance by a claimant of an award, compromise, or settlement made pursuant to this subpart is final and conclusive for all purposes and constitutes a complete release of any claim against the United States and against the military or civilian personnel of the Coast Guard whose act or omission gave rise to the claim.

§ 25.221 Attorneys' fees.

Attorneys' fees are limited by section 2678 of title 23 United States Code, to not more than 20 percent of any award, compromise, or settlement.

§ 25.223 Delegation of authority.

(a) Subject to written approval by the Attorney General of any payment in excess of $25,000, a claim in any amount cognizable under this subpart may be settled or compromised by the Chief Counsel.

(b) A claim in an amount not exceeding $5,000 may be settled or compromised by the Chief, Claims and Litigation Division, Office of the Chief Counsel.

(c) A claim in an amount not exceeding $2,500 may be settled or compromised by—

(1) The Commander of each Coast Guard District;

(2) The Superintendent, U.S. Coast Guard Academy;

(3) The Commanding Officer, Coast Guard Training Center, Cape May, N.J.;

(4) The Commanding Officer, Coast Guard Training and Supply Center, Alameda, Calif.; and

(5) The Commanding Officer, Coast Guard Reserve Training Center, Yorktown, Va.

(d) Each claim under this subpart which exceeds $2,500 shall be forwarded to Commandant (LCL) with the settlement authority's recommendations for disposition. When more than one claim arises out of the same incident, any one of which exceeds $2,500, all of the claims arising from that incident shall be forwarded to Commandant (LCL) with the settlement authority's recommendations for disposition.

§ 25.225 Consultation with the Department of Justice.

(a) Consultation with the Department of Justice is required in every case where—

(1) A new precedent or a new point of law is involved;

(2) A question of policy is or may be involved;

(3) The United States is or may be entitled to indemnity or contribution from a third party, and the agency is unable to adjust the third party claim;

(4) For any reason, the compromise of a particular claim, as a practical matter will control the disposition of a related claim in which the amount to be paid may exceed $25,000; or

(5) Where the United States, an employee, agent, or cost-plus contractor is involved in litigation based on a claim arising out of the same transaction.

(b) Referral to the Department of Justice. Claims requiring consultation with, or approval by, the Department of Justice will be forwarded by the Chief Counsel to the Assistant Attorney General, Civil Division, Department of Justice, Washington, D.C. 20530, in accordance with 28 CFR 14.7. The settlement authorities designated under § 25.223(c) will, upon receipt of a claim requiring consultation with the Department of Justice, forward it to the Chief Counsel with appropriate comment and recommendations.

§ 25.227 Litigation.

Upon filing of suit, copies of the investigative report and the claim file will be prepared and distributed as requested by the Department of Justice. A copy of the transmittal letter or letters will be furnished the Chief Counsel if the requested material is furnished by field commands. No documents will be furnished the claimant subsequent to the filing of suit without prior consultation with the Chief Counsel or in compliance with court order.

§ 25.229 Reconsideration.

(a) While there is no appeal from the disallowance of all or part of a claim by a settlement authority, a settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. Even in the absence of such a request, a settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even where a settlement agreement has been executed) when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental payment. The basis for a change in action will be stated in a memorandum included in the file.

(b) The Chief Counsel may also reconsider the original field settlement authority action on a claim but only on the basis of allegations of fraud or collusion, new and material evidence, or manifest error.

(c) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the settlement authority will reconsider the claim and attempt to settle it by granting such relief as may appear warranted. When further settlement efforts appear unwarranted, the claimant will be notified that the relief requested cannot be granted.

Subpart C—Claims Arising From Activities of Military and Civilian Personnel or Otherwise Incident to Noncombat Activities of the Coast Guard

§ 25.301 Statutory authority.

The statutory authority for this subpart is the act of August 10, 1956 (70A Stat. 153, 10 U.S.C. 2733) commonly referred to as the Military Claims Act, as

amended by Public Law 90–522, September 26, 1968 (82 Stat. 875); Public Law 90–525, September 26, 1968 (82 Stat. 877).

§ 25.303 Scope.

The regulations in this subpart are applicable in all places and prescribe the substantive basis and special procedural requirements for the settlement of claims against the United States for death, personal injury, or damage, loss, or destruction of property caused by military personnel or civilian employees of the Coast Guard acting within the scope of their employment, or otherwise incident to the noncombat activities of the Coast Guard.

§ 25.305 Claims payable.

Unless otherwise prescribed, a claim is payable under this subpart when—

(a) It is incident to the noncombat activities of the Coast Guard whether or not negligence is shown;

(b) Personal injury or death or damage to or loss of real or personal property is caused by the negligent or wrongful act or omission of Coast Guard military or civilian personnel acting within the scope of their employment when not cognizant under the Federal Tort Claims Act, the Foreign Claims Act, or an international agreement. An allowance may be made for the use and occupancy of real property arising out of trespass or other tort even though claimed as rent.

(c) Property loaned or rented or otherwise bailed to the Government is damaged, lost, or destroyed unless the owner has expressly assumed the risk of damage or loss;

(d) Registered or insured mail is damaged, lost, or destroyed when in custody of authorized Coast Guard military or civilian personnel even though the damage or loss resulted from a criminal act; and

(e) It is for damage to real property, including damage incident to the use and occupancy thereof by the Coast Guard, whether under lease or otherwise even though legally enforceable as a contract claim. A claim filed under this subpart may, if deemed to be in the best interests of the Government, be processed under contract claim procedures.

§ 25.307 Noncombat activities.

A claim may be settled under this subpart if it arises from an authorized activity essentially military in nature, having little parallel in civilian pursuits and which historically has been considered as furnishing a proper basis for payment of claims, such as practice firing of missiles and weapons, training and field exercises, maneuvers, including in connection therewith, the operation of aircraft, movement of combat or other vehicles designed especially for military use, and use and occupancy of real estate.

§ 25.309 Claims not payable.

A claim is not payable under this subpart that—

(a) Results directly or indirectly from action by the enemy, or by U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict;

(b) Results wholly or partly from the negligent or wrongful act of the claimant or his agent. The doctrine of comparative negligence is applicable only to the extent allowable under local law;

(c) Is for personal injury or death of a member of the Armed Forces of the United States or a civilian employee incurred incident to his service;

(d) Is for damage to, loss of, or destruction of personal property occurring incident to service unless excluded by the regulations in Subpart G;

(e) Is for injury or death of a civilian employee covered by the Federal Employees' Compensation Act (5 U.S.C. 8101–8150) or Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901) as made applicable to certain civilian employees of nonappropriated fund instrumentalities of the Armed Forces (5 U.S.C. 2105(c)) under 5 U.S.C. 8171–8173;

(f) Arises in a foreign country and is cognizable under a foreign treaty or agreement or under the Foreign Claims Act (10 U.S.C. 2734);

(g) Is purely contractual in nature;

(h) Arises from a private as distinguished from a Government transaction;

(i) Is based solely on compassionate grounds;

(j) Is for patent or copyright infringement;

(k) Is for war trophies, and articles intended directly or indirectly for persons other than the claimant or members of his immediate family, such as articles acquired to be disposed of as gifts or by sale or other commercial transaction to another, voluntarily bailed to responsible officers of the Coast Guard. No allowance will be made for any item when the evidence indicates that the acquisition, possession, or transportation thereof was in violation of Coast Guard instructions;

(l) Is for precious jewels and other articles of extraordinary value, voluntarily bailed to responsible officers of the Coast Guard;

(m) Arises from the operation of a nonappropriated fund activity and is cognizable under the Federal Tort Claims Act;

(n) Is based upon an act or omission of military personnel or a civilian employee, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, or in the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty, whether or not the discretion is abused;

(o) Is cognizable under the Suits in Admiralty Act (41 Stat. 525–528, 46 U.S.C. 741–752), or the Public Vessels Act (43 Stat. 1112, 1113, 46 U.S.C. 781–790);

(p) Arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(q) Is for rent, or other payments involving the acquisition, use, possession, or disposition of real property or interests therein by and for the Coast Guard, except as authorized by § 25.307. Real estate claims founded upon contract are normally processed under contract procedures.

(r) Is for taking of private property by trespass as by a taking implied under local law resulting from the flight of aircraft. Actual physical damage must be shown. Claims for technical trespass, overflight of aircraft, or a taking of a type contemplated by the Fifth Amendment to the U.S. Constitution are not payable under this subpart.

§ 25.311 Subrogation.

Subrogated claims are processed as prescribed in § 25.115.

§ 25.313 When claim must be presented.

(a) A claim may be settled under this subpart only if presented in writing within 2 years after it accrues, except that if it accrues in time of war or armed conflict, or if war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, the claim may be presented within 2 years after that cause ceases to exist but not later than 2 years after the war or armed conflict is terminated.

(b) As used in this subpart, a war or armed conflict is one in which an Armed Force of the United States is engaged. The dates of commencement and termination of an armed conflict will be as established by concurrent resolution of Congress or by determination of the President.

§ 25.315 Procedures.

So far as not inconsistent with this subpart the procedures set forth in Subpart A of this part are followed as to a claim under this subpart.

§ 25.317 Compensation for personal injury or death.

As to any claim, allowable compensation does not include reimbursement for medical or hospital services furnished at the expense of the United States nor the expense of burial otherwise paid by the United States.

§ 25.319 Law applicable.

(a) As to any claim arising in the United States, its territories, commonwealths, or possessions, the law of the place where the act or omission occurred is applied in determining liability and the effect of contributory negligence on claimant's right to recover damages. The principle of absolute liability is not applicable to claims cognizable under this subpart even though prescribed by local law.

(b) In claims arising in a foreign country, liability normally is determined in accordance with general principles of American law as stated in standard legal publications, except as it applies to absolute liability. In determining the effect of

claimant's negligence on his right to recover damages, the law of the place where the act or omission occurred is applied. Where applicable, rules of the road and similar locally prescribed standards of care will be followed in determining fault.

(c) In determining quantum and elements of damages, the rules set forth in §§ 25.123 and 25.131 are applicable. Where these rules are inapplicable, the law of the place where the act or omission occurred normally will be applied, except that in claims arising in foreign countries, the law of the state of legal residence of the person whose injury, property damage, or death generated the claim is applied.

§ 25.321 Claimants excluded.

A national, or a corporation controlled by nationals, of a country at war or engaged in armed conflict with the United States, or of any country allied with such enemy country, is excluded as a claimant, unless the command exercising claims authority over the incident determines that the claimant is, and at the time of the incident was, friendly to the United States. A prisoner of war or an interned enemy alien is not excluded as to a claim for damage to or loss or destruction of personal property in the custody of the Government otherwise payable under this subpart.

§ 25.323 Settlement agreement.

If a claim is determined to be meritorious in an amount substantially less than that claimed, or if a claim involving personal injuries or death is approved in full, a settlement agreement or acceptance of award (SF–1145) will be obtained from the claimant prior to payment. A settlement agreement may be required in other instances when, in the opinion of the claims authority, good legal practice so dictates, e.g., where family or other multiple interests may be involved. The settlement agreement should effect the release of the United States and the military or civilian personnel whose act or omission gave rise to the claim from any and all claims arising from the same incident.

§ 25.325 Delegations of authority.

(a) Subject to appeal to the Secretary of Transportation, the Chief Counsel has been designated to settle and pay claims under this subpart in an amount not more than $15,000.

(b) Subject to appeal to the Chief Counsel, the following officers may settle and pay claims under this subpart in an amount not more than $2,500:

(1) The Chief, Claims and Litigation Division, Office of the Chief Counsel.

(2) The Commander of each Coast Guard District.

(3) The Superintendent, U.S. Coast Guard Academy.

(4) The Commanding Officer, Coast Guard Training Center, Cape May, N.J.

(5) The Commanding Officer, Coast Guard Training and Supply Center, Alameda, Calif.

(6) The Commanding Officer, Coast Guard Reserve Training Center, Yorktown, Va.

§ 25.327 Claims over $15,000.

If the Secretary of Transportation considers that a claim in excess of $15,000 is meritorious and would otherwise be covered by the provisions of 10 U.S.C. 2733, he is authorized by law to pay the claimant $15,000 and report the excess to Congress for its consideration.

§ 25.329 Settlement procedures.

(a) *Action by a settlement authority.* (1) The disapproval of a claim, in whole or in part, is final unless the claimant submits an appeal in writing. Upon disapproval of a claim, in whole or in part, the settlement authority will notify the claimant in writing of the action taken and reasons therefor. The letter of notification will inform the claimant that—

(i) He may submit an appeal through the authority disapproving the claim;

(ii) No particular form for appeal is prescribed;

(iii) The ground for appeal should be set forth fully; and

(iv) The appeal must be submitted within 30 days of the date of notice of disapproval of the claim and will be considered timely if postmarked within 30 days after the date of such notification. The Chief Counsel has authority for good cause shown with respect to claims not exceeding $2,500 to extend the time for appeal.

(b) *Appeals procedure*—(1) *Claims not exceeding $2,500.* Upon receipt, the appeal is examined by the settlement authority and after any action deemed necessary it is forwarded with the related file and opinions and recommendations to the appropriate appellate authority. If the evidence in the file, including information submitted by the claimant with the appeal, indicates that the appeal should be sustained, it may be treated as a request for reconsideration under paragraph (c) of this section, and the processing of the appeal may be delayed pending the outcome of further efforts by the settlement authority to settle the claim. If proper settlement cannot be reached, the appeal will be forwarded to the appropriate appellate authority.

(2) *Claims exceeding $2,500.* Upon receipt, the claim is examined by the Chief Counsel and after any action deemed necessary, it is forwarded with the related file and opinions and recommendations to the Secretary of Transportation. However, if further examination of the claim discloses that the appeal should be sustained, the procedure in subparagraph (1) of this paragraph is followed.

(c) *Reconsideration.* (1) A settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. In the absence of such a request, a settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even though a settlement agreement was executed) when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, approve a supplemental award. The basis for a change in action will be stated in a memorandum included in the file.

(2) A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the settlement authority will reconsider the claim and attempt to settle it by granting such relief as may appear warranted. If no such relief is warranted the claimant will be notified and informed of his right to appeal the action except that where an appeal has been treated as a request for reconsideration the procedure prescribed in paragraph (b) of this section will be followed.

Subpart D—Claims Arising in Foreign Countries

§ 25.401 Statutory authority.

The authority for this subpart is contained in the Act of August 10, 1956 (71A Stat. 155, 10 U.S.C. 2734), as amended by Public Law 90–521, September 26, 1968 (82 Stat. 874) commonly referred to as the Foreign Claims Act; the Act of September 7, 1962 (76 Stat. 512, 10 U.S.C. 2734a) as amended by Public Law 90–521, September 26, 1968 (82 Stat. 874).

§ 25.403 Purpose.

This subpart implements the Foreign Claims Act which authorizes the settlement of claims of inhabitants of foreign countries.

§ 25.405 Scope.

(a) This subpart authorizes the administrative settlement of any claim by an inhabitant of a foreign country or by a foreign country or a political subdivision thereof against the United States for personal injury or death or for property loss or damage if the personal injury, death or property loss or damage occurs outside the United States, its territories, commonwealths, or possessions and is caused by, or is otherwise incident to, noncombat activities of the Coast Guard, or is caused by a member or by a civilian employee of the Coast Guard.

(b) Claims resulting from the activities, or caused by personnel, of another armed force of the United States may also be settled by Coast Guard foreign claims commissions under this subpart.

(c) Claims arising from acts or omissions of employees of nonappropriated fund activities may also be settled by Coast Guard foreign claims commissions under this subpart, if otherwise applicable.

§ 25.407 Claims cognizable under other regulations.

(a) *Claims under 10 U.S.C. 2734.* Claims within the scope of section 2734 of title 10, United States Code, which otherwise would be cognizable under Subpart C or Subpart E of this part, will be considered first under this subpart. However, this subpart is not exclusive and no claim will be disapproved

without consideration of other regulations under which it may be cognizable.

(b) *Article 139, UCMJ.* Consideration may be given to first settling under Article 139, UCMJ, a claim which is also within the scope of section 2734 of title 10, United States Code. However, if settlement of the claim under that procedure will unduly delay payment to the claimant and the claim may be more expeditiously settled under this subpart the procedures herein will be utilized.

(c) *Subpart G.* Claims cognizable under this subpart which are also cognizable under Subpart G of this part will be considered first under the latter regulation.

(d) *Subpart F.* Claims which may be settled under Subpart F may be settled under this section only when specifically authorized by the Chief Counsel. This provision applies to claims for damage to land structures as well as claims of an admiralty nature. The occurrence of any such damage, if brought to the attention of a claims commission or the responsible commanding officer, shall be reported immediately to the Chief Counsel.

(e) *Treaties and foreign agreements.* When a foreign government has assumed responsibility for settling claims against the United States under Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty, or other similar treaty or agreement, any claim presented to the Coast Guard will be forwarded to the appropriate U.S. Sending State Office or similar office, for referral to the foreign government. The investigation by U.S. authorities of claims cognizable under status of forces agreements will normally be limited to securing evidence from U.S. sources.

§ 25.409 Presentation of claim.

A claim may not be allowed under this section unless it is presented within 2 years after it accrues. Presentation may be made to U.S. authorities, or to a foreign government in accordance with Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty or other applicable treaty or agreement. A report of the incident to U.S. authorities by the claimant or his agent, requesting compensation, is an adequate presentation.

§ 25.411 Form of claim.

A claim normally will be presented in writing. Under unusual circumstances, a claim presented orally by the claimant to U.S. authorities may be considered acceptable. The claim must be reduced to writing, however, before action is taken by a foreign claims commission. The written claim must state the time, place, and nature of the incident, the nature and extent of damages, loss, or injury, and the amount of compensation claimed. A claim must be stated in the currency of the country where the incident occurred. Payment normally will be made in the currency of the country where the incident occurred or where the claimant resided at the time of the incident. However, if the claimant resides in another country at the time of payment, payment may be made in the currency of that country.

§ 25.413 Proper claimants.

(a) A claimant (or the decedent in a death case) must have been an inhabitant of a foreign country at the time of the incident and not otherwise excluded as a claimant. However, it is not necessary that a claimant or decedent be a citizen of, or have his legal domicile in, the foreign country to establish that he is an inhabitant thereof.

(b) A corporation or other organization doing business in a foreign country on a permanent basis may qualify as a proper claimant although organized under U.S. law.

(c) U.S. citizens may be claimants provided it is established that they actually are inhabitants of a foreign country and are not employees of the United States.

(d) The government of a foreign country or a political subdivision thereof are proper claimants unless waiver provisions of applicable international agreements exclude such claims.

§ 25.415 Claimants excluded.

(a) A national, or a corporation controlled by a national, of a country at war or engaged in armed conflict with the United States or of any country allied with such enemy country, is excluded as a claimant, unless the appropriate foreign claims commission considering the claim, or the responsible commanding officer, determines that the claimant is, and at the time of the incident was, friendly to the United States.

(b) U.S. military personnel and civilian employees of the U.S. Government or its agencies and instrumentalities and their dependents, who are inhabitants of the United States and who are in a foreign country primarily because of their own or their sponsor's duty status, are excluded.

(c) Other citizens of the United States, or its territories, commonwealths, or possessions, who are visiting, touring, or employed overseas but not inhabitants of a foreign country are excluded.

(d) Insurers and other subrogees may not present a claim in their own names under this subpart for damage or injury suffered by a subrogor. The claim must be presented in its entirety by the person who suffered the damage or injury, or in the name of such person by his authorized representative. This precludes consideration of the claim of an insurer subrogated by operation of law or by the terms of a policy of insurance for payments made to, or for, the insured. This does not mean that a claimant may not appoint his insurer or subrogee as his authorized representative, but settlement will be made with, and in the name of, the person who suffered the injury or damage without inquiring into, or determining, any rights acquired by subrogation under local law or by contract.

§ 25.417 Causation.

(a) A claim may be allowed under this subpart if it resulted from a noncombat activity of the Coast Guard or was caused by—

(1) Military personnel of the United States;

(2) Civilian employees of an armed force of the United States who are U.S. citizens;

(3) Other civilian employees who were hired in a country other than the one in which they are employed and in which the incident occurred; or

(4) Civilian employees who are not U.S. citizens, and who were hired in the country in which they are employed and in which the incident occurred, while acting within the scope of employment. Claims arising from the operation of U.S. Armed Forces vehicles or other equipment by the employees described in the preceding sentence, however, may be paid even though the employees are not acting within the scope of their employment, provided the employer would be liable under local law in the circumstances involved.

(b) Noncombat activities: A claim may be settled under this subpart if it arises from authorized activities essentially military in nature, having little parallel in civilian pursuits and which historically have been considered as furnishing a proper basis for payment of claims, such as practice firing of missiles and weapons, training and field exercises, the operation of aircraft, and movement of combat or other vehicles designed especially for military use and use and occupancy of real estate. Activities incident to combat, whether in time of war or not, are excluded.

(c) Local law or custom pertaining to contributory or comparative negligence, and to joint tort-feasors, will be applied to the extent practicable.

§ 25.419 Acts not within scope of employment.

The doctrine of scope of employment has no application to foreign claims arising from acts of military personnel and generally from acts of civilian personnel. A claim otherwise within the Foreign Claims Act may be allowed regardless of whether the service member or employee of the United States who caused the damage, injury, or death was acting within the scope of his employment. However, a claim for damage, injury, or death caused by a civilian employee of the United States who is not a citizen of the United States which occurs in the country where the civilian employee was hired to work is compensable only when the employee was acting within the scope of his employment except that a claim arising from the operation of vehicles or other equipment of the United States may be compensable even though the civilian employee was not acting in the scope of his employment provided the employer would be liable under local law in the circumstances involved.

§ 25.421 Criminal acts.

Acts giving rise to a claim which may constitute a crime do not bar relief.

Claims otherwise within the Foreign Claims Act may be allowed regardless of whether the act of the military member or civilian employee of the United States which caused the damage, injury, or death was a crime or other wrongful act, or negligence or error of judgment.

§ 25.423 Claims payable.

(a) Claims for the following are payable under this subpart: Death, personal injury, or damage to or loss of real or personal property.

(b) Death: The rights of all claimants will be settled by one claim. The amount allowed will, to the extent found practicable, be apportioned among the beneficiaries as prescribed by the law or custom of the place where the incident resulting in death occurred.

(c) Property: Claims for loss of or damage to property which may be settled under this subpart include—

(1) Real property including property used and occupied incident to training and other exercises. An allowance may be made for the use and occupancy of real property arising out of trespass or other tort, even though claimed as rent. Real estate claims founded in contract are normally not cognizable under the provisions of this subpart; and

(2) Personal property including property bailed to the Government under an agreement, express or implied, unless the owner has expressly assumed the risk of damage or loss.

§ 25.425 Claims not payable.

A claim may not be allowed under this subpart which—

(a) Results from action by an enemy or results directly or indirectly from an act of the Armed Forces of the United States in combat, except that a claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the Armed Forces of the United States including its airborne ordinance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission;

(b) Is purely contractual in nature;

(c) Is governed by the Federal Employees' Compensation Act (5 U.S.C. 8101–8150); the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 901), or other workmen's compensation laws or regulations, including local law or custom, in cases where contribution is made or insurance premiums paid directly or indirectly by the United States on behalf of the injured employee;

(d) Is one for the settlement of which a foreign country is responsible under Article VIII of the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty, or other similar treaty or agreement;

(e) Arises from private or domestic obligations as distinguished from Government transactions;

(f) Is based solely on compassionate grounds. In some Near and Far East countries it is the custom for a person who is involved in an accident or incident that results in the injury or death of a local national to express his sympathy and to make a token monetary payment, or solatium, to the injured person or to the next-of-kin of the deceased. Solatium or gratuity payment may be made from operating funds of the Coast Guard;

(g) Is a bastardy claim;

(h) Involves a patent or copyright infringement;

(i) Is for taking of private property by trespass as by a taking implied under local law resulting from the flight of aircraft. Actual physical damage must be shown. Claims for technical trespass, overflight of aircraft, or a taking of a type contemplated by the Fifth Amendment to the U.S. Constitution are not payable; or

(j) Arises from the operations of a nonappropriated fund activity, unless generated by military personnel performing assigned duties.

§ 25.427 Compensation.

In determining an appropriate award, local law and custom relating to elements of damage, and compensation therefor, will generally be applied, but punitive damages and interest may not be allowed. Court costs, attorney's fees, bail, or similar charges are also excluded.

§ 25.429 Factors affecting computation of amount.

(a) After appropriate compensation for the total damages suffered has been computed there will be deducted from the award any payment claimant has received from the tort-feasor or any joint tort-feasor. This includes amounts paid on behalf of the tort-feasor as by an insurance company or a third party.

(b) Normally, there will be deducted from any award the amount of any applicable insurance coverage (other than claimant's insurance) recovered or which can be reasonably expected to be recovered and which has been or will be paid to the claimant. In this regard, every effort will be made to monitor the insurance aspect of the case and encourage direct settlement between the claimant and the insurer.

§ 25.431 Foreign claims commission.

(a) *Appointing authorities.* The authority to appoint foreign claims commissions is delegated to the following:

(1) The Chief Counsel to appoint foreign claims commissions to consider claims not in excess of $15,000.

(2) The Commander of each Coast Guard District to appoint foreign claims commissions to consider claims not in excess of $2,500.

(3) The Commanding Officers of Coast Guard Activities Europe and CG Activities, Guam, to appoint foreign claims commissions to consider claims not in excess of $1,000.

(4) The Commanding Officer of each Coast Guard Section to appoint foreign claims commissions to consider claims not in excess of $500.

(b) *Composition.* Foreign Claims Commissions will be composed of one or three members. The senior officer of a commission of three members is the president, two members present constitute a quorum and any action concurred in by two members is the action of the commission. The numerical composition of a claims commission rests within the sound discretion of the appointing authority subject to the limitations imposed by paragraph (d) of this section.

(c) *Qualifications of members.* Each member of a foreign claims commission must be a commissioned officer of the Armed Forces of the United States of a rank commensurate with the type of claim being considered for settlement. He should wherever practicable have legal training or investigative or other experience adequate to analyze evidence, determine facts, and apply legal principles.

(d) *Monetary jurisdiction*—(1) *Claims not in excess of $1,000.* A one-member foreign claims commission may settle and pay, claims not in excess of $1,000.

(2) *Claims not in excess of $2,500.* A one-member foreign claims commission appointed by the Chief Counsel may settle and pay claims not in excess of $2,500.

(3) *Claims not in excess of $15,000.* A three-member foreign claims commission may settle and pay claims not in excess of $15,000. Awards in excess of $2,500 are subject to the prior approval of the appointing authority.

§ 25.433 Appointing authority action on claims in excess of $2,500.

When a foreign claims commission recommends payment of an award in excess of $2,500 but not in excess of $15,000, the appointing authority may—

(a) Approve the recommended award or any lesser amount over $2,500;

(b) Disapprove any award over $2,500 and return the claim to the commission which may, after giving due consideration to the award recommended by the appointing authority, make an award in an amount not exceeding $2,500; or

(c) Inform the commission that the claim is not considered meritorious in any amount and recommend that it reconsider its action. After giving due consideration to the recommendation of the appointing authority, the commission may disapprove the claim or make an award in an amount not exceeding $2,500.

§ 25.435 Claims in excess of $15,000.

Claims in excess of $15,000 which are not amended to an amount within the monetary jurisdiction of a three-member foreign claims commission will be forwarded through the appointing authority to the Chief Counsel for consideration by the Commandant. The claim file will contain a memorandum opinion by the three-member commission recommending the action to be taken by the Commandant. If the claim is otherwise cognizable under the Foreign Claims Act, the Commandant, or his designee for this purpose, may—

(a) Disapprove the claim;

(b) Determine that the claim is meritorious in an amount not in excess of $15,000 and refer it to an appropriate

three-member foreign claims commission for settlement; or

(c) Approve the claim in an amount in excess of $15,000 and after receipt of an agreement by the claimant to accept the award in full satisfaction initiate action to refer it to Congress for payment.

§ 25.437 Claims procedure.

No formal procedure for the conduct of an investigation of a foreign claim is prescribed. However, the procedures for an informal investigation set forth in paragraph 0303, CG Supp., MCM, should be followed as a guide. When a foreign claims commission receives a claim, it may initiate or request any further investigation considered necessary for proper consideration of the claim. If considered necessary, hearings may be conducted. It may confer with the claimant to determine pertinent facts or, in an appropriate case (e.g., a claim filed for an amount in excess of the commission's jurisdiction but considered meritorious in an amount within its jurisdiction), point out to claimant that early settlement could be facilitated by substituting a claim in an amount within the jurisdiction of the commission.

§ 25.439 Foreign claims commission's action.

(a) The commission's action (approval or disapproval action) on a claim shall contain the following:

(1) The date or dates of the hearing or hearings, if any.

(2) The amount claimed stated in the appropriate foreign currency and the conversion into U.S. currency at the existing official rate of exchange on the date of initial consideration of the claim.

(3) A brief statement of facts, including the date of the accident, incident, or injury, the date the claim was filed and the nature of the damage or injury sustained.

(4) Findings as to necessary jurisdictional facts.

(5) A discussion of local law and customs which may be applicable in the adjudication of the claim.

(6) The claims commission determination (approval in whole or in part or disapproval).

(7) The amount awarded, if any, stated in the appropriate foreign currency and the conversion into U.S. currency at the existing official rate of exchange on the date of final determination.

(8) The following instruments will be attached to the commission's action. The order appointing the commission, the claim, copy of the notice of award or denial where prior approval by the appointing authority is not required, and proposed notice of award or denial where prior approval of the appointing authority is required.

(9) The commission's action and attachments together with the requisite number of copies, will be submitted to the appointing authority.

§ 25.441 Notification of award and payment.

Upon completion of an approval action by the commission and approval by the appointing authority when required, the claimant will be notified of the award. Upon claimant's execution of a release for the amount of the award, the release, together with the commission's action, will be transmitted to the nearest Coast Guard disbursing officer for preparation and payment of the public voucher. One copy of the action and attachments will be forwarded to the Chief Counsel.

§ 25.443 Releases.

(a) Unless impracticable, a release will be obtained from the claimant in each case in which an award is accepted.

(b) The release executed by the claimant should release the United States and also release the military personnel or civilian employee who caused the damage, injury, or death, if their identity is known. If the identity of that person is unknown, the release should recite that the claimant also releases the person or persons who caused the damage, injury, or death, the names and identity of that person or persons being unknown to the claimant.

(c) The release should preclude any possible future assertion of the claim for which the United States has made compensation.

§ 25.445 Reconsideration.

(a) While there is no appeal from the action of a foreign claims commission, any request from a claimant, or someone acting in his behalf, which in effect asks for a change in the commission's action, will be treated as a request for reconsideration and referred to the commission which acted on the claim, if it is still in existence. If that commission is no longer in existence, a different commission will be designated by the appointing authority to act as a successor commission. A request for reconsideration should indicate fully the legal or factual basis asserted as grounds for relief. Following completion of any investigation or other action deemed necessary for an informed disposition of the request, the commission will reconsider the claim and attempt to settle it by granting such relief as may appear warranted.

(b) A foreign claims commission may, upon request, or upon its own initiative, reconsider a claim which it previously disapproved in whole or in part (even though a settlement agreement has been executed) when it appears that the original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If it determines that the original action was incorrect, it will modify the action and, if appropriate, make a supplemental award. The basis for a change in action will be stated in a memorandum included in the file. Reconstruction of a claim in excess of $2,500 is subject to review by the appointing authority.

(c) A different commission, or the same commission with one or more different members, may reconsider the original action on a claim but only on the basis of fraud or collusion, new and material evidence, or manifest error of fact such as errors in calculation or misinterpretation of local law.

§ 25.447 Cross-servicing of claims.

(a) The Department of Defense has assigned single-service responsibility for the settlement of claims in certain countries under the following statutes and agreements which also affect the Coast Guard: Foreign Claims Act (10 U.S.C. 2734), Military Claims Act (10 U.S.C. 2733), 10 U.S.C. 2734a, 2734b—pro rata cost sharing of claims pursuant to international agreement, NATO Status of Forces Agreement (4 UST 1792, TIAS 2846) and other similar agreements; 10 U.S.C. 2737—claims not cognizable under any other law, the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953).

(b) In a country where single-service claims responsibility has been assigned, claims against the United States cognizable under the statutes cited in paragraph (a) of this section and NATO Status of Forces and similar agreements resulting from Coast Guard activities will be investigated and referred to the assigned service for appropriate action.

(c) In a country where single-service claims responsibility has not been assigned, the responsible Coast Guard officer may, where it is deemed advisable, request another service in writing to settle a claim cognizable under the claims statutes cited in paragraph (a) of this section resulting from Coast Guard activities.

(d) Payments of claims under international treaties resulting from Coast Guard activities are made by the Secretary of Defense out of appropriations for the operating expenses of the Coast Guard (10 U.S.C. 2734(c)).

§ 25.449 Solatia or customary payments.

(a) Payments in accordance with local custom may be made to a victim or his family without regard to liability in certain countries throughout the world, particularly in some Far East and Near East countries. These payments are usually immediate in nature, vary in amount according to the ability to pay and local custom, and are based on a feeling of responsibility or sympathy towards the victim or his family. As indicated, the payment does not necessarily derive from legal liability. It is intended to express the extreme consideration of the person involved in an incident, and in whose behalf payment is made, for the feelings of the victim or his family. In some countries the customary payment is not always made in money.

(b) Solatia payments are payable out of Coast Guard operating funds.

(c) If a claim for injury or death is settled and paid under a claims statute, an amount paid as above may be taken into consideration in determining the award under the statute.

Subpart E—Claims Incident To Use of Government Property Not Cognizable Under Other Law

§ 25.501 Statutory authority.

The statutory authority for this subpart is contained in the act of October 9, 1962 (76 Stat. 767, 10 U.S.C. 2737), commonly known as the "Non-Scope of Employment Claims Act."

§ 25.503 Scope.

This subpart prescribes the substantive basis and special procedural requirements for the administrative settlement and payment, in an amount not more than $1,000, of any claim against the United States not cognizable under any other provision of law for damage to, or loss of, property, or for personal injury or death, caused by a member or a civilian official or employee of the Coast Guard, incident to the use of a vehicle of the United States at any place or incident to the use of other property of the United States on a Government installation.

§ 25.505 Definitions.

The definitions in Subpart A are applicable to this subpart. For purposes of this subpart, the following additional definitions apply:

(a) *Government installation.* A U.S. Government facility having fixed boundaries owned or controlled by the Government.

(b) *Vehicle.* Includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land (1 U.S.C. 4).

§ 25.507 Claims payable.

(a) *General.* A claim for personal injury, death, or damage to or loss of property, real or personal, is payable under this subpart when—

(1) Caused by the act or omission, negligent, wrongful, or otherwise involving fault, of a member of or a civilian employee of the Coast Guard—

(i) Incident to the use of a vehicle of the United States at any place; or

(ii) Incident to the use of any other property of the United States on a Government installation;

(2) The claim is not payable under any other claims statute and claims regulation available to the Coast Guard for the administrative settlement of claims; and

(3) The claim has been determined to be meritorious, and the settlement authority has obtained a settlement agreement in an amount not in excess of $1,000 in full satisfaction of the claim prior to approval of the claim for payment.

(b) *Personal injury or death.* A claim for personal injury or death is allowable only for the cost of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid by the United States.

§ 25.509 Claims not payable.

A claim is not allowable under this subpart which—

(a) Is cognizable under any other provision of law or regulation administered by the Coast Guard;

(b) Results wholly or partly from the negligent or wrongful act of the claimant, his agent, or his employee. The doctrine of comparative negligence is not applicable;

(c) Is for medical, hospital, and burial expenses furnished or paid by the United States;

(d) Is for any element of damage pertaining to personal injuries or death other than as provided in § 25.507(b). All other items of damage, for example, compensation for loss of earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering are not payable;

(e) Is legally recoverable by the claimant under an indemnifying law or indemnity contract. If the claim is legally recoverable in part, that part recoverable by the claimant is not payable; or

(f) Is a subrogated claim.

§ 25.511 When claim must be presented.

A claim may be settled under this subpart only if it is presented in writing within 2 years after it accrues.

§ 25.513 Delegation of authority.

The following are delegated authority under this subpart to settle and pay claims not in excess of $1,000:

(a) The Chief Counsel.

(b) The Commander of each Coast Guard District.

(c) The Superintendent, U.S. Coast Guard Academy.

(d) The Commanding Officer, Coast Guard Training Center, Cape May, N.J.

(e) The Commanding Officer, Coast Guard Training and Supply Center, Alameda, Calif.

(f) The Commanding Officer, Coast Guard Reserve Training Center, Yorktown, Va.

§ 25.515 Reconsideration.

(a) A settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. In the absence of such a request, a settlement authority may on his own initiative reconsider a claim. He may reconsider a claim which he previously disapproved in whole or in part (even though a settlement agreement has been executed) when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental award. The basis for a change in action will be stated in a memorandum included in the file.

(b) A higher settlement authority may also reconsider the original action on a claim but only on the basis of fraud or collusion, new and material evidence, or manifest error of fact such as errors in calculation or factual misinterpretation of applicable law.

(c) A request for reconsideration should state fully the legal or factual basis asserted as grounds for relief.

Subpart F—Admiralty Claims

§ 25.601 Statutory authority.

(a) The statutory authority for this subpart is contained in 14 U.S.C. 646, which supplements the following statutes under which suits in admiralty may be brought: the Suits in Admiralty Act of 1920 (41 Stat. 525, 46 U.S.C. 741–752); the Public Vessels Act of 1925 (43 Stat. 1112; 46 U.S.C. 781–790;) and the Extension of Admiralty Act of 1948 (62 Stat. 496, 46 U.S.C. 740).

§ 25.603 Scope.

This subpart applies to claims against the United States for damage caused by a vessel in the Coast Guard service, or for towage or salvage services rendered to such a vessel.

§ 25.605 Claims payable.

In addition to collisions and other incidents of physical contact with another vessel or shore structure, claims for the following types of damage are payable under this subpart:

(a) Wave wash or swell damage.

(b) Damage to fish nets or traps, lobster pots, oyster beds, or clam flats.

(c) Personal injury or death of a civilian not employed by the Government (including longshoremen, harbor workers, repairmen, visitors, passengers, and guests).

(d) Damage resulting from oil spills, paint spray, blowing tubes.

(e) Damage to third parties resulting from fire or explosion on a Coast Guard vessel.

§ 25.607 Claims not payable.

A claim is not allowable under this subpart which—

(a) Is for damage to, or loss or destruction of, property, or for personal injury or death, resulting from action by the enemy, or by U.S. Armed Forces engaged in combat, or in immediate preparation for impending combat;

(b) Is for personal injury or death of members of the Armed Forces of the United States incurred incident to their service;

(c) Is for personal injury or death of civilian employees of the United States to whom the Federal Employees' Compensation Act (Act of September 7, 1916, 39 Stat. 742), as amended (5 U.S.C. 751 et seq.), is applicable;

(d) Is for damage to or loss of property, or for personal injury or death, caused other than by vessels of, or in the service of, the Coast Guard;

(e) Is for disability or death of a civilian employee of a nonappropriated fund instrumentality of the U.S. Armed Forces. See the Act of June 19, 1952 (66 Stat. 139, 5 U.S.C. 8171–8173); or

(f) Is for damage to or loss of personal property of military personnel and civilian employees of the Coast Guard including personnel of Coast Guard ships incident to their service (Subpart G).

§ 25.609 Claims under other laws and regulations.

Claims which are within the scope of this subpart and are also within the scope

of Subpart D of this part may be processed under that subpart only when specific authority to do so has been obtained from the Chief Counsel. A copy of the report of marine casualty will be furnished with the request for such authority.

§ 25.611 Subrogation.

(a) An insurance carrier will be recognized as a claimant under this subpart to the extent it has become subrogated by payment to, or on behalf of, its insured, pursuant to a contract of insurance in force at the time of the incident from which the claim arose. An insurance carrier and its insured may file a claim either jointly or separately. Joint claims must be asserted in the names of, and must be signed by, all parties. Payment then will be made jointly. If separate claims are filed, payment to each party will be limited to the extent of that party's undisputed interest.

(b) For the purpose of determining authority to settle or compromise a claim, the payable interests of the insurance carrier (or carriers) and the insured represent merely separable interests, which interests in the aggregate must not exceed the amount authorized for administrative settlement or compromise.

§ 25.613 Limitation of settlement.

(a) Administrative settlement of claims under this subpart must be effected within two years from the date of origin of the cause of action. The claimant must have agreed to accept the settlement and it must be approved for settlement by the Commandant or his designee prior to the end of that period, otherwise the cause of action ceases to exist except under the circumstances of paragraph (b) of this section. The presentation of a claim, or its consideration by the Coast Guard neither waives nor extends the two year period of limitation.

(b) In the event that a libel has been filed in a district court of the United States, before the end of the two year period of time, an administrative settlement may be negotiated by the Commandant or his designee with the claimant even though a period of two years has expired since the cause of action accrued, provided the claimant obtains the written consent of the appropriate Admiralty and Shipping Section, Department of Justice, charged with the defense of the libel. Payment may be made upon dismissal of the libel.

§ 25.615 Delegation of authority.

(a) Where the amount to be paid is not more than $25,000, a claim under this subpart may be settled or compromised by the Chief Counsel. Any claim under this subpart which is settled or compromised at a net amount exceeding $25,000 shall be certified to the Congress for payment.

(b) A claim under this subpart not exceeding $5,000 may be settled or compromised by the Chief, Claims and Litigation Division.

(c) A claim under this subpart not exceeding $2,500 arising within their respective commands may be settled or compromised by—

(1) The Commander of any Coast Guard District;

(2) The Superintendent, U.S. Coast Guard Academy;

(3) The Commanding Officer, Coast Guard Receiving Center, Cape May, N.J.;

(4) The Commanding Officer, Coast Guard Training and Supply Center, Alameda, Calif.; or

(5) The Commanding Officer Coast Guard Reserve Training Center Yorktown, Va.

(d) Each claim under this subpart which exceeds $2,500 shall be forwarded to Commandant (LCL) with the settlement authority's recommendations for disposition. When more than one claim arises out of the same incident, any one of which exceeds $2,500, all of the claims arising from that incident shall be forwarded to Commandant (LCL) with the settlement authority's recommendations for disposition.

§ 25.617 Admiralty claims instructions.

Additional instructions concerning admiralty claims are contained in Chapter VI of the Coast Guard Supplement, MCM. These instructions should be followed in connection with any admiralty claim except where inconsistent with this subpart.

§ 25.619 Documents.

(a) *Preserving records of original entry.* Particularly in a collision incident, all original documents, logs, and records relating to or recording the occurrence must be preserved. If entries were made in the first instance on slips of paper, such entries must also be preserved. Admiralty courts attach great significance to records of original entry.

(b) *No erasure.* No erasures may be made for any purpose on a log book or any record of original entry. If an entry is to be corrected, the original shall be lined through and initialed, and the correction inserted in such a manner that no question can arise as to the nature and substance of the original entry.

(c) *List of pertinent records.* Among the records which must be preserved in a collision case are the following:

(1) Quartermaster's notebook.
(2) Deck log.
(3) Bell book.
(4) Engineering log.
(5) Chart in use.
(6) Bearing book.
(7) Magnetic and gyro compass records.
(8) Deviation tables, azimuth records, and course recorder (if vessel's course is in issue).
(9) CIC logs.
(10) Radar logs.
(11) Signal and communication logs.
(12) Voice radio log.
(13) Radar plot.
(14) DRT plot.
(15) Night order book.
(16) Fathometer record.

(d) *Forwarding of records.* In major collision cases, the foregoing documents should be assembled and forwarded to the Chief, Claims and Litigation Division as soon as possible. Copies should first be made of those parts of the original documents as may be required for use by fact-finding bodies or for ship's use. In other than major collisions, the same documents should be assembled and preserved.

(e) *Photographs.* Although photographs do not constitute original documentary evidence, they are an extremely valuable adjunct to an investigation. In collision cases, photographs indicating the angle of collision and the extent of damage are most helpful. They are also essential in personal injury cases where there is a possible issue as to some unseaworthy condition or some alleged defect in a vessel's tackle, gear, or appurtenances. In those cases, photographs should be taken of the area of the ship and the apparatus involved. These photographs should be identified as to date, time, and place of taking, and as to the name, rate, and service number of the photographer.

§ 25.621 Surveys.

(a) *Requirements.* Surveys of the damages to both the Coast Guard vessel and the privately-owned vessel are essential in the Coast Guard's admiralty claims procedure. The requirement applies not only to collisions but also to all damages caused by a vessel, such as to a pier or land structure. The same considerations apply to affirmative claims where a privately-owned vessel damages Coast Guard property. The primary purpose of a survey is to reach an agreement between the interested parties as to the extent of physical damage resulting from a casualty, and to eliminate later controversy concerning the items of damage. Surveys should therefore be held as soon after the collision or casualty as possible. When additional damage is discovered, or when repairs to a ship are deferred and no price has been agreed upon, a supplementary survey is frequently held at the time repairs are made.

(b) *Notice.* For a survey to be of most value, it should be a joint survey; that is, with all interests represented. If a Coast Guard vessel or property has suffered damage, notice shall be given promptly to the owner or representative of the offending vessel, fixing a time and place where the Coast Guard's damages may be surveyed. Where a survey would result in disclosure of classified information, opposing interests shall be advised in writing that, for this reason, survey of the Coast Guard vessel, or certain parts thereof, cannot be permitted. However, every opportunity for a complete survey should be afforded opposing interests if at all possible.

(c) *Report.* The surveyors normally write up their findings as to damage and their recommendations for repair, in the form of a field survey, immediately after making the survey. It is customary for all surveyors to sign this report, without prejudice as to liability. If a surveyor does not agree to all items in the

survey, a statement of his objections to certain items should be noted in the survey report.

(d) *Progress of repairs.* The surveyor should follow the progress of repair work, noting whether this is accomplished in accordance with the recommendations. If work other than damage repair is accomplished at the same time, details should be included in his report. Where repairs are made commercially the cost should be reported, and if bids are obtained, these should be checked and reported.

(e) *Survey services.* The Chief Counsel, U.S. Coast Guard, and district commanders have authority to contract for the services of a surveyor. The legal officer of the Coast Guard district involved will normally make arrangements for the survey including notification of opposing interests.

§ 25.623 Proof of damage.

(a) In support of claims for damage to, or destruction of, marine property which has been or can be repaired or replaced, the claimant must submit an itemized statement or estimate of the cost of repairs or replacement, supported by an appraisal or survey report of disinterested, competent persons familiar with the subject matter. If the property is so severely damaged that it is not susceptible of being repaired, its value before and after the accident must be stated and established by competent evidence. Whenever a claim includes a charge for detention or loss of earnings during repairs of damage to a vessel, the claimant must support that item with a statement as to—

(1) The date when the vessel was disabled;

(2) The name and location of the repair yard;

(3) The date when repairs were commenced;

(4) The date when repairs were completed;

(5) Whether or not while undergoing collision repairs, any other work for the owner's account was performed and, if so, the cost and character thereof and the time required for performance;

(6) The date on which the vessel was returned to service after completion of repairs;

(7) The place where the vessel was put into service after completion of repairs;

(8) An explanation of any delay between the date repairs were completed and the date the vessel was returned to service;

(9) Whether or not during the course of undergoing repairs the vessel could have been employed, and an explanation submitted showing the identity of the person who offered that employment, the terms of the offer, time of prospective service, and rate of compensation; and

(10) If the vessel was under charter at the time of collision or was otherwise employed, the claimant should state each of the details set forth last above, and as well submit a statement of operating expenses which were, or would have been, incurred to earn such hire, specifically stating wages and bonuses which would have been paid during the period of employment (including the master's), the value of fuel which would have been consumed during the period of employment, the value of consumable stores which would have been consumed during the period of employment, the value of consumable stores which would have been used during the period of employment, and the cost of such items as harbor fees, wharfage, dockage, shedage, stevedoring, towage, pilotage, inspection, tollage, lockage, anchorage and moorage, grain elevation, storage, and customs fees which would have been incurred. All statements or estimates should be supported by statements or reports of disinterested, competent witnesses, preferably marine surveyors, familiar with the type of property damaged or destroyed.

§ 25.625 Miscellaneous.

(a) *Public information.* Serious collisions and marine casualties are matters of great public interest, and frequently result in requests from press, radio, television, and other media representative for interviews or statements from personnel involved. Unguarded and impulsive statements by persons still laboring under the strain of an emergency situation can seriously prejudice the interests of the Government in subsequent claims and litigation. Accordingly, after a casualty, no statements or interviews shall be given without prior clearance from both the cognizant public information officer and the cognizant district legal officer.

(b) *Dealings with opposing interests.* All dealings and negotiations with opposing interests in admiralty matters should be handled by a District or Headquarters Unit legal officer or the Chief, Claims and Litigation Division. Any correspondence, letters of claim, or demands received by a commanding officer in this connection should be forwarded to the cognizant district legal officer.

Subpart G—Military Personnel and Civilian Employees' Claims

§ 25.701 Authority.

The authority for this subpart is contained in the Military Personnel and Civilian Employees' Claims Act of 1964 (78 Stat. 767, 31 U.S.C. 240–243).

§ 25.703 Scope.

This subpart governs administrative settlement and payment of claims of Coast Guard military personnel and civilian employees for damage to, loss or destruction of personal property. The damage, or loss or destruction must be incident to service and possession of such property must be reasonable, useful, or proper under the circumstances. The maximum amount allowable on a claim under this subpart is $10,000.

§ 25.705 Claims payable.

The following types of property damage are considered as having been sustained incident to service and claims arising therefrom are payable under this subpart:

(a) *Losses in quarters or other authorized places.* Damage to or loss of property by fire, flood, hurricane, or other unusual occurrence, or by theft, while located at—

(1) Quarters, wherever situated, which were assigned to claimant or otherwise provided in kind by the Government, including permanent or temporary housing units which are owned and maintained by the Government on or in connection with a Coast Guard or other military installation. Quarters include garages, carports, driveways, or attached structures.

(2) Quarters outside the 50 States and the District of Columbia occupied by claimant which were not assigned to him or otherwise provided in kind by the Government unless the claimant is a civilian employee who is a local inhabitant.

(3) Any warehouse, office, hospital, baggage dump, or place, other than quarters, designated by superior authority for the reception of the property.

(b) *Transportation losses.* Damage to or loss of property, including baggage checked or in personal custody, and including household effects, incident to transportation by a Government contract carrier, an agent, or agency of the Government or by private conveyance:

(1) When shipped under orders, or

(2) In connection with travel under orders irrespective of the purpose of such travel, or

(3) In connection with travel in performance of military duty.

(c) *Motor vehicles.* Damage to or loss of automobiles and other motor vehicles and accompanying component parts, including tools, in overseas shipments provided by the Government. "Shipments provided by the Government" means via Government vessels, charter of commercial vessels or by Government bills of lading on commercial vessels, and includes storage, on-loading and off-loading incident thereto.

(d) *Housetrailers.* (1) Claims for loss of, or damage to housetrailers and their contents while in storage on Government property pursuant to shipment under orders are payable under paragraph (a) (3) of this section. Claims for loss of, or damage to, housetrailers and their contents arising incident to shipment are payable under paragraph (b) (1) of this section. However, when transported by other than the service member or an agent or agency of the Government, the carrier must have operating rights approved by the Interstate Commerce Commission if in interstate commerce, or under applicable State regulations when the shipment is within a single State.

(2) The term "housetrailer," as used in this part, denotes a residence designed to be moved overland. It includes all household goods, personal effects, and professional books, papers, and equipment contained in the trailer and owned or intended for use by the member or his dependents.

(3) It is the owner's responsibility to place the housetrailer (including the chassis, brakes, tires, tubes, bearings,

undercarriage, frame, and the other parts of the housetrailer) and its contents in fit condition to withstand the stress of normal transportation. The Government has the responsibility of insuring that the housetrailer is inspected prior to movement to determine if it is roadworthy. Acceptance of a housetrailer for shipment by a carrier is presumptive evidence that the housetrailer was in condition to withstand the stress of normal transportation.

(4) The burden of proving a claim against the Government or the carrier rests on the claimant. However, the claimant can establish a prima facie case by proving that the damage occurred during transportation. Damage which is due to (i) the negligence of the carrier or (ii) collision while the housetrailer is in the possession of the carrier, is the responsibility of the carrier. Damage which is due to apparent defects (e.g., a heavily or unevenly loaded trailer; tires which are worn, undersized, or of insufficient ply rating, or have deteriorated because of age or lack of use; undercarriage and frame sagging, bent, or of insufficient size or improper construction; loose panels; faulty brakes; missing equipment; etc.) unless noted by the carrier prior to acceptance for shipment, or unless otherwise excepted by contract with the Government, is also the responsibility of the carrier. If the claimant establishes that the damage occurred during shipment, the burden then shifts to the Government and the carrier to establish that they are not liable (e.g., that the damage resulted solely from a latent structural defect).

(5) Evidence for the proper adjudication of a housetrailer claim should include, but is not necessarily limited to, the following:

(i) Copy of the premove inspection report;

(ii) Statement from claimant concerning condition of trailer prior to move, to include age of trailer, general condition, number and location of each prior move, whether any prior move resulted in damage, and if so, type of damage and whether any prior claim has been paid;

(iii) Copy of the damage report (generally prepared by the carrier);

(iv) Government inspection (include photographs of each area or item of damage where this may prove helpful);

(v) Statement from the driver of the towing vehicle as to the circumstances surrounding the damage, as well as detailed travel particulars;

(vi) Repair bills or estimates as to the cost of repairs;

(vii) Statements from the persons providing claimant with estimates of repair as to their professional opinion as to the cause or causes of each area or item of damage;

(viii) Statements similar to the above by an engineer or by a member of the vehicle maintenance division of a public works department who possesses some expertise in this area;

(ix) Statements from the carrier, manufacturer, and dealer as to the cause of the damage;

(x) Dates and places of all prior transportation of the trailer, and, if at Government expense, copies of the Government bills of lading.

(e) *Marine or aircraft disasters.* (1) Damage to or loss of property in consequence of shipwreck, fire, or other accident on board, collision, sinking, capsizing, stranding of a vessel, or other perils of the sea.

(2) Damage to or loss of property in consequence of an aircraft disaster or accident or other hazards connected with the operation of aircraft. Claims considered under the aircraft disaster provisions generally concern losses of baggage or other personal property jettisoned in flight or otherwise damaged incident to an emergency or crash landing. Claims presented under this subsection may include items of clothing being worn by the claimant at the time of the accident, money (in an amount determined reasonable to have in possession), jewelry (not to exceed maximum amounts payable), and other items lost in the aircraft crash. Losses sustained while on a leave status ordinarily are not cognizable under this subpart and are payable only if they occur during authorized Government transportation.

(f) *Property subject to extraordinary risks.* Damage to or loss of property as a direct result of extraordinary risks to which it has been subject by the performance of official noncombat duties by the claimant, including but not limited to:

(1) Performance of duties in connection with civil disturbances, public disorder, or public disaster.

(2) Efforts to save Government property or human life where the situation was such that the claimant could have saved his own property had he not so acted; and

(3) Abandonment or destruction of property by reason of military emergency or by order of superior authority.

(g) *Property used for benefit of the Government.* Damage to or loss of property while being used, or held for use, for the benefit of the Government at the direction or request of superior authority or by reason of military necessity.

(h) *Enemy action.* Damage to or loss of property by:

(1) Enemy action or threat of such action;

(2) Combat, or movement in the field which is part of a combat mission;

(3) Guerrilla, organized brigandage, or other belligerant activities whether or not the United States is involved; or

(4) Unjust confiscation by a foreign power or its nationals.

(i) *Money deposited for safekeeping, transmittal or other authorized disposition.* Personal funds when accepted by responsible military or civilian personnel with apparent authority to receive them for the purposes of safekeeping, deposit, transmittal or other authorized disposition, and such personal funds are neither applied as directed by the owner nor returned to him. In deposit cases, if the claim is determined to be payable, the claimant is entitled to the full value of his account at the time of approval of claim.

(j) *Ownership or custody.* Compensation may be allowed even though the property was not in the actual possession of the claimant at the time of damage or loss, or was not owned by the claimant, provided it was lawfully under his dominion and control (i.e., borrowed from others).

(k) *Clothing and articles being worn.* When lost, damaged, or destroyed due to marine or aircraft disaster while claimant is a passenger on an aircraft or vessel, as a result of enemy action or public service, or under circumstances which are otherwise incident to service, provided that in the last category such loss resulted from an unusual occurrence; i.e., beyond the normal risks of damage or destruction associated with day-to-day living.

§ 25.707 Claims not payable.

Claims are not payable for:

(a) Money or currency, except:

(1) When deposited with authorized personnel as contemplated by § 25.705(a)(3).

(2) When lost incident to a marine or aircraft disaster under § 25.705(e).

(3) When lost by fire, flood, hurricane, or theft from quarters under § 25.705(a). The amount of care which the claimant will be required to exercise to prevent theft will depend upon circumstances such as the prevalance of thievery in the area and the amount and effectiveness of local security. In quarters outside the United States, the claimant may be required to exercise the highest degree of care, which might, for example, take the form of keeping the money in a locked container and locking the quarters upon leaving. In quarters within the United States, claims are payable only where definite proof of loss by larceny, burglary, or housebreaking is presented. Reimbursement for loss of money or currency will be limited to an amount which the claims settlement authority determines to have been reasonable for the claimant to have had in his possession at the time of the incident.

(b) Small items of substantial value: Articles such as jewels and jewelry and other small articles of substantial value usually worn or carried, and easily lost or stolen, such as cameras and accessories, watches, rings, binoculars, necklaces, and costume jewelry when shipped with household goods by ordinary means or as unaccompanied baggage and which are missing upon receipt of shipment. Such articles are allowable when their loss is incident to shipment by expedited mode as defined by the Joint Travel Regulations for the Uniformed Services. The prohibition does not apply to baggage in the personal custody of the claimant or to property checked, provided reasonable protection or security measures have been taken. The limitations herein do not apply when the loss is cognizable under § 25.705(e).

(c) Articles of extraordinary value: Articles of gold, silver, other precious metals, paintings, antiques other than bulky furnishings, relics, authentic oriental or similar expensive rugs, and other articles of extraordinary value when

shipped with household effects by ordinary means, or as unaccompanied baggage. These articles are payable when their loss is incident to shipment by expedited mode. This prohibition does not apply to baggage checked or in the personal custody of the claimant or his agent provided reasonable protection or security measures have been taken.

(d) Articles acquired for other persons: Claims are not payable for articles intended directly or indirectly for persons other than the claimant or members of his immediate family. This includes articles acquired at the request of others and articles to be disposed of as gifts or for sale or for use in a private business enterprise.

(e) Articles being worn except under the circumstances of § 25.705 (e), (f), and (h).

(f) Intangible property. Property that has no intrinsic or marketable value but is representative or evidence of value, such as bankbooks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money orders, and traveler's checks.

(g) Government property: Property owned by the United States, including property furnished through issue.

(h) Enemy property, including war trophies.

(i) Losses (including theft) at quarters occupied by the claimant within the United States which were not assigned or otherwise provided in kind by the Government.

(j) Portable housing, other than trailer type cognizable under § 25.705(d).

(k) Losses of insurers or other subrogees.

(l) Losses which have been recovered or are recoverable by claimant from an insurer, carrier or contractor except recoverable losses under concurrent claims procedures. (§ 25.717).

(m) Negligence of claimant: Claims are not payable when the damage, loss or destruction of personal property was caused in whole or in part by any lack of due care, negligence, or wrongful act on the part of the claimant, his agent, or employee.

(n) Fees for obtaining estimates of repair: Claims are normally not payable for fees paid to obtain estimates of repair in conjunction with submitting a claim under this subpart except when the claimant could not obtain an estimate without paying a fee. Such fee will be allowed only in an amount determined by the settlement authority to be reasonable in relation to the value or the cost of repairs of the item on which the estimate was made provided the evidence furnished clearly indicates that the amount of the fee paid will not be deducted from the cost of repairs if the work is accomplished by the estimator.

(o) Violation of directives: Claims are not payable for items which, according to the evidence, were acquired, possessed, or transported in violation of pertinent directives or regulations of competent authority. This does not apply to limitations on weight of shipments of household effects.

(p) Motor vehicles (including automobiles, motorcycles, motor bikes, motor scooters, bicycles, and boats), except when cognizable under § 25.705(a) and (c). Claims are not payable for damage to a motor vehicle of a claimant when it is being used while the claimant is on TDY or PCS orders with travel by POV authorized.

(q) Items fraudulently claimed: When investigation discloses that a claimant, his agent, or employee has intentionally misrepresented an item claimed, as to cost, condition, cost of repair etc., the item will be disallowed in its entirety. This does not preclude investigation and action under the UCMJ if warranted.

(r) Property normally used for profit or luxuries.

§ 25.709 Type, quantity and ownership of property.

(a) *Type and quantity.* Claims are payable under this subpart only for such types, quantities, or amounts of tangible personal property, including money, as the settlement authority shall determine to be reasonable, useful, or proper, under the attendant circumstances at the time and place of the loss. In determining what is reasonable, useful, or proper, the settlement authority will consider the type and quantity of property involved, the circumstances attending acquisition and possession of the property, and the circumstances surrounding the damage, loss or destruction. What is reasonable is a question of fact to be determined in the light of the claimant's rank or rating, together with his duty, job or station assignment. The Government does not underwrite all personal property losses that a claimant may sustain and it does not underwrite individual taste. While the Government does not attempt to limit possession of property by an individual in the service, payment for loss or damage is made only to the extent deemed reasonable, useful, or proper. If individuals possess expensive items or excessive quantities, they should have such property privately insured.

(b) *Ownership or custody.* Claims which are otherwise within the provisions of this subpart will not be disapproved for the sole reason that the property was not in the possession of the claimant at the time of the damage, loss, or destruction, or for the sole reason that the claimant was not the legal owner of the property for which the claim was made. Example: Borrowed property may be the subject of a claim if its possession was reasonable, useful or proper to the claimant.

§ 25.711 Factors in determining compensation.

(a) *Value at time of loss, damage or destruction.* Compensation for an item of personal property should not exceed the actual value of the item at the time of its loss, damage, or destruction. Value will normally be determined according to one of the following general principles, whichever appears most appropriate.

(1) In most cases, the value at time of loss, damage, or destruction should be predicated upon replacement cost at the time of the incident and at the place of claimant's geographic location at the time of adjudication of the claim. Replacement cost should be computed on the basis of a new item which is identical to or substantially the same as the item which was lost, damaged, or destroyed, less the appropriate percentage of depreciation to compensate for the condition, age, and length of time the item has been in use.

(2) If the lost, damaged, or destroyed item cannot be accurately priced in the claimant's area because of the uniqueness or individuality of the item or for other reasons, value may be based upon an estimate of value from a qualified and reputable dealer.

(3) In the event that the present value of the property cannot be determined by other means, the purchase price, or value at time of acquisition if not obtained by purchase, will be adjusted to reflect the increased cost of replacing the item resulting from the declining value of the dollar. Appropriate depreciation will be taken on the adjusted value.

(b) *Allowance for destroyed property.* A destroyed item is one which is damaged beyond economic repair, i.e., when the item cannot be actually repaired at any cost, or when the cost of necessary repairs exceeds the value of the item at the time of damage less salvage value, if any. The compensation normally allowable for a destroyed item is the actual value at the time of destruction, less salvage value, if any.

(c) *Depreciation.* Depreciation in value of an item is determined by considering the type of article involved, its cost, condition when lost or damaged beyond economical repair, and the length of time between the date of acquisition and the date of accrual of the claim.

(d) *Maximum allowances.* The Chief, Personnel Services Division, is authorized to establish or adopt guides for determining the maximum amount allowable for specific articles and for establishing maximum quantities which will be allowed. In applying these guides, the claimant's standard of living as well as his income and social obligations, the size of his family, and his need to have more than the average quantities of particular items will be considered.

§ 25.713 Statute of limitations.

No claim may be paid under the provisions of this subpart unless presented in writing within two years after such claim accrues. However, if the claim accrues in time of war, or in time of armed conflict in which Armed Forces of the United States are engaged, or if war or such armed conflict intervenes within two years after date of accrual, it may, if good cause for delay is shown, be presented within two years after such good cause ceases to exist, but not later than two years after peace is established or armed conflict terminates.

§ 25.715 Demand on carrier, contractor, or insurer.

(a) *Carrier.* Whenever property is damaged, lost, or destroyed while being

shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the carrier according to the terms of its bill of lading or contract before submitting a claim against the Government under this subpart. This demand should be made on the last commercial carrier known or believed to have handled the goods, unless the carrier who was in possession of the property when the damage or loss occurred is known. In this event, the demand should be made against the responsible carrier. If more than one bill of lading or contract was issued, a separate demand should be made against the last carrier on each such document. The demand must be made within 9 months of the date delivery was made or within 9 months of the date that delivery should have ordinarily been made. If it is apparent that the damage or loss is attributable to packing, storage, or unpacking while in the custody of the Government, no demand need be made against the carrier. Pursuant to § 25.717 of this subpart the claimant may present his claim to the Government immediately after he has made his demand on the carrier.

(b) *Military Sealift Command.* Claims against an ocean carrier operating under a Military Sealift Command shipping contract and Government bill of lading is the responsibility of that command. No demand will be made by individual claimants directly on an ocean carrier operating under such a contract. After payment of a claim against the Government for damage, loss, or destruction of property by such an ocean carrier, the claim is referred to the Military Sealift Command for appropriate action.

(c) *Insurer.* Whenever property which is damaged, lost, or destroyed incident to the claimant's service, is insured in whole or in part, the claimant must make demand in writing against the insurer for reimbursement under the terms and conditions of the insurance coverage. Such demand should be made within the time limit provided in the policy and prior to the filing of a concurrent claim against the Government.

(d) *Failure to make demand on carrier, contractor or insurer.* Failure to make demand on a carrier, contractor, or insurer or to make all reasonable efforts to collect the amount recoverable from them may result in reducing the amount recoverable from the Government by the maximum amount which would have been recoverable from the carrier, contractor, or insurer had the claims been timely made or diligently prosecuted. However, no deduction will be made where the circumstances of the claimant's service preclude seasonable filing of such a claim or diligent prosecution, or the evidence indicates a demand would have been impracticable or would not have served any useful purpose.

§ 25.717 Concurrent claims on carrier, contractor, or insurer and on the Government.

To expedite the settlement of household effects claims, the claim presented to the Government under this subpart may be submitted concurrently with the demand made against the carrier, contractor, or insurer. The claims investigating officer will assist the claimant in preparing the claim against the carrier, contractor, or insurer. The claimant will be advised to direct the carrier, contractor and/or insurer to address all correspondence regarding the claim to the commanding officer of the unit or activity at which the claim was filed, "Attention: Claims Investigating Officer." Further, any payment in settlement of the claim should be made payable to the claimant and forwarded to the commanding officer, "Attention: Claims Investigating Officer."

§ 25.719 Form of demand on carrier, contractor, or insurer.

Demands on a carrier, contractor, or insurer should be made in writing on Form CG–4111 or by letter substantially following the same format.

§ 25.721 Nonconcurrent claims against the carrier, contractor, or the insurer and the Government.

If a claim against a carrier, contractor, or insurer is made by the claimant independently of the the procedure specified in § 25.717, the claimant is not required to wait until either final approval or denial of his claim is made by the carrier, contractor, or insurer before submitting his claim against the Government.

§ 25.723 Transfer and assignment of rights.

The claimant will assign to the United States, to the extent of any payment on his claim accepted by him, all his right, title, and interest in any claim he may have against any carrier, contractor, insurer, or other party, arising out of the incident on which the claim against the United States is based. On request, he also will furnish such evidence as may be required to enable the United States to enforce the claim.

§ 25.725 Recoveries from carrier, contractor, or insurer.

After payment of his claim by the United States the claimant will, upon receipt of any payment from a carrier, contractor or insurer, reimburse the United States as follows:

(a) *Damage not exceeding $10,000.* If the damage or loss, computed in accordance with § 25.711, is $10,000 or less, the proceeds will be paid to the United States less any amount paid by the carrier, contractor, or insurer over and above that paid by the Government for any single item.

(b) *Damage exceeding $10,000.* If the damage or loss, computed in accordance with § 25.711 exceeds $10,000, the United States shall be reimbursed to the extent that the payments from the carrier, contractor and insurer plus the $10,000 paid by the Government are in excess of the adjudicated damage or loss, and less any amount paid by the carrier, contractor or insurer over and above that paid by the Government for any single item.

§ 25.727 Claims within provisions of other regulations.

The provisions of this subpart are preemptive of other claims regulations. However, claims which are cognizable but not allowable under this subpart will be considered under other claims regulations of this Part 25.

§ 25.729 Claimants.

The following persons may present claims:

(a) Commissioned, appointed, enrolled, and enlisted personnel of the Coast Guard.

(b) Coast Guard Reserve personnel on active duty, active duty for training, or inactive duty training.

(c) Coast Guard civilian officers and employees and those paid on a contract basis.

(d) The authorized agent or legal representative or persons in paragraphs (a), (b), or (c) of this section.

(e) Survivors of persons in paragraphs (a), (b), or (c) of this section in the following order of precedence:

(1) Spouse.
(2) Child or children.
(3) Father or mother, or both.
(4) Brothers or sisters, or both.

§ 25.731 Claim form.

The claim should be submitted by presenting a detailed statement in the required number of copies signed by or on behalf of the claimant, on Form CG 4112. However, if the submission of a claim form is impractical, any writing will be received and considered as a claim if it makes a demand for a sum certain, sets forth substantially the facts and circumstances necessary to support a claim cognizable under this subpart.

§ 25.733 Presenting claims.

All claims coming within the cognizance of this subpart should, if practicable, be submitted to the commanding officer of the unit with which the claimant is serving. If this is impracticable, the claims may be submitted directly to the Chief, Claims and Litigation Division or the Chief, Personnel Services Division, Coast Guard Headquarters, Washington, D.C., as appropriate. If a person inquires about the procedure for presenting a claim, he will be furnished the proper claim forms, advised where they may be presented, and informed of the statute of limitations. A claim will not be refused even though it is presented at the wrong place, on the wrong form, or appears not to be within the provisions of this subpart. A claim must be accepted for consideration even though in excess of the maximum amount allowable.

§ 25.735 Evidence in support of claim.

(a) *General.* The claim should be supported by the evidence required by the claim form and, in addition, the following evidence when applicable—

(1) Corroborating statement from a person who has personal knowledge of the facts concerning the claim;

(2) Statement of property recovered or replaced in kind;

(3) Itemized bill of repair for damaged property which has been repaired;

(4) At least one written estimate of the cost of repairs from a competent bidder or person if the property is repairable but has not been repaired. "Competent bidder or person" means one who has experience in the line of needed repairs, and is in a position to know the cost of repairs, of such items in the current market. Exception to the above is permissible when, in the opinion of the claims investigating officer, the probable estimate fee will be out of proportion to the cost of repair or when it is in accordance with paragraph (b) of this section. In this situation the claims investigating officer with the concurrence of the claimant will recommend an amount for payment. The name, address, and experience of such "competent" person must be given. The settlement authority may reject any estimate or statement of the cost of repairs that does not meet the above standards. The claimant shall satisfy the claims investigating officer that items claimed as beyond economical repair are in fact in that condition;

(5) Proof of the change in value when a claimant indicates that the replacement cost of an item lost or destroyed exceeds either the price paid in cash or property or, if not acquired by purchase or exchange, exceeds the value at the time of acquisition, should consist of not less than two (2) direct price quotations from the local market. Where there is no local market, then the value may be properly fixed by the value at the nearest market, adding the cost of transportation. Should there be no available market, then he should submit at least one (1) written estimate of the value from a competent person. "Competent person" in this instance is deemed to be one who, being apprised of the characteristics of the item in question, is able to render a knowledgeable estimate of its value at time of loss. For items purchased outside the continental limits of the United States which do not contain qualities of identity to permit specific substantiation, allowance will be limited to a reasonable amount over and above the purchase price as agreed upon by the claimant and the claims officer. In this situation allowance will not exceed double the cost of the item. Examples are custom-made items, unique items of clothing, art, household furnishings, and jewelry as distinguished from trademark items. In the event a claims officer by his experience knows that the approximate replacement cost in the area is close to what the claimant lists, the claimant will not be requested to submit evidence of the replacement cost. This fact, however, must be noted in the investigation report on the claim. In those cases where he knows the replacement cost to be less than the value claimed he should include this information along with substantiating evidence;

(6) Certified statement concerning any insurance coverage and reimbursement obtained from the insurer. The statement should describe the type of insurance and coverage and give the name of the insurer. If the claimant has insurance, but has not submitted a claim, the failure to do so should be explained.

(b) *Waiver of written estimates.* Regardless of the total amount of the claim, the requirement for a written estimate of the cost of repairs may be waived for any item for which the amount claimed is less than $100 provided the claims investigating officer has personally inspected the damaged property or the evidence otherwise available is sufficient to support the claim. In the event the claimant and the claims investigating officer cannot agree on a reasonable value, the claims investigating officer should describe in his report the facts upon which his recommendation is based.

(c) *Specific classes of claims.* Claims of the following types should be accompanied by the evidence specified in this paragraph:

(1) For property losses in quarters or other authorized places, a statement indicating:

(i) Geographical location;

(ii) Whether quarters were assigned or provided in kind by the Government;

(iii) Whether regularly occupied by the claimant;

(iv) Name of authority, if any, who designated the place of storage of the property, if other than quarters;

(v) Measures taken to protect the property; and

(vi) If claimant is a civilian employee a statement from competent authority establishing that when the claim arose the claimant was a civilian employee of the Coast Guard, and was, or was not, a local inhabitant.

(2) For theft, a statement indicating:

(i) Geographical area of the loss;

(ii) Facts and circumstances surrounding the loss, including evidence of larceny, burglary, or housebreaking such as breaking and entering, capture of the thief and recovery of part of the stolen goods; and

(iii) Evidence that the claimant exercised due care in protecting his property prior to the loss. Attention will be given to the degree of care normally exercised in the locale of the loss due to any unusual risks involved.

(3) For transportation losses:

(i) Copy of orders authorizing the travel, transportation, or shipment, or in lieu thereof, a certificate explaining the absence of orders;

(ii) All bills of lading, and inventories of property shipped;

(iii) Copy of demand on carrier, contractor and/or insurer where required, and any replies;

(iv) In case of missing baggage, statement indicating action taken to locate missing property, with related correspondence; and

(v) In cases where property was turned over to a transportation officer, supply officer, or contract packer, a statement containing the following:

(*a*) Name (or designation) and address of transportation officer, supply officer, or contract packer.

(*b*) Date property was turned over.

(*c*) When and where property was packed, and by whom.

(*d*) Date of shipment and reshipment.

(*e*) Copies of all manifests, bills of lading, and contracts.

(*f*) Date and place of delivery to claimant.

(*g*) Date property was unpacked.

(*h*) Statements of disinterested witnesses as to condition of property when received and delivered, or as to handling or storage.

(*i*) Whether the negligence of any Government employee acting within the scope of his employment caused the damage or loss, and

(*j*) Whether the last common carrier was given a clear receipt.

(4) For marine or aircraft disaster, a copy of orders or other evidence to establish claimant's right to be, or to have his property, on board.

(5) For enemy action, public disaster, public service:

(i) Copy of orders or other evidence establishing claimant's required presence in the area involved;

(ii) A detailed statement of facts and circumstances showing applicable causes enumerated in § 25.705(f).

(6) For property used for benefit of Government.

(i) A statement from proper authority that the claim is for property required to be supplied by the claimant in the performance of his official duty or occupation at the request or direction of superior authority, or by reason of military necessity; and

(ii) Evidence that, if the property being used for the benefit of the Government was lost while not in use, the loss occurred in an authorized storage area.

(7) Money deposited for safekeeping, transmittal, or other authorized disposition:

(i) Name, grade, service number, and address of the person or persons who received the money, and any others involved;

(ii) The name, and designation of the authority who authorized such person or persons to accept personal funds and the disposition requested, and

(iii) Receipts and written sworn statements explaining the failure to account for the funds or return them to the claimant.

§ 25.737 Filing of claim.

(a) All claims coming within the cognizance of this subchapter should, if practicable be submitted by the claimant or his authorized agent to the commanding officer of the Coast Guard activity nearest to the point where investigation of the facts and circumstances can most conveniently be made or the claim may be submitted to the commanding officer of the unit or activity to which the claimant is assigned. Acceptance of a claim for filing will not be refused even though the claim appears not to be within the scope of this subpart.

(b) Claims of Air Force, Army, and Navy military and civilian personnel will be investigated, processed, and forwarded for settlement directly to the nearest installation of the military service involved.

§ 25.739 Appointment of claims investigating officers.

Each commanding officer shall, as appropriate appoint one or more claims investigating officers to investigate, process, and make recommendations on all claims presented to him under this subpart.

§ 25.741 Investigation of claims.

Upon receipt of a claim under the provisions of this subpart, the commanding officer will refer the claim, with all the available information relating thereto to the claims investigating officer for investigation and report. The claims investigating officer will consider all information and evidence submitted with the claim and conduct such investigation as may be necessary and appropriate, securing and considering testimony of all competent witnesses on pertinent facts. He will give special attention to the credibility of statements by the claimant and corroborating witnesses. Direct correspondence by claims investigating officers with other commands is authorized for the purpose of tracing the location or disposition of missing baggage or effects.

§ 25.743 Action of claims investigating officer in transportation losses.

(a) Filing of concurrent claims against carriers, contractors, or insurers. When damage, loss, or destruction of household and personal effects occurs while under shipment pursuant to authorized travel orders, the claims investigating officer will prepare a claim for the claimant and submit it to the appropriate carrier, contractor, or insurer. Upon doing so the claimant may present a claim concurrently against the Government without waiting for disposition of that claim.

(b) Action by claimant on concurrent claims against carriers, contractors, or insurers. The claimant should provide the claims investigating officer with all documents, papers, and other evidence needed to assist him in preparing the claim against the carrier, contractor, or insurer. The claimant will also notify the claims investigating officer promptly of any communication received from the carrier, contractor, or insurer, particularly if it involves settlement, partial settlement, or denial of liability.

(c) Approval or denial of concurrent claim by carrier, contractor, or insurer.

(1) Denial of claim by carrier, contractor, or insurer. The claims investigating officer will report any carrier, contractor, or insurer denials to the settlement authority to which the claim was forwarded.

(2) Approval of claim by carrier, contractor, or insurer. Upon receipt of approval of the claim by a carrier, contractor, or insurer, the following steps will be taken:

(i) If the claim filed with the Government has been forewarded to the appropriate settlement authority, and the claimant has not received settlement from the Government and the amount of the carrier, contractor, or insurer settlement is sufficient, the claimant will be advised to accept the settlement. Upon acceptance of the settlement, the claims investigation officer will notify settlement authority of this fact by airmail letter as shown in subparagraph (3) of this paragraph using the appropriate optional paragraph 5.

(ii) If the claimant has received settlement from the Government and the amount to be refunded is more than the amount received from the carrier, contractor, or insurer he will pay the proceeds received from the carrier, contractor or insurer to the United States by endorsing the check to the "U.S. Coast Guard" and deliver it to the commanding officer or the claims investigating officer for transmittal to the settlement authority by airmail. However, if the amount to be refunded is less than the amount received from the carrier, contractor, or insurer, the remittance may be made by personal check or money order drawn in favor of the "U.S. Coast Guard."

(3) Form of notification to settlement authority. Notification to the appropriate settlement authority of a payment or denial to the claimant by a carrier, contractor, or insurer should contain the following:

Re: Claim for Reimbursement Household Goods:
1. (Full name of claimant.)
2. (Grade.)
3. (Service number.)
4. (Date claim forwarded to settlement authority.)
5. Claimant has retained (amount paid) settlement from carrier/contractor/insurer. Request deduction from Government settlement or checkage as appropriate, or

Attached carrier/contractor/insurer settlement check endorsed for redeposit to appropriate claims allotment, or

Claim with carrier/contractor/insurer denied; considered (justified/unjustified).

(d) Noncurrent claims: If an independent claim has been filed against a carrier, contractor, or insurer, the claimant will be asked at the time the claim is filed with the Government to certify whether he has obtained any recovery therefrom on his claims. A sample form of certification is set forth below.

CERTIFICATE OF DEMAND ON CARRIER, CONTRACTOR OR INSURER

(Date)

I, the undersigned, do hereby certify that on ---------- I made written demand on
(date)
---------- for ----------
(carrier, contractor, or insurer) (amount)

in accordance with the terms and conditions of the bill of lading under which my household effects were shipped, or of my contractor's agreement or of my contract of insurance. I certify that I have (have not) been reimbursed by the above carrier (contractor or insurer) in the amount of ---------- in settlement of my claim. If
(amount)
I have not been so reimbursed, I agreed to notify the claims investigating officer of any subsequent action, settlement, or denial made to me. A copy of my demand letter, together with a copy or original of all shipping documents, contracts, or insurance policies, and all pertinent correspondence thereto are attached to this certificate. I have advised the carrier (contractor or insurer) to address all future correspondence in regard to this claim to my commanding officer for the attention of the claims investigating officer. I further agree that, if recovery is received from the carrier, contractor, or insurer after my claim has been paid by the Government, I will pay the proceeds, or such part thereof as may be due, to the United States, or will submit to checkage of my pay account in an equivalent amount, such payment or checkage not to exceed the amount received by me from the United States.

(Signature of claimant)

If any recovery has been obtained from the carrier, contractor or insurer, appropriate comment on the amount recovered will be made by the claims investigating officer on the claim being forwarded to the settlement authority. If action by the carrier, contractor or insurer is still pending, the claimant will advise carrier, contractor or insurer to address all correspondence to the commanding officer of the unit at which the claim was filed, "Attention: Claims Investigating Officer," and the matter will be treated thereafter as if it had commenced as a concurrent claim. The claimant will be further advised to notify the claims investigating officer promptly of any subsequent settlement or denial of liability by the carrier, contractor or insurer. Forwarding of the claim to the appropriate settlement authority will not be delayed pending the action of a carrier, contractor or insurer unless it is apparent that the carrier, contractor or insurer will make a prompt settlement.

(e) Failure of carrier, contractor or insurer to respond. A response either in the form of an acknowledgement, offer in settlement or disapproval will normally be received within a month after the claim is filed with a carrier, contractor or insurer. In the event that a response to the claim or to subsequent correspondence is not received within a reasonable time, the settlement authority will be notified and will take such action as may be appropriate to obtain a satisfactory settlement.

(f) Delay or unjustified denials by the carrier, contractor, or insurer. If a carrier, contractor, or insurer has failed to respond to subsequent correspondence within a reasonable time, or if in the opinion of the claims investigating officer a valid claim has been denied, or no adequate settlement offered, the matter will be reported to the settlement authority. The letter report will contain a statement of the facts, copies of pertinent correspondence and documents, and the claims officer's opinion as to liability. The settlement authority will review the file with respect to liability of the carrier, contractor, or insurer. If he concurs with the opinion of the claims investigating officer, he will proceed to seek a satisfactory settlement or to take such other action against the carrier, contractor or insurer as may be considered appropriate.

§ 25.745 Preparation of claims investigating officer's report.

(a) *General.* The claims investigating officer will prepare a written report of

investigation including his recommendations. Sufficient copies will be prepared so that the original and two copies may be forwarded to the appropriate settlement authority and one copy retained at the command. Only one complete set of supporting papers as exhibits is required to be forwarded to the settlement authority.

(b) *Form of claims investigating officer's report.* The claims investigating officer's report will be submitted on Form CG–4112A except that when such form is not available through normal distribution channels the report should set forth substantially the information indicated by the form.

(c) *Claims arising out of the same incident.* A separate report will be prepared on each claim. However, where separate claims arise out of the same incident, the claims investigating officer should avoid duplication of effort by completing one detailed report of investigation with all necessary exhibits and documents which are common to the group, and incorporating by reference this report and supporting exhibits in the other claims arising out of the same incident. A brief summary of facts relating to the common incident should be included in the later claims, as well as mention of the claim in which the detailed report and exhibits may be found.

§ 25.747 Replacement in kind.

Items of military clothing and related articles which have been lost or destroyed incident to service may be replaced in kind. The items issued need not be new and unused, provided they are in at least as good condition as the lost or destroyed items immediately prior to the accident or incident causing the loss or damage. If items which were initially issued to the claimant by the Government have been lost or damaged incident to service and replacement in kind cannot be effected, because items are not available for issue, monetary compensation is payable for those items replaced or to be replaced by the claimant at his own expense. The amount allowable normally will be the reasonable cost of replacement with no deduction for depreciation (in order that the claimant will not be required to bear an expense which he would not have incurred if the items had been available for replacement in kind). If military items were initially acquired by the claimant at his own expense, and replacement in kind cannot be effected or the claimant is unwilling to accept replacement in kind because the lost or destroyed items were of a better quality than those available for issue, monetary compensation may be allowed for the loss or destruction of the items involved.

§ 25.749 Action by commanding officer.

(a) *Examination and approval of report.* The commanding officer shall review the file and determine whether the findings of the investigating officer are complete, whether the facts and evidence are clearly stated, and whether the recommendation of the investigating officer is supported by adequate evidence. In proper cases he may refer such report back to the investigating officer for further investigation and the inclusion of additional data. The commanding officer shall then by first endorsement to the investigating officer's report indicate his title and approve the report without qualification or with stated exceptions. In no event will any opinion be expressed to the claimant as to whether his claim will be approved. The endorsement shall express an opinion as to whether the possession of the property by the claimant was reasonable, useful, or proper under the attendant circumstances.

(b) *Statement concerning replacement in kind.* There shall be included in the first endorsement on the investigating officer's report, and attached to each copy of such report, either a statement that no replacement in kind was made or a list of the items replaced, together with the price of each. This statement may be omitted when replacement in kind is made for all items claimed.

(c) *Forwarding of claim.* When there has been replacement in kind for all items claimed, the report need not be forwarded beyond the officer authorizing such replacement. In all other cases the investigating officer's report in triplicate, including the original and two copies of the claim plus one copy of each supporting document or paper, shall be forwarded by endorsement to the cognizant settlement authority.

§ 25.751 Settlement authorities.

(a) *Delegation of authority to settle claims for reimbursement in money.* The Chief Counsel, USCG, and the Chief, Claims and Litigation Division, or such other officers as may be specifically designated by the Commandant, USCG, are hereby authorized to settle and pay claims of civilian personnel for reimbursement in money under this subpart. The Chief, Personnel Services Division, Office of Personnel, and such other officers as may be specifically designated by the Commandant, USCG, are hereby authorized to settle and pay claims of military personnel for reimbursement in money under this subpart.

(b) *Delegation of authority to settle claims for replacement in kind.* Officers of the grade of lieutenant commander or above who are (1) commanding officers, or (2) in higher echelons of command, including the officers specified in paragraph (a) of this section, or (3) Senior Officers Present, and such other officers as may be specifically designated by the Commandant, USCG, are hereby authorized to settle claims of military personnel for replacement in kind filed under this subpart.

§ 25.753 Limitation on agent or attorney fees.

Section 8 of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 USC 240–243), limits the amount which shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with a claim thereunder to no more than 10 per centum of the amount paid in settlement of each individual claim submitted under the authority of that statute. The statute does not require that an attorney's fees be fixed in, and be made a part of, the award made to the claimant.

§ 25.755 Separation from the Coast Guard.

Separation from the service or termination of employment shall not bar former service personnel or civilian employees from filing claims, or bar the authority of the designated officers to settle and pay claims otherwise falling within the provisions of this subpart which accrued prior to such separation or termination.

§ 25.757 Reconsideration.

(a) While there is no appeal from the action of a settlement authority under the Military Personnel and Civilian Employee's Claims Act of 1964 and this subpart, a settlement authority may reconsider a claim upon request of the claimant or someone acting in his behalf. Even in the absence of such a request, a settlement authority may on his own initiative reconsider a claim when it appears that his original action was incorrect in law or fact based on the evidence of record at the time of the action or subsequently received. If he determines that his original action was incorrect, he will modify the action and, if appropriate, make a supplemental award. The basis for a change in action will be stated in a memorandum included in the file.

(b) A request for reconsideration should fully indicate the legal or factual basis asserted as grounds for relief.

Subparts H, I, J, K [Reserved]

CLAIMS IN FAVOR OF THE GOVERNMENT

Subpart L—Federal Claims Collection Act

§ 25.1201 Delegations of authority.

(a) The functions, powers, and duties of the Commandant, U.S. Coast Guard to attempt collection of claim of the United States arising out of the activities of the Coast Guard, or referred to him, and to compromise, suspend, or terminate action to collect those claims not exceeding $20,000 are delegated to the Chief Counsel, U.S. Coast Guard with respect to claims arising out of the activities or responsibilities of his office, or referred to him.

(b) The functions, powers, and duties of the Commandant, U.S. Coast Guard to attempt collection of claims of the United States arising out of the activities of the Coast Guard, or referred to him, and to compromise, suspend, or terminate action to collect those claims not exceeding $5,000 are delegated to—

(1) The Comptroller, U.S. Coast Guard, with respect to claims arising out of the activities under his cognizance or referred to him.

(2) The Commander of each Coast Guard District with respect to claims arising out of the activities of his command, or referred to him, except authority to compromise, suspend, or terminate

action to collect, claims arising out of erroneous payments or overpayments of military pay and allowances.

(3) The Commanding Officer of each Headquarters Unit having a permanent legal officer billet, with respect to claims arising out of the activities of his command, or referred to him, except authority to compromise, suspend, or terminate action to collect, claims arising out of erroneous payments or overpayments of military pay and allowances.

§ 25.1203 Exceptions to delegated authority.

The authority delegated in § 25.1201 does not apply to the following:

(a) Any claim against another agency or instrumentality of the United States for damage to property of the United States in the custody of the Coast Guard.

(b) Any claim against a nonappropriated fund activity which is an instrumentality of the United States except where the activity carries insurance to cover the type of damage caused.

(c) Any claim against a foreign government unless specifically authorized by the Commandant.

(d) Any claim involving an adjustment for unused passenger transportation services.

(e) Any claim against a civilian employee as a result of an erroneous payment or overpayment of pay.

(f) Any claim listed in 49 CFR 89.3.

§ 25.1205 Redelegation.

The Chief Counsel and Comptroller may respectively redelegate the authority delegated to them under § 25.1201 to any officer not below the level of division chief in their offices. The Commander of each Coast Guard district may redelegate the authority delegated to him under § 25.1201 to his chief of staff or legal officer. The Commanding Officer of a Headquarters Unit may redelegate the authority delegated to him under § 25.1201 to his executive officer or legal officer. Further redelegation is not authorized.

§ 25.1207 Standards for exercise of delegated authority.

Each officer to whom authority is delegated under this subpart shall exercise that authority in accordance with the standards for the collection and compromise of claims and for the suspension and termination of action to collect claims promulgated by the U.S. General Accounting Office and U.S. Department of Justice, and published at 4 CFR Chapter II.

§ 25.1209 Aggressive claims collection action.

Each officer to whom authority is delegated under this subpart shall take aggressive action on a timely basis, with effective followup to collect each claim in favor of the United States arising out of the activities of, or referred to, the Coast Guard in accordance with the standards for the exercise of delegated authority in § 25.1207. However, a claim of less than $50 need not be asserted or otherwise processed unless the circumstances indicate that collection is economically feasible (e.g., a case of clear liability and insurance coverage) or desirable in the best interests of the United States. For record purposes, a claim of less than $50 which is not economically feasible or desirable to assert will be treated as one which has been terminated for that reason. The claims record will clearly show the basis for termination action.

§ 25.1211 Single claim.

A debtor's total liability to the United States arising from a particular incident is considered as a single claim in determining whether the claim is within the authority delegated under § 25.1201, for the purpose of compromise, suspension, or termination of collection action.

§ 25.1213 Direct private payment.

(a) When a person who is responsible for damage to Government property, or his insurer, offers to have the property repaired to the satisfaction of the United States and to pay the cost of repairs directly to the repairer, direct payment is authorized where that procedure is in the best interests of the United States. The offeror will be assured that a full release of the claim of the United States arising from the damage will be executed upon completion of the repairs to the full satisfaction of the Government, and upon receipt of evidence of payment in full to the repairer by the offeror. The claims record, however, will contain a statement of the cost of repairs and a certification by the officer concerned that all damages have been satisfactorily repaired and that full payment therefor has been made.

(b) The United States will assume no liability for restored depreciation or enhanced value of the repaired or replaced property unless a specific sum was mutually agreed to in writing in advance by the officer concerned and the damaging party.

§ 25.1215 Releases.

Each officer to whom authority is delegated under this subpart may receive in payment of a claim the amount due the United States, and may execute and deliver a full release of the claim in favor of the United States in exchange for payment.

§ 25.1217 Reports and supporting documentation.

(a) Each officer to whom authority is delegated under § 25.1201 shall make a report to the Chief Counsel listing those claims compromised or with respect to which collection action has been suspended or terminated, specifying the name of the debtor, the amount of the claim, the nature of the claim, the type of action taken, and their general basis for the action taken. The report shall be made for the period beginning January 1 and ending June 30 and for the period beginning July 1 and ending December 31 of each year and shall be submitted not later than the 15th day of the month following the termination of the period covered by the report.

(b) Each officer to whom authority is delegated under this subpart shall, before exercising that authority, acquire sufficient documentation to demonstrate that the action taken is in the best interest of the United States. This documentation shall be retained.

§ 25.1219 Referral to U.S. attorney.

A designee under § 25.1201(b)(2) within whose command a claim under this subpart arises or to whom a claim is referred, may refer any such claim not exceeding his monetary jurisdiction on which collection action has been taken and which cannot be compromised or on which collection action cannot be suspended or terminated in accordance with 4 CFR Chapter II, directly to the appropriate U.S. attorney for collection. The Chief Counsel may refer a claim to the Department of Justice or the General Accounting Office as may be necessary.

§ 25.1221 Referral to Chief Counsel.

Any claim in excess of the authority delegated under § 25.1201(b) which cannot be collected in full, and any claim which is not otherwise referable to the U.S. attorney, shall be referred to the Chief Counsel with appropriate recommendations for action.

§ 25.1223 Statute of limitations.

(a) Except as provided in sections 2415 and 2416 of title 28, United States Code, a claim of the United States founded upon any contract is barred unless the complaint is filed within 6 years after the right of action accrues or within 1 year after a final decision has been rendered in applicable administrative proceedings required by contract or by law, whichever is later.

(b) Except as provided in sections 2415 and 2416 of title 28, United States Code, a claim of the United States founded upon a tort is barred unless the complaint is filed within 3 years after the right of action first accrues.

§ 25.1225 Disposition of claims under other authorities.

This subpart does not diminish any existing authority to settle, compromise, or close claims.

Subpart M—Admiralty Claims

§ 25.1301 Delegation of authority.

(a) The authority of the Commandant, U.S. Coast Guard, to consider, ascertain, adjust, determine, compromise, or settle claims in favor of the United States for damage cognizable in admiralty and all claims for damage caused by a vessel or floating object, to property of the United States under the jurisdiction of the Coast Guard is delegated to—

(1) The Chief Counsel, U.S. Coast Guard, as to claims where there is involved a payment in a net amount not exceeding $25,000, which may be referred to him.

(2) The Commander of each Coast Guard District as to claims not exceeding $5,000, arising out of the activities of his command, or referred to him.

(3) The Commanding Officer of each Headquarters Unit having a permanent legal officer billet, as to claims not exceeding $5,000, arising out of the activities of his command, or referred to him.

§ 25.1303 Redelegation.

Each officer to whom authority is delegated under § 25.1301 may redelegate that authority as prescribed in § 25.1205.

§ 25.1305 Section not exclusive.

(a) The authority granted under 14 U.S.C. 647 to determine, compromise, and settle claims is supplementary to, and not in lieu of, any other provision of law authorizing the determination, compromise, and settlement of claims for damage to property described in 14 U.S.C. 647.

(b) Additional regulations covering the collection of claims for damage cognizable in admiralty and caused by a vessel or floating object to property of the United States and for their compromise, suspension, termination, or referral for collection are found in subpart L.

§ 25.1307 Settlement conclusive.

Upon the acceptance of the amount due the United States pursuant to determination, compromise, or settlement under 14 U.S.C. 647, such determination compromise, or settlement becomes final and conclusive for all purposes.

§ 25.1309 Disposition of payments.

All payments received under 14 U.S.C. 647 shall be covered into the Treasury of the United States as miscellaneous receipts.

Subpart N—Aids to Navigation Damage Claims

§ 25.1401 Damage to aid to navigation.

Whenever an aid to navigation is damaged and can be repaired, a claim shall be promptly made for the cost to the Government to repair the aid and for all other costs directly caused by reason of the damage. The cost to make repairs shall be the cost of restoring the damaged aid to operating condition acceptable to the Coast Guard. This shall include the cost of all labor, material, and overhead required to make the repairs, whether the repairs are made by a Government facility or a private contractor.

§ 25.1403 Destruction of aid to navigation.

(a) Whenever an aid to navigation is destroyed, or is damaged to the extent that the cost of repair will exceed its value (a constructive total loss), a claim shall be promptly made for the cost to the Government to replace the aid with an identical aid or with a substitute aid acceptable to the Coast Guard, and for all other costs directly caused by reason of the destruction or total loss. A claim shall be made whether or not the aid is actually replaced, and whether or not the new aid is established at the same, or a different location, as that of the aid being replaced.

(b) The amount of the claim shall be the total cost to replace the aid less any salvage value and any enhanced value. Enhanced value is the extent to which the fair value of the aid immediately after replacement is greater than its fair value immediately before it was destroyed. Where maintenance equals the depreciation, there would be no enhanced value.

(c) The cost to replace an aid shall be the actual present day cost to reproduce an identical aid or an aid having similar general characteristics and permanence satisfactory to the Coast Guard. It shall include the cost of all labor, material, and overhead required to replace the aid, whether done by a Government facility or a private contractor.

§ 25.1405 Displacement of aid to navigation.

Whenever a floating aid to navigation is moved off station, without being damaged, a claim shall be promptly made for the cost to the Government of returning it to its station.

§ 25.1407 Repair or replacement.

The repair or replacement of an aid may be accomplished by the responsible interests, or by contractors employed for that purpose by them, provided the plans for the repair or replacement are satisfactory, and any delay incident thereto, is acceptable to the Coast Guard. The United States will assume no liability for restored depreciation or enhanced value of the repaired or replaced aid to navigation unless a specific sum was mutually agreed to in writing in advance by the Coast Guard and the responsible interests.

§ 25.1409 Elements of cost.

(a) Expenses incident to and directly caused by reason of the damage or destruction of an aid to navigation shall be included as part of the total claim against the responsible interests and shall include, but not be limited to, the following items, whichever are applicable:

(1) Cost of placing a replacement aid in operation on station, whether as a permanent substitute or to serve as a temporary auxiliary aid for that which was damaged or destroyed.

(2) Cost of removing a replacement aid which was placed in operation on station to serve as a temporary or auxiliary aid for that which was damaged or destroyed.

(3) Cost of searching for, recovering and removing, or attempting to recover or remove, the damaged or destroyed aid or any of its component parts which may require recovery or removal.

(4) Cost or value of time consumed by Government personnel (excluding ship's complement), including such services as inspection, supervision, etc., on projects where necessary to insure that the project is being completed in accordance with prepared plans and/or contract. These costs shall include: Actual travel expenses incurred and paid to personnel from public funds and actual payroll value of time of all personnel expended upon the project, including the travel time during paid status.

(5) Cost or value of time consumed by Government vessel including ship's complement employed by reason of and directly attributed to the damage or destruction. For the performance of this work, no charge shall be made for the time and expense of Coast Guard vessels including ship's complement, when the aid can be or is repaired or restored on station by the vessel on routine, scheduled duty where only minimum interruption of that assignment occurs. If such vessel time is charged, it will be charged in accordance with the type of damaged aid which must be serviced as set forth in § 74.20 of this chapter.

(6) Where tender work other than servicing the specific types of aids covered under § 74.20 of this chapter is required in connection with damaged aids, vessel time shall be an hourly charge determined by dividing the latest fiscal year cost for operating the applicable class of vessel in the district by the number of hours the vessel was operationally employed for the fiscal year.

§ 24.1411 Settlement authority.

(a) Additional regulations covering the collection of claims for damage to aids to navigation and for their compromise, suspension, termination, or referral for collection are found in Subpart L.

(b) The Chief Counsel, U.S. Coast Guard and the commander of each Coast Guard district are designated to administer 14 U.S.C. 642.

(c) The authority of the Commandant, U.S. Coast Guard to accept and deposit payments for the repair or replacement of damaged or destroyed aids to navigation under 14 U.S.C. 642 is delegated to the Chief Counsel, U.S. Coast Guard and the commander of each Coast Guard district. This authority may be redelegated as prescribed in § 25.1205.

§ 25.1413 Disposition of payments.

All payments received as a result of claims for the damage, destruction, or displacement of an aid to navigation or other property shall be disposed of in accordance with 14 U.S.C. 642.

(14 U.S.C. 633, 49 CFR 1.45 (a) and (b), 1.47(b), 89.1(b), 1655(b)(1))

Effective date. These amendments shall become effective on March 25, 1972.

Dated: March 15, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.72-4447 Filed 3-23-72;8:50 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 120—WATER QUALITY STANDARDS

Adoption, Identification, and Availability of State Standards

Pursuant to the authority of section 10(c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1160 (c), the Administrator of the Environmental Protection Agency hereby determines that the water quality standards adopted by the States listed, and contained in the documents identified in § 120.10, except as otherwise indicated, are consistent with paragraph (3) of section 10(c) of the Federal Water Pollution Control Act, as amended, and are such standards as protect the public health or welfare, enhance the quality of water, and serve the purposes of the Federal Act; such standards shall hereafter be the standards applicable to the interestate waters for which adpoted.

The documents containing such standards are incorporated herein and made a part hereof.

1. Section 120.10 is amended as follows:

§ 120.10 [Amended]

Paragraph 120.10 is amended by revising the paragraph entitled "Alaska" as follows:

Water quality standards established by Alaska on June 29, 1967, for interstate waters subject to its jurisdiction, as amended, and which are contained in title 18, "Environmental Conservation," of Chapter 70, "Water Quality Standards," of the Alaska Administrative Code, together with supporting documents.

Paragraph 120.10 is further amended by deleting from the paragraph entitled "Colorado" the following:

* * *; except for dissolved oxygen and temperature criteria for the Animas River below Durango and temperature-change limits for waters classified as "B–1" and "B–2."

Paragraph 120.10 is further amended by revising the paragraph entitled "Connecticut" as follows:

Water quality standards established by Connecticut on November 17, 1969, and which are contained in the document entitled "Water Quality Standards" (1970), together with supporting documents.

Paragraph 120.10 is further amended by revising the paragraph entitled "Delaware" as follows:

Water quality standards established by Delaware on May 17, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for Interstate Streams, June 1967," as amended.

Paragraph 120.10 is further amended by adding to the paragraph entitled "Territory of Guam" the following:

* * *; and the plan of implementation as revised in March 1970, and which is contained in the document entitled "Plan for an Integrated Wastewater System, Guam, Marianas Islands."

Paragraph 120.10 is further amended by adding to the paragraph entitled "Indiana" the following:

Revised water quality criteria established by Indiana September 18, 1970; protection of existing high quality waters adopted March 17, 1970; and additions to the implementation plans, adopted March 17, 1970; and which are contained in the document entitled "Official Regulations SPC IR–2 Adopted and Promulgated by the Stream Pollution Control Board of the State of Indiana."

Paragraph 120.10 is further amended by revising the paragraph entitled "Iowa" as follows:

Water quality standards established by Iowa on May 26, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Water Quality Criteria and Plan for Implementation and Enforcement for the Surface Waters of Iowa," as amended by implementation plan revisions adopted November 5, 1970, as amended, and by revisions adopted May 27, 1971, and which are contained in the document entitled "Iowa Water Pollution Control Commission, Rules and Regulations, Water Quality Standards."

Paragraph 120.10 is further amended by deleting from the paragraph entitled "Kansas" the following:

* * *; except for the final treatment compliance date of 1985, the bacteriological and temperature criteria for all interstate waters of Kansas, and the dissolved oxygen criterion for the Missouri River.

Paragraph 120.10 is further amended by revising the paragraph entitled "Maine" as follows:

Water quality standards established by Maine on July 5, 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

"(Water and Air) Environmental Improvement Commission Revised Statutes of 1964, Title 38 (as amended)";

"Saco River Basin Water Quality Standards";

"Sagadahoc County Tidal Basin Water Quality Standards";

"St. Croix River Basin Water Quality Standards";

"Lincoln County Tidal Basin Water Quality Standards";

"Androscoggin River Water Quality Standards";

"Cumberland County Tidal Basin Water Quality Standards";

"Salmon Falls and Piscataqua River Basin Water Quality Standards";

"Aroostook River Basin Water Quality Standards";

"Meduxnekeag River Basin Water Quality Standards";

"Knox County Tidal Waters Water Quality Standards";

"York County Tidal Basin Water Quality Standards";

"Waldo, Penobscot, and Hancock County Tidal Waters Water Quality Standards";

"Washington County Tidal Waters Water Quality Standards";

"Prestile Stream Water Quality Standards";

"St. John River Basin Water Quality Standards"; and supporting documents contained in rules and regulations of the Maine Environmental Improvement Commission, including temperature criteria.

Paragraph 120.10 is further amended by adding to the paragraph entitled "Maryland" the following:

* * *; and the antidegradation statement adopted by the Secretary of Natural Resources of Maryland on July 2, 1971, and entitled "State of Maryland Antidegradation Policy."

Paragraph 120.10 is further amended by revising the last three lines of the paragraph entitled "Massachusetts" as follows:

8. "Volume 8, Water Quality Standards, Coastal Waters;" together with appendices and supporting documents.

Paragraph 120.10 is further amended by revising the paragraph entitled "Minnesota" as follows:

Water quality standards established by Minnesota on May 8, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for the Interstate Waters of Minnesota, June 1967" as amended, together with supporting documents.

Paragraph 120.10 is further amended by revising the paragraph entitled "Missouri" as follows:

Water quality standards established by Missouri in June 1967 for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "St. Francis and Little Rivers and Tributaries and Lower Mississippi River Tributaries; Lower Mississippi River Basin, Southwest-Lower Mississippi; Water Quality Standards," June 1968, as revised.

2. "Osage and Gasconade Rivers and Tributaries; Osage-Gasconade River Basin, Missouri River Basin; Water Quality Standards," no date, as revised.

3. "Grand and Chariton Rivers and Tributaries; Grand-Chariton River Basin, Missouri River Basin; Water Quality Standards," June 1968, as revised.

4. "Minor Missouri River Tributaries; Missouri River Basin; Water Quality Standards," June 1968, as revised.

5. "White, North Fork, Spring, Eleven Point, Current and Black Rivers and Tributaries; White River Basin, Southwest-Lower Mississippi; Water Quality Standards," June 1968, as revised.

6. "Missouri River; Missouri River Basin; Water Quality Standards," June 1967, revised August 1968, as revised.

7. "Mississippi River; Upper Mississippi River Basin, Southwest-Lower Mississippi; Water Quality Standards," June 1967, revised August 1968, as revised.

8. "Big Blue River; Missouri River Basin; Water Quality Standards," June 1967, revised August 1968, as revised.

9. "Spring and Elk Rivers and Tributaries; Grand (Neosho) River Basin, Southwest-Lower Mississippi; Water Quality Standards," June 1968, as revised.

10. "Meramec River and Tributaries and Mississippi River Tributaries; Upper Mississippi River Basin; Water Quality Standards," June 1968, as revised.

11. "Salt River and Tributaries, Mississippi River Tributaries and Des Moines River; Upper Mississippi River Basin; Water Quality Standards," June 1968, as revised.

Paragraph 120.10 is further amended by revising the paragraph entitled "Nebraska" as follows:

Water quality standards established by Nebraska on November 18, 1968, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards Applicable to Nebraska Waters, January 1969," as amended.

Paragraph 120.10 is further amended by deleting from the paragraph entitled "New Hampshire" the following:

* * *; except for treatment time schedules for cities of Manchester, Concord, Rye, Durham, Plymouth, Dover, Portsmouth, and except for temperature criteria for all interstate waters classified as "B" and "C", and except for the Androscoggin River.

Paragraph 120.10 is further amended by revising the paragraph entitled "New Jersey" as follows:

Water quality standards established by New Jersey on August 10, 1964, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "New Jersey State Pollution Control Program, Stream Classification, Standards of Quality—Implementation," as amended and with revisions established June 30, 1971, which are contained in the document entitled "Rules and Regulations Establishing Surface Water Quality Criteria."

Paragraph 120.10 is further amended by revising the last two lines of the paragraph entitled "New York" as follows:

* * * together with all appendices and attachments thereto, all of which as amended, and including the antidegradation statement adopted May 7, 1970.

Paragraph 120.10 is further amended by revising the paragraph entitled "North Carolina" as follows:

Water quality standards established by North Carolina on June 23, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Excerpt: North Carolina Water Quality Standards and Plan of Implementation, Interstate and Coastal Waters," as amended, and revisions adopted October 13, 1970, and which are contained in the document entitled "Rules, Regulations, and Classifications and Water Quality Standards Applicable to the Surface Waters of North Carolina."

Paragraph 120.10 is further amended by revising the paragraph entitled "North Dakota" as follows:

Water quality standards established by North Dakota on May 16, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for Surface Waters of North Dakota, Plan for Implementation of Water Quality Standards," together with appendices and supporting documents, all of which as amended, and revisions adopted September 26, 1969, and December 15, 1969, and which are contained in the document entitled "Standards of Surface Water Quality, State of North Dakota."

Paragraph 120.10 is further amended by revising subparagraph 4 of the paragraph entitled "Ohio" as follows:

4. "Water Quality Standards for Interstate Waters of the Ohio River Between Ohio-West Virginia and Ohio-Kentucky, June 26, 1967," as amended, together with supporting documents; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A."

Paragraph 120.10 is further amended by revising the paragraph entitled "Oklahoma" as follows:

Water quality standards established by Oklahoma on October 10, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Oklahoma's Water Quality Standards, 1968," as amended.

Paragraph 120.10 is further amended by deleting from the paragraph entitled "Rhode Island" the following:

* * *; except for dissolved oxygen criteria for interstate waters classified as Class "C" and Class "SC".

Paragraph 120.10 is further amended by adding to the paragraph entitled "South Dakota" the following:

* * *; as amended.

Paragraph 120.10 is further amended by revising the paragraph entitled "Vermont" as follows:

Water quality standards established by Vermont on June 15, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Plan for Implementation and Water Quality Criteria (Public Law 89-234) Vermont Water Resources Board, June 1967," as amended, and revisions adopted May 27, 1971, and which are contained in the document entitled "Regulations Governing Water Classification and Control of Quality," and classifications adopted May 28, 1970, and which are contained in the documents entitled "Classifications of the Missisquoi River and its Tributaries in the counties of Franklin, Lamoille, and Orleans," and "Classification of Lake Memphremagog and International Streams including John River, Tomifobia River, Coaticook River, Stearns Brook, and Holland Brook in the counties of Orleans and Essex," together with supporting documents.

Paragraph 120.10 is further amended by revising the paragraph entitled "Virginia" as follows:

Water quality standards established by Virginia on April 8, 1970, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Commonwealth of Virginia Water Quality Standards," except section 1.01, together with supporting documents, and paragraph I-IV of the General Standards contained in previous plans for management of water quality established during 1967 and narrative temperature requirements contained in those standards.

Paragraph 120.10 is further amended by adding to the paragraph entitled "Virgin Islands" the phrase:

* * *; as amended.

Paragraph 120.10 is further amended by revising the paragraph entitled "West Virginia" as follows:

Water quality standards established by West Virginia on January 26, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Report on Water Quality Criteria and Plan of Implementation, Interstate Streams of West Virginia," as amended and as republished in part in the document entitled "Administrative Regulations of the State of West Virginia for Water Quality Criteria on Inter and Intra State Streams, 1970," together with supporting documents.

§ 120.11 [Deleted]

2. Part 120 is further amended by deleting § 120.11.

(Sec. 1, 70 Stat. 506, as amended; 33 U.S.C. 1150)

Dated: March 21, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

NOTE: Incorporation by reference provisions in these regulations approved by the Director of the Federal Register on March 23, 1972.

[FR Doc.72-4519 Filed 3-23-72;8:50 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5190]

[Fairbanks 14223, Anchorage 6473]

ALASKA

Modification and Correction of Public Land Orders No. 5150 and 5151

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority vested in the Secretary of the Interior by section 17(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 708, (hereinafter called the Act), it is ordered as follows:

1. Public Land Order No. 5150 of December 28, 1971, 36 F.R. 25410, withdrawing lands for a utility and transportation corridor is hereby modified by changing, adding to, or deleting from, the descriptions of the lands described in paragraphs 1 and 2 of said order as follows:

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

Delete in its entirety T. 1 N., R. 1 W.

Change the descriptions of the lands in T. 2 N., R. 1 W., described in sec. 3 as lots 1, 2, and 3 to read, N½NE¼, NE¼NW¼.

Delete from the lands described in T. 3 N., R. 1 W., secs. 23 through 26.

Add T. 37 N., to the lands described as Tps. 27 to 36 N., R. 11 W.

Add to the lands described in T. 1 S., R. 2 E., sec. 16; sec. 21, N½; sec. 28.

Add T. 1 S., R. 3 E. (partially surveyed), sec. 29, lots 1 through 6, SW¼SW¼; sec. 30, lots 1 through 5, E½SW¼, SE¼; sec. 31, lots 1 and 2, NE¼, E½NW¼, N½SE¼; sec. 32, lots 1 through 3, SW¼NE¼, NW¼, S½.

Change the descriptions of the lands in T. 4 S., R. 5 E., to read "that portion south of the lands described in Public Law 87-326, and excluding lots 1 and 2, USS 4336."

Change the descriptions of the lands in T. 5 S., R. 5 E., to read secs. 1 to 30 inclusive; secs. 33 to 36 inclusive, and delete secs. 31 and 32.

Add T. 6 S., R. 6 E., secs. 1, 2, 3, 10, 11, and 12.

Add T. 5 S., R. 7 E., secs. 19 through 36.

Delete from the descriptions of the lands in T. 6 S., R. 7 E., secs. 19 through 21; secs. 28 through 32.

Add T. 7 S., R. 8 E., secs. 1 through 13; sec. 14, E½SE¼NE¼, NE¼NE¼, N½NW¼NE¼, N½S½NW¼NE¼, N½SE¼NE¼NW¼, NE¼NE¼NW¼, W½E½NW¼, W½NW¼, N½NW¼SW¼, NW¼NE¼SW¼, S½NE¼SW¼, E½SE¼SW¼, W½SW¼NW¼SE¼, S½SE¼, E½NE¼SE¼; sec. 15, N½, SW¼, W½SE¼, NE¼SE¼, W½SE¼SE¼; secs. 16 through 21, secs. 24 and 25.

Add T. 9 S., R. 10 E., sec. 3, SW¼; sec. 17, lot 4, 11, and 12.

Change the descriptions of the lands in T. 10 S., R. 10 E., to read sec. 2, lots 7, 8, 9, and 10, SW¼NW¼, E½NW¼SW¼, NE¼SW¼; sec. 3, lots 8, 13, and 14; sec. 11, S½SE¼SE¼NE¼, SW¼SE¼NE¼, NE¼SE¼.

Add to the descriptions of the lands in T. 11 S., R. 10 E. (surveyed), sec. 27, lots 1, 2, 3, 4, 16, 19, 28, 29, 34, 35, 40, and 41; sec. 33, lots 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, and 26 through 42, E½E½SE¼SE¼; sec. 34, lots 8, 9, 11, 12, 13, and 14, NE¼, E½NW¼, E½SW¼NW¼, E½NW¼SW¼NW¼, SW¼SW¼NW¼, SE¼. Delete sec. 33 S½SW¼NE¼NE¼.

Change the descriptions of lands in T. 12 S., R. 10 E. (surveyed), to read sec. 4, lots 1, 2, 3, 6, 7, 8, 9, 10, 15, 16, 17, 18, 21, 22, 23, 24, and 42 through 47, NE¼NE¼NE¼, N½SE¼NE¼NE¼, W½NW¼NE¼, SW¼NE¼, SE¼SE¼NE¼NE¼, E½NE¼SE¼NE¼, NE¼SE¼SE¼NE¼, W½SE¼; sec. 9 W½NE¼, W½SE¼, SE¼SE¼.

Add to and change the descriptions of the lands in T. 13 S., R. 10 E., to read sec. 13, that portion south of the lands described in Public Law 87-334; sec. 14, that portion south and west of the lands described in Public Law 87-334, and east of the lands described in Public Law 87-327; secs. 23 through 27; secs. 22, 28, 31, and 32, that portion east of the lands described in Public Law 87-327; secs. 34 through 36.

Add T. 20 S., R. 12 E., in its entirety.

COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Change the descriptions in T. 4 N., R. 2 W., to read secs. 1 through 3; secs. 10 through 15; sec. 36.

Change the description in T. 9 S., R. 7 W., to read secs. 13, 14, 23, and 24.

2. The lands described in Public Land Order No. 5151 of December 29, 1971, amending Public Land Order No. 5150, supra, are hereby modified by changing, adding to, or deleting from, the descriptions of the lands in said order as follows:

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

Delete all of the lands described in T. 18 S., R. 11 E.

Delete all of the lands described in T. 22 S., R. 12 E.

COPPER RIVER MERIDIAN

SURVEYED DESCRIPTIONS

Change the descriptions of the lands in T. 1 N., R. 1 E., to read sec. 5, lot 2, S½NE¼, SE¼; sec. 6, lots 1 through 5, S½NE¼, SE¼NW¼, SE¼; and add thereto, sec. 10, W½SW¼; sec. 14, SW¼SW¼; sec. 15, W½, W½SE¼, SE¼SE¼; sec. 21, SE¼SW¼, SW¼SE¼; sec. 23; sec. 24, lot 3, W½SW¼; sec. 25, lot 3, NW¼NW¼, S½NW¼, S½; sec. 26, N½, SE¼; sec. 27, SW¼; sec. 35, N½; sec. 36, N½NE¼.

Add to the lands described in T. 2 N., R. 1 E., sec. 7, USS 2186; sec. 18, USS 2186.

Change the descriptions of the lands in T. 2 N., R. 1 W. (surveyed), to read, sec. 2, lots 2 through 8, SW¼NE¼, S½NW¼, SW¼, and W½SE¼; sec. 11, lot 2, lot 3, W½NE¼, NW¼, and S½; sec. 25, lots 1 through 5, SW¼NW¼, and SE¼; and add thereto, secs. 4, 9, and 22; sec. 12, lot 7, lot 10, USS 2186; sec. 13, lots 6, 48, and 49; sec. 27, lots 1 through 4, E½NE¼, SW¼NE¼, SE¼NW¼, and SW¼.

Delete from the descriptions of the lands in T. 3 N., R. 1 W. (surveyed), sec. 8, SW¼SE¼; sec. 17, E½; and add thereto, sec. 4, lots 6, 7, 8, and 10, SW¼SW¼SW¼, and SW¼SE¼SW¼SW¼; sec. 5, E½SE¼; sec. 9, lots 1, 6, 7, NE¼, E½SE¼NW¼, SW¼SE¼NW¼, NW¼NE¼NW¼NW¼, S½NE¼NW¼NW¼, NW¼NW¼NW¼, and S½NW¼NW¼; sec. 21, NE¼; sec. 22, W½W½; sec. 26, N½SE¼, and SW¼SE¼; sec. 27, N½.

Change the descriptions of the lands in T. 4 N., R. 1 W. (surveyed), to read, sec. 30, lots 1 through 4, NE¼NE¼, W½NE¼, and E½W½; sec. 32, lot 2, W½; and add thereto, sec. 7, lots 6, 11, 15, 17, 20, 21, 22, 26, 27, 31, 32, 36, 37, 41, 42, SE¼NE¼, and E½SE¼; sec. 19, lots 45 through 80, 83 through 88, 97 through 110, W½NW¼SE¼, NW¼SW¼SE¼, and E½SE¼; sec. 29, lot 1, NW¼, N½SE¼, and SW¼SE¼.

Change the descriptions of lands in T. 4 N., R. 2 W., to read, sec. 24, lots 14, 18, 40, lots 43 through 58, lots 69 through 74, N½S½.

COPPER RIVER MERIDIAN

PROTRACTED SURVEYS

Add to the descriptions of the lands in T. 6 N., R. 1 W., secs. 23 and 26.

Change the descriptions of the lands in T. 9 S., R. 4 W., to read secs. 12, 13, 14, and 23; secs. 26 through 35; and to delete therefrom secs. 24 and 25.

Add to the lands described in T. 9 S., R. 6 W., secs. 26 through 30.

Add to the lands described in T. 5 S., R. 1 E., sec. 35.

This order does not serve to change the provisions and limitations of Public Land Order No. 5150, as amended by Public Land Order No. 5151, and as herein amended.

3. By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority vested in the Secretary of the Interior by section 17(d)(1) of the Alaska Native Claims Settlement Act, supra, it is ordered as follows:

Subject to valid existing rights and the provisions of prior withdrawals and classifications, all of the above-described lands added to or included by the changes made by this order in the lands described in Public Land Orders No. 5150 and 5151, are hereby withdrawn from all forms of appropriation under the public lands laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C., Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181-287 (1970), and are hereby reserved for study and review for the purpose of determining the proper classification of the lands and for the protection of the public interest in the lands. All of the lands deleted or not included in the descriptions as changed by this order have been and continue to be withdrawn for study and review for the proper classification of the lands, and for the protection of the public interest in the lands under section 17(d)(1) of the Act, subject to valid existing rights and the provisions of prior withdrawals and classifications.

4. It is hereby determined that the promulgation of this Public Land Order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C).

HARRISON LOESCH,

Assistant Secretary of the Interior.

MARCH 17, 1972.

[FR Doc.72-4450 Filed 3-23-72;8:45 am]

[Public Land Order 5191]

ALASKA

Modification and Correction of Public Land Orders Nos. 5169, 5172, 5173, 5175, 5176, and 5177

By virtue of the authority vested in the Secretary of the Interior by section 11(a)(3) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 696 (hereinafter called the "Act"), it is ordered as follows:

1. Public Land Order No. 5169 of March 9, 1972, 37 F.R. 5572 withdrawing lands for selections by the Village Corporations and the Regional Corporations in the area covered by the operation of the Arctic Slope Native Association, is hereby modified and corrected by changing, adding to, or deleting from the descriptions of the lands and acreages in paragraph 1 thereof as follows:

a. Barrow:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 5 to 8 N., R. 41 W. (W½), to T. 5 to 8 N., R. 40 W. (W½), deleting R. 41 W. (W½).

Change T. 5 to 8 N., R. 42 W., to T. 5 to 8 N., R. 41 W., deleting R. 42 W.

b. Kaktovik:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 3 S., Rs. 22 to 25 E., to T. 3 S., Rs. 22 to 24 E., deleting R. 25 E.

Change T. 3 S., R. 25 E., to T. 3 S., R. 25 E. (W½), deleting the E½ of R. 25 E.

Change T. 5 S., R. 25 E., to T. 5 S., R. 25 E. (W½), deleting the E½ of R. 25 E.

The area described is changed from 345,600 acres to show an aggregate of approximately 391,000 acres.

Paragraph 2 of this order is modified and corrected by changing, adding to, or deleting from, the descriptions and acreages as follows:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 9 S., Rs. 1 through 4, 43 through 58 W., to T. 9 S., Rs. 1 through 4, 43 through 57 W., deleting R. 58 W.

Change T. 10 S., Rs. 1, 2, 43 through 58 W., to T. 10 S., Rs. 1, 2, 43 through 57 W., deleting R. 58 W.

Change T. 1 S., Rs. 1 through 20 E., to T. 1 S., Rs. 1 through 12, 16 through 20 E., deleting Rs. 13, 14, and 15 E.

Change T. 2 S., Rs. 1 through 20 E., to T. 2 S., Rs. 1 through 12, 16 through 20 E., deleting Rs. 13, 14, and 15 E.

Change T. 3 S., Rs. 1 through 21 E., to T. 3 S., Rs. 1 through 12, 16 through 21 E., deleting Rs. 13, 14, and 15 E.

Change T. 4 S., Rs. 1 through 18 E., to T. 4 S., Rs. 1 through 12, 16 through 18 E., deleting Ts. 13, 14, and 15 E.

Change T. 5 S., Rs. 1 through 18 E. to T. 5 S., Rs. 1 through 12, 16 through 18 E., deleting Rs. 13, 14, and 15 E.

Change T. 6 S., Rs. 1 through 18 E., to T. 6 S., Rs. 1 through 12, 16 through 18 E., deleting Rs. 13, 14, and 15 E.

Change T. 7 S., Rs. 1 through 18 E., to T. 7 S., Rs. 1 through 12, 16 through 18 E., deleting Rs. 13, 14, and 15 E.

Change T. 8 S., Rs. 1 through 18 E., to T. 8 S., Rs. 1 through 11, 15 through 18 E., deleting Rs. 12, 13, and 14 E.

Change T. 9 S., Rs. 1 through 18 E., to T. 9 S., Rs. 1 through 10, 15 through 18 E., deleting Rs. 11, 12, 13, and 14 E.

Change T. 10 S., Rs. 1 through 18 E., to T. 10 S., Rs. 1 through 10, 15 through 18 E., deleting Rs. 11, 12, 13, and 14 E.

Change T. 11 S., Rs. 1 through 18 E., to T. 11 S., Rs. 1 through 10, 15 through 18 E., deleting Rs. 11, 12, 13, and 14 E.

The area described is changed from 9,700,000 acres to show an aggregate of approximately 8,826,000 acres.

2. Public Land Order No. 5172 of March 9, 1972, 37 F.R. 5574 withdrawing lands for selections by the Village Corporations and the Regional Corporations in the area covered by the operation of the Association of Village Council Presidents, is hereby modified and corrected by changing, adding to, or deleting from, the descriptions and acreages of the lands in paragraph 1 thereof:

a. Cherfornak:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 1 N., R. 83 W., (E½), to T. 1 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

Change T. 2 N., R. 83 W., (E½), to T. 2 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

Change T. 3 N., R. 83 W., (E½), to T. 3 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

Change T. 4 N., R. 83 W., (E½), to T. 4 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

Change T. 5 N., R. 83 W. (fractional), to T. 5 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

Change T. 6 N., R. 83 W. (fractional), to T. 6 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

h. Newtok:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 9 N., R. 82 W., to T. 9 N., R. 82 W. (fractional), deleting that portion not contained in the township.

Change T. 9 N., R. 83 W. (fractional), to T. 9 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

Delete T. 9 N., R. 84 W. (fractional) in its entirety.

Change T. 10 N., R. 82 W. to T. 10 N., R. 82 W. (fractional), deleting that portion not contained in the township.

Change T. 10 N., R. 83 W. (fractional), to T. 10 N., R. 83 W., that portion east of the Clarence Rhode National Wildlife Refuge.

The acreage of the area described is changed from 69,120 acres to aggregate approximately 57,620 acres.

3. Public Land Order No. 5173 of March 9, 1972, 37 F.R. 5575 withdrawing lands for selection by the Village Corporations and the Regional Corporations in the area covered by the operation of the Tanana Chiefs' Conference, is hereby modified and corrected by changing, adding to, or deleting from, the descriptions and acreages of the lands in paragraph 2 thereof:

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

Delete Ts. 34, 35, and 36 N., R. 12 W., in their entireties.

The acreage of the area described is changed from 14,300,000 to show an aggregate of approximately 14,231,000 acres.

4. Public Land Order No. 5175 of March 9, 1972, 37 F.R. 5576 withdrawing lands for selections by the Village Corporations and the Regional Corporations in the area covered by the operation of the Aleut League, is hereby modified and corrected by changing, adding to, or deleting from, the descriptions and acreages of the lands in paragraph 1 thereof:

b. Squaw Harbor:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 57 S., Rs. 66 and 68 W. (islands), to T. 57 S., R. 68 W. (islands), deleting R. 66 W.

The acreage of the area described is changed from 69,120 acres to show an aggregate of approximately 46,120 acres.

5. Public Land Order No. 5176 of March 9, 1972, 37 F.R. 5577 withdrawing lands for the selections by the Village Corporations and the Regional Corporations in the area covered by the operation of the Chugach Native Association, is hereby modified and corrected by changing, adding to, or deleting from, the descriptions and acreages of the lands in paragraph 2 thereof, as follows:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 6 S., Rs. 2, 3, 4, 5, 8, 9, 10 W. (fractional), to T. 6 S., Rs. 4, 5, 8, 9, 10 W. (fractional), deleting Rs. 2 and 3 W.

Delete T. 9 S., Rs. 6 and 7 W. (fractional), in their entireties.

Delete T. 10 S., Rs. 6 and 7 W. (fractional), in their entireties.

The acreage of the area described is changed from 1,100,000 acres to show an aggregate of approximately 1,008,000 acres.

6. Public Land Order No. 5177 of March 9, 1972, 37 F.R. 5578 withdrawing lands for selections by the Village Corporations and the Regional Corporations in the area covered by the operation of the Kodiak Area Native Association, is hereby modified and corrected by changing, adding to, or deleting from the descriptions and acres of the lands in paragraph 1 thereof as follows:

a. Akhiok:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 27 S., R. 45 W. (fractional) to T. 27 S., Rs. 43 and 44 W., deleting R. 45 W., and adding Rs. 43 and 44 W., (fractional).

Change 28 S., R. 43 to 45 W. (fractional), to T. 28 S., Rs. 42 and 43 W. (fractional), deleting R. 45 W., and adding R. 42 W.

Add T. 28 S., R. 44 W. (E½).

The acreage of the lands described is changed from 414,720 acres to show an aggregate of approximately 426,220 acres.

This order does not otherwise serve to change the provisions and limitations of Public Land Orders No. 5169, No. 5172, No. 5173, No. 5175, No. 5176, and No. 5177.

7. By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority vested in the Secretary of the Interior by section 17(d)(1) of the Alaska Native Claims Settlement Act, supra, it is ordered as follows:

Subject to valid existing rights and the provisions of prior withdrawals and classifications, all of the above-described lands that are shown to be added to or included as changed by this order in the lands described in Public Land Orders No. 5169, No. 5172, No. 5173, No. 5175, No. 5176, and No. 5177, are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C., Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, 30 U.S.C. sections 181–287 (1970), and are hereby reserved for study and review for the purpose of determining the proper classification of the lands, and for protection of the public interest in the lands. Those lands deleted by this order have been and continue to be withdrawn for classification, and protection of the public interest in the lands, pursuant to section 17(d)(1) of the Act, subject to valid existing rights and the provisions of prior existing withdrawals and classifications.

8. It is hereby determined that the promulgation of this Public Land Order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 17, 1972.

[FR Doc.72-4451 Filed 3-23-72;8:45 am]

[Public Land Order 5192]

ALASKA

Modification and Correction of Public Land Order No. 5179

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R.

4831), and by virtue of the authority vested in the Secretary of the Interior by section 17(d)(2)(A) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 709 (hereinafter referred to as the Act), it is ordered as follows:

1. Public Land Order No. 5179 of March 9, 1972, 37 F.R. 5579 withdrawing lands in aid of legislation concerning addition to or creation of units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and for classification is hereby modified and corrected by changing, adding to, or deleting from, the descriptions of the lands in paragraph 1 thereof as follows:

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 34 N., Rs. 3 thru 5 E., south of Naval Petroleum Reserve No. 4, to T. 34 N., Rs. 3 thru 6 E., south of Naval Petroleum Reserve No. 4, adding R. 6 E.

Change T. 12 N., Rs. 13, 24, 29 W. (all fractional), to T. 12 N., Rs. 13, 24, 29 thru 31 W. (all fractional), adding Rs. 30 and 31 W.

Change T. 13 N., Rs. 14, 24, 28 W. (all fractional), to T. 13 N., Rs. 14, 24, 28, and 29 W. (all fractional), adding R. 29 W.

Change T. 6 S., Rs. 35 through 38 W., to T. 6 S., Rs. 34 through 38 W., adding R. 34 W.

Change T. 7 S., Rs. 21, 26 through 29, 31 through 37 W., to T. 7 S., Rs. 20, 21, 26 through 29, 31 through 37 W., adding R. 20 W.

Change T. 8 S., Rs. 21, 26 through 29, 31 through 37 W., to T. 8 S., Rs. 20, 21, 26 through 29, 31 through 36 W., adding R. 20 W., and deleting R. 37 W.

Delete T. 8 S., Rs. 38 and 39 W. (fractional) in their entireties.

Change T. 9 S., Rs. 21, 31, 37, 38 W., to T. 9 S., Rs. 21 and 31 W., deleting Rs. 37 and 38 W.

Delete T. 9 S., R. 39 W. (fractional) in its entirety.

Delete T. 10 S., Rs. 37 through 39 W. (fractional) in their entireties.

Change T. 6 S., Rs. 9 through 18, 20 through 22, 27, 28 E., to T. 6 S., Rs. 9 through 18, 21 through 23, 27, 28 E., deleting R. 20 E., and adding R. 23 E.

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 1 N., R. 2 E., east of Kenai National Moose Range, Chugach National Forest, to T. 1 N., R. 2 E., east of the Chugach National Forest, deleting reference to Kenai National Moose Range.

Change T. 2 N., R. 2 E., east of Kenai National Moose Range, Chugach National Forest, to T 2 N., R. 2 E., east of Chugach National Forest, deleting reference to Kenai National Moose Range.

Change T. 3 N., R. 3 E., east of Kenai National Moose Range, Chugach National Forest, to T. 3 N., R. 3 E., east of Chugach National Forest, deleting reference to Kenai National Moose Range.

Change T. 4 N., Rs. 3, 4 E., east of Kenai National Moose Range, Chugach National Forest, to T. 4 N., Rs. 3, 4 E., east of Chugach National Forest, deleting reference to Kenai National Moose Range.

Change T. 1 N., Rs. 2 through 29, 34, 35, 58, and 67 through 70 W., to T. 1 N., Rs. 23 through 29, 34, 35, 58, and 67 through 70 W., deleting Rs. 2 through 22 W.

Change T. 3 N., R. 18 W. (fractional), to T. 3 N., Rs. 17, 18 W. (fractional), adding R. 17 W.

Change T. 1 S., Rs. 2, 3, 21 through 29, 35, 36, 59 through 63, 68 through 71 W., to T. 1 S., Rs. 21 through 29, 35, 36, 59 through 63, 68 through 71 W., deleting Rs. 2 and 3 W.

Delete T. 1 S., R. 4 W., south of Kenai National Moose Range, Chugach National Forest, in its entirety.

Change T. 2 S., Rs. 2, 3, 21 through 25, 35, 36, 59 through 63, 68 through 74 W., to T. 2 S., Rs. 21 through 25, 35, 36, 59 through 63, 68 through 74 W., deleting Rs. 2 and 3 W.

Delete T. 2 S., R. 4 W., south of the Kenai National Moose Range, Chugach National Forest in its entirety.

Change T. 3 S., Rs. 4, 24, 25, 35, 36, 59 through 63, 68 through 71 W., to T. 3 S., Rs. 24, 25, 35, 36, 59 through 63, 68 through 71 W., deleting R. 4 W.

Change T. 3 S., Rs. 2, 3, 20 through 23 W. (fractional), to T. 3 S., Rs. 20 through 23 W. (fractional), deleting Rs. 2 and 3 W.

Delete T. 3 S., R. 5 W., south of Kenai National Moose Range, Chugach National Forest, in its entirety.

Change T. 4 S., Rs. 4, 24, 25, 35, 36, 59 through 63, 68 through 71 W., to T. 4 S., Rs. 24, 25, 35, 36, 59 through 63, 68 through 71 W., deleting R. 4 W.

Change T. 4 S., Rs. 2, 3, 22, 23 W. (fractional), to T. 4 S., Rs. 22, 23 W., deleting Rs. 2 and 3 W.

Change T. 4 S., Rs. 5, 8, 9 W., south of the Kenai National Moose Range, Chugach National Forest, to T. 4 S., Rs. 8, 9 W., south of the Kenai National Moose Range, deleting R. 5 W., therefrom, and reference to Chugach National Forest.

Change T. 5 S., Rs. 5, 26, 36 through 42, 59 through 66, 69 through 71 W., to T. 5 S., Rs. 26, 36 through 42, 59 through 66, 69 through 71 W., deleting R. 5 W.

Change T. 5 S., Rs. 1 through 4, 22 through 25 W. (fractional), to T. 5 S., Rs. 22 through 25 W., deleting Rs. 1 through 4 W.

Change T. 5 S., Rs. 5, 7, 8 W., south of the Kenai National Moose Range, Chugach National Forest, to T. 5 S., Rs. 6, 7, 8 W., south of Kenai National Moose Range, adding R. 6 W., and deleting R. 5 W., and reference to Chugach National Forest.

Change T. 6 S., Rs. 8 through 10, 39 through 42, 59 through 66, 69 through 71 W., to T. 6 S., Rs. 39 through 42, 59 through 66, 69 through 71 W., deleting Rs. 8 through 10 W.

Change T. 6 S., Rs. 2 through 5, 22 through 26, 36, 37, 38 W. (fractional), to T. 6 S., Rs. 2, 3, 22 through 26, 36, 37, 38 W. (fractional), deleting Rs. 4 and 5 W.

Delete T. 6 S., Rs. 6, 7 W., south of Kenai National Moose Range, Chugach National Forest, in their entireties.

Change T. 7 S., Rs. 9, 10, 27, 28, 29, 40, 41, 42, 59 through 66, 69 through 71 W., to T. 7 S., Rs. 27, 28, 29, 40, 41, 42, 59 through 66, 69 through 71 W., deleting Rs. 9 and 10 W.

Change T. 7 S., Rs. 5 through 8, 25, 26, 38, 39 W. (fractional), to T. 7 S., Rs. 2, 3, 25, 26, 38, 39 W. (fractional), deleting Rs. 5, 6, 7, and 8 W., and adding Rs. 2 and 3 W.

Change T. 8 S., Rs. 9, 10, 27, 28, 29, 41, 42, 59 through 71 W., to T. 8 S., Rs. 27, 28, 29, 41, 42, 59 through 71 W., deleting Rs. 9, 10 W.

Change T. 8 S., Rs. 5 through 8, 26 W. (fractional), to T. 8 S., R. 26 W. (fractional), deleting Rs. 5 through 8 W.

Change T. 16 S., Rs. 30 through 34, 44 W., to T. 16 S., Rs. 29 through 34, 44 W., adding R. 29 W.

Change T. 16 S., Rs. 35, 36, 37, 41 through 43 W., north of Katamai National Monument, to T. 16 S., Rs. 28, 35, 36, 37, 41 through 43 W., north of Katamai National Monument, adding R. 28 W.

Change T. 17 S., Rs. 31 through 35 W., north of the Katamai National Monument, to T. 17 S., Rs. 28 through 35 W., north of the Katamai National Monument, adding Rs. 28, 29, and 30 W.

Change T. 57 S., Rs. 68, 69 W. (fractional), to T. 57 S., R. 66 W. (island), deleting Rs. 68, 69 W., and adding R. 66 W.

Delete T. 60 S., R. 66 W. (island), in its entirety.

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 3 N., Rs. 19 through 25 E., to T. 3 N., Rs. 19 through 25, 29 through 32 E., adding Rs. 29 through 32 E.

Add T. 3 N., R. 33 E. (fractional).

Change T. 4 N., Rs. 20 through 25 E., to T. 4 N., Rs. 20 through 25, 28 through 31 E., adding Rs. 28 through 31 E.

Change T. 13 N., Rs. 1 through 15 E., to T. 13 N., Rs. 1 through 15, 20 through 23 E., adding Rs. 20 through 23 E.

Change T. 14 N., Rs. 1 through 15 E., to T. 14 N., Rs. 1 through 15, 20 through 23 E., adding Rs. 20 through 23 E.

Delete T. 21 N., R. 9 E. (fractional), east of Venetie Indian Reservation, in its entirety.

Add T. 22 N., Rs. 1 through 6 W.

Add T. 23 N., Rs. 1 through 5 W.

Add T. 24 N., R. 1 W.

COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 17 S., Rs. 9 through 24 E., to T. 17 S., Rs. 9 through 11 E., deleting Rs. 12 through 24 E.

Change T. 17 S., R. 25 E (fractional), to T. 17 S., Rs. 12 through 25 E., adding Rs. 12 through 24 E (fractional).

Change T. 26 S., Rs. 25 through 31 E (fractional), to T. 26 S., Rs. 28, 29, 41, 42 E. (fractional), deleting Rs. 25, 26, 27, 30, 31 E., and adding Rs. 41, 42 E.

Change T. 26 S., Rs. 38, 39 E., to T. 26 S., R. 38, that portion outside of Tongas National Forest, and Rs. 39, 40 E., adding R. 40 E.

Change T. 27 S., Rs. 38, 39, 40 E., to T. 27 S., Rs. 38, 39, 40, 41 E., adding R. 41 E.

Delete T. 27 S., Rs. 37, 41 E (fractional), in their entireties.

Delete T. 30 S., Rs. 43, 44 E., in their entireties.

Change T. 30 N., Rs. 42, 43 E. (fractional), to T. 30 S., Rs. 42, 43 E (fractional).

Delete T. 34 S., Rs. 42, 48 E. (fractional), in their entireties.

Change T. 35 S., Rs. 43 through 47 E., north of Glacier Bay National Monument, to T. 35 S., Rs. 45 through 47 E., north of Glacier Bay National Monument, deleting Rs. 43 and 44 E.

This order does not serve to change the provisions and limitations of Public Land Order No. 5179, as herein amended.

2. By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority vested in the Secretary of the Interior by section 17(d)(1) of the Alaska Native Claims Settlement Act, supra, it is ordered as follows:

Subject to valid existing rights and the provisions of prior withdrawals and classifications, all of the above-described lands that are shown to be added to or included as changed by this order in the lands described in Public Land Order No. 5179, are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C., Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970), and are hereby reserved for study and review for the purpose of determining the proper classification of the

lands, and for the protection of the public interest in the lands. Those lands deleted by this order have been and continue to be withdrawn for determination of the proper classification of the lands, and for protection of the public interest in the lands, pursuant to section 17(d)(1) of the Act, subject to valid existing rights and the provisions of prior existing withdrawals and classifications.

3. It is hereby determined that the promulgation of this Public Land Order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 17, 1972.

[FR Doc.72-4452 Filed 3-23-72;8:45 am]

[Public Land Order 5193]

ALASKA

Modification and Correction of Public Land Order No. 5180

By virtue of the authority vested in the President by the Act of June 25, 1910, as amended, 43 U.S.C. section 141 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority vested in the Secretary of the Interior by section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 708 (hereinafter called the "Act"), it is ordered as follows:

1. Public Land Order No. 5180 of March 9, 1972, 37 F.R. 5583 withdrawing lands for classification and for protection of the public interest in the lands, is hereby modified and corrected by changing, adding to, or deleting from, the descriptions and acreages of the lands described in paragraph 1 thereof, as follows:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 12 N., R. 6 E., to T. 12 N., Rs. 6, 7 E., adding R. 7 E.

Delete T. 12 N., Rs. 7, 10, and 11 E. (fractional), in their entireties.

Change T. 5 N., Rs. 61 through 65 W., to T. 5 N., Rs. 60 through 65 W., adding R. 60 W.

Change T. 21 N., Rs. 33 through 37 W., to T. 21 N., Rs. 33 through 36 W., deleting R. 37 W.

Change T. 22 N., Rs. 33 through 37 W., to T. 22 N., Rs. 33 through 36 W., deleting R. 37 W.

Change T. 23 N., Rs. 33 through 37 W., to T. 23 N., Rs. 33 through 36 W., deleting R. 37 W.

Change T. 24 N., Rs. 33 through 37 W., to T. 24 N., Rs. 33 through 36 W., deleting R. 37 W.

Change T. 28 N., R. 38 W., to T. 28 N., Rs. 27 through 33, 34 (S½), 38 W., adding Rs. 27 through 33, 34 (S½) W.

Change T. 31 N., Rs. 30 through 32 W., to T. 31 N., Rs. 29 through 31 W., adding R. 29 W., and deleting R. 32 W.

Add T. 32 N., Rs. 29 through 31 W.

Delete T. 35 N., Rs. 30 through 32 W., in their entireties.

Add T. 33 N., R. 1 W.

Change T. 1 S., Rs. 37, 38, 45 through 50, 64 through 68 W., to T. 1 S., Rs. 37, 38, 45 through 50, 64 through 67 W., deleting R. 68 W.

Change T. 2 S., Rs. 37, 38, 45 through 50, 64 through 68 W., to T. 2 S., Rs. 37, 38, 45 through 50, 64 through 67 W., deleting R. 68 W.

Change T. 3 S., Rs. 37, 38, 49, 50, 64 through 68 W., to T. 3 S., Rs. 37, 38, 49, 50, 64 through 67 W., deleting R. 68 W.

Change T. 4 S., Rs. 37, 38, 39, 49 through 52, 64 through 68 W., to T. 4 S., Rs. 37, 38, 39, 49 through 52, 64 through 67 W., deleting R. 68 W.

Change T. 16 S., Rs. 67, 68 W. (fractional), to T. 16 S., Rs. 69, 70 W. (fractional), deleting Rs. 67, 68 W., and adding Rs. 69, 70 W.

Change T. 17 S., Rs. 68, 69 W. (fractional), to T. 17 S., Rs. 70 through 72 W. (fractional), adding Rs. 70 through 72 W., and deleting Rs. 68, 69 W.

Change T. 18 S., Rs. 68, 69 W. (fractional), to T. 18 S., Rs. 70 through 72 W. (fractional), adding Rs. 70 through 72 W., and deleting Rs. 68, 69 W.

Insert W. after Rs. 44, 45 (and before fractional) in T. 33 S.

Insert W. after Rs. 54, 55 (and before fractional) in T. 34 S.

Change T. 39 S., Rs. 49 through 51 W. (fractional), to T. 39 S., Rs. 47 through 50 W., adding T. 47, 48 W., and deleting R. 51 W.

Insert W. after Rs. 44, 45 (and before fractional) in T. 41 S.

Add T. 45 S., Rs. 53, 54 W. (fractional).

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 1 N., Rs. 1, 2, 19 through 34, 40 W., to T. 1 N., Rs. 1, 2, 19, 20, 26 through 34, 40 W., deleting Rs. 21 through 25 W.

Change T. 2 N., Rs. 1, 2, 19 through 40 W., to T. 2 N., Rs. 1, 2, 19, 20, 26 through 40 W., deleting Rs. 21 through 25 W.

Change T. 3 N., Rs. 1, 2, 19 through 35, 39, 40 W., to T. 3 N., Rs. 1, 2, 19, 20, 23 through 35, 39, 40 W., deleting Rs. 21 and 22 W.

Change T. 5 N., Rs. 1, 2, 19 through 34, 38, 39 W., to T. 5 N., Rs. 1, 2, 19 through 35, 39 W., adding R. 35 W., and deleting R. 38 W.

Change T. 1 S., Rs. 1, 2, 19 through 34 W., to T. 1 S., Rs. 1, 2, 19 through 21, 25 through 34 W., deleting Rs. 22, 23, 24 W.

COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Delete T. 14 N., Rs. 9 and 10 E. (fractional) in their entireties.

Add T. 14 N., Rs. 9, 10 W. (fractional).

Change T. 5 S., Rs. 1, 12, 13, 14 through 19 E. (fractional) to T. 5 S., Rs. 11, 12, 13, 14 through 19 E. (fractional), adding R. 11 E., and deleting R. 1 E.

Delete T. 6 S., Rs. 10 and 11 W.

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

Add T. 1 N., R. 17 E., that portion north of the boundary of the Yukon Command Training Site—Tract A.

Change T. 8 N., Rs. 1 through 14, 16 and 17 E., to T. 8 N., Rs. 1 through 12, 14, 16, and 17 E., deleting R. 13 E.

Change T. 19 N., Rs. 10 through 12 E., to T. 19 N., Rs. 10 through 12 W.

Change T. 20 N., Rs. 7 through 12 E., to T. 20 N., Rs. 7 through 12 W.

Change T. 21 N., Rs. 7 through 12 E., to T. 21 N., Rs. 7 through 12 W.

Change T. 22 N., Rs. 7 through 12 E., to T. 22 N., Rs. 7 through 12 W.

Change T. 29 N., Rs. 12 through 15 E., to T. 29 N., Rs. 12 through 16 E., adding R. 16 E.

Change T. 34 N., Rs. 1 through 5 E., to T. 34 N., Rs. 1 through 5, 12 through 16 E., adding Rs. 12 through 16 E.

Change T. 35 N., Rs. 1 through 5 E., to T. 35 N., Rs. 1 through 5, 12 through 16 E., adding Rs. 12 through 16 E.

Change T. 36 N., Rs. 1 through 5 E., to T. 36 N., Rs. 1 through 5, 12 through 16 E., adding Rs. 12 through 16 E.

Change T. 37 N., Rs. 1 through 5 E., to T. 37 N., Rs. 1 through 5, 12 through 16 E. (fractional), adding Rs. 12 through 16 E., and to show all of the townships are fractional.

Insert W. after Rs. 22 and 27 (and before fractional) in T. 14 S.

Change T. 21 S., Rs. 1 through 9, and 12 W., to T. 21 S., Rs. 1 through 9 W., deleting R. 12 W.

Change T. 22 S., Rs. 1 through 10 W., to T. 22 S., Rs. 1 through 10, 13 (E½) W., adding R. 13 (E½).

Change T. 5 S., Rs. 9 through 32 E., to T. 5 S., Rs. 9 through 22, 24 through 33 E., deleting R. 23 E., and adding R. 33 E.

Change T. 5 S., R. 33 E. (fractional), to T. 5 S., R. 34 E. (fractional), adding R. 34 E., and deleting R. 33 E.

Add T. 9 S., Rs. 14 through 16 E.

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

Change T. 13 S., Rs. 22 through 33 E., to T. 13 S., Rs. 22 through 25, 31 through 33 E., deleting Rs. 26 through 30 E.

The acreage of the areas described is changed from 47,100,000 acres to approximately 47,123,000 acres.

This order does not serve to change the provisions and limitations of Public Land Order No. 5180, as herein amended.

2. Subject to valid existing rights and the provisions of prior withdrawals and classifications, all of the above-described lands that are shown to be added to or included as changed by this order in the lands described in Public Land Order No. 5180, are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, (except locations for metalliferous minerals), 30 U.S.C., Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970), and are hereby reserved for study and review to determine the proper classifications of the lands under section 17(d)(1) of the Act, and to protect the public interest in the lands. The lands deleted by this order have been and continue to be withdrawn for classification and protection of the public interest in the lands under section 17(d)(1) of said Act, subject to valid existing rights and the provisions of prior withdrawals and classifications.

3. It is hereby determined that the promulgation of this Public Land Order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 17, 1972.

[FR Doc.72-4453 Filed 3-23-72; 8:46 am]

[Public Land Order 5194]

ALASKA

Modification and Correction of Public Land Order No. 5181

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), and by virtue of the authority vested in the Secretary of the Interior in section 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 708 (hereinafter called the "Act"), it is ordered as follows:

1. Public Land Order No. 5181 of March 9, 1972, 37 F.R. 5584, withdrawing lands for classification and study as possible additions to the National Wildlife Refuge System, is hereby modified and corrected by changing, adding to, or deleting from the descriptions and acreages of the lands described in paragraph 1 thereof as follows:

SEWARD MERIDIAN

Change T. 16 S., R. 72 W. (E½), to T. 16 S., Rs. 71, 72 W. (fractional), adding R. 71 W., and changing R. 72 W. (E½) to (fractional).
Change T. 16 S., R. 73 W. (E½), to T. 16 S., R. 73 W., that portion east of Cape Newenham National Wildlife Refuge.
Add T. 16 S., Rs. 62, 63 W.

The acreage of the areas described is changed from 1,840,000 acres to show an aggregate of approximately 1,851,500 acres.

This order does not serve to change the provisions and limitations of Public Land Order No. 5181, as herein amended.

2. Subject to valid existing rights and the provisions of prior withdrawals and classifications, all of the above-described lands that are shown to be added to or included as changed by this order in the lands described in Public Land Order No. 5181, are hereby withdrawn from all forms of appropriation under the public land laws including sections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C., Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970), and are hereby reserved for classification under the authority of section 17(d)(1) of the Act, and for study as a possible addition under section 22(e) of said Act, to the National Wildlife Refuge System.

3. It is hereby determined that the promulgation of this Public Land Order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 17, 1972.

[FR Doc.72-4454 Filed 3-23-72;8:46 am]

[Public Land Order 5195]

[Wyoming 12688]

WYOMING

Opening of Reclamation Withdrawn Lands to Mineral Location, Entry and Patent

By virtue of the authority contained in the Act of April 23, 1932, 47 Stat. 136, 43 U.S.C. section 154 (1970), it is ordered as follows:

1. Subject to valid existing rights and the provisions of existing withdrawals, the following reclamation withdrawn lands shall be 10 a.m. on April 25, 1972, be open to location, entry and patent under the United States mining laws:

SIXTH PRINCIPAL MERIDIAN

T. 49 N., R. 91 W.,
Sec. 23, lot 1, W½SW¼, SE¼SW¼;
Sec. 25, SW¼, SW¼NW¼, S½SE¼.

The areas described aggregate 436.30 acres in Big Horn County.

2. The appropriation of the lands under the mining laws shall be subject to the following stipulations, to be executed and acknowledged in favor of the United States by the locators for themselves, their heirs, successors, and assigns and recorded in the county records and in the U.S. Bureau of Land Management State Office at Cheyenne, Wyo., before any rights attach by virtue of this order:

To assist in preventing erosion of irrigable areas and to prevent silting of the proposed irrigation system of the Bonanza Area of the Paintrock Unit, the locator and his successors and assigns agree to take such land treatment actions as are necessary to recondition and restore the worked area to provide adequate drainage ways and where necessary by planting of adapted varieties of grass, shrubbery, and trees and by treating the soils to encourage the growth of desirable erosion preventing vegetation and to prevent the development of noxious and undesirable weeds. The locator, his successors, and assigns also agree to conduct their operations in a manner that will avoid interference with the construction, operation, and maintenance of the Paintrock Unit. There is reserved to the United States, its agents and employees, at all time, free ingress to, passage over and egress from all of the above-described lands for the purpose of inspection; there is further reserved to the United States, its successors, and assigns the prior right to use any of the lands hereinabove described, to construct, operate, and maintain dams, dikes, reservoirs, canals, wasteways, ditches, telephone and telegraph lines, electric transmission lines, roadways and appurtenant works, including rights to take and remove from the lands hereinabove described such construction materials as may be required in the construction of irrigation works, without payment made by the United States, or its successor for such rights. The locator further agrees that the United States, its officers, agents, and employees, and its successors and assigns, shall not be held liable for any damage to the improvements or workings of the locator resulting from the construction, operation, and maintenance of any works of the United States and/or the removal of construction materials from the lands hereinabove described.

The lands restored to appropriation under the mining laws by this order were withdrawn for reclamation purposes by Bureau of Reclamation Order of April 19, 1951, and concurred in by the Bureau of Land Management on July 9, 1951.

HARRISON LOESCH,
Assistant Secretary of the Interior.

MARCH 20, 1972.

[FR Doc.72-4454 Filed 3-23-72;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Investment Credit ,

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 six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by April 24, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by April 24, 1972. 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, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 38(b) (76 Stat. 963; 26 U.S.C. 38(b)), 47(a) (76 Stat. 966; 26 U.S.C. (47(a)), (48(d)) (85 Stat. 507; 26 U.S.C. (48(d)), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 101–108 of the Revenue Act of 1971 (85 Stat. 498), such regulations are amended as follows:

PARAGRAPH 1. Section 1.46 is amended by revising section 46(b)(1), by adding paragraph (3) to section 46(b), by revising section 46(b) (5) and (6), by revising section 46(c)(2), by adding subparagraph (C) to section 46(c)(3), by deleting paragraph (4) of section 46(c), by adding paragraph (3) to section 46 (d), and by revising the historical note. The revised and added provisions read as follows:

§ 1.46 Statutory provisions; amount of credit.

SEC. 46 *Amount of credit.* * * *

(b) *Carryback and carryover of unused credits*—(1) *Allowance of credit.* If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year (hereinafter in this subsection referred to as "unused credit year"), such excess shall be—

(A) An investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) An investment credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 38 for such years, except that such excess may be a carryback only to a taxable year ending after December 31, 1961. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried. In the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), this paragraph shall be applied by substituting "10 taxable years" for "7 taxable years" in subparagraph (B) and by substituting "13 taxable years" for "10 taxable years" and "12 taxable years" for "9 taxable years" in the preceding sentence.

* * * * *

(3) *Special rules for carryovers from pre-1971 unused credit years.* The extent to which an investment credit carryover from an unused credit year ending before January 1, 1971, may be added under paragraph (1) for a taxable year beginning after December 31, 1970, shall be determined without regard to paragraph (2)(A). In determining the excess under paragraph (1) for any taxable year beginning after December 31, 1970, the limitation provided by subsection (a)(2) for such taxable year shall be reduced by the investment credit carryovers from such unused credit years (to the extent such unused credit may not be added for a prior taxable year).

* * * * *

(5) *Certain taxable years ending in 1969, 1970, or 1971.* The amount which may be added under this subsection for any taxable year beginning after December 31, 1968, and ending after April 18, 1969, and before January 1, 1972, shall not exceed 20 percent of the higher of—

(A) The aggregate of the investment credit carrybacks and investment credit carryovers to the taxable year, or

(B) The highest amount computed under subparagraph (A) for any preceding taxable year which began after December 31, 1968, and ended after April 18, 1969.

In the case of a taxable year ending after August 15, 1971, and before January 1, 1972, the percentage contained in the preceding sentence shall be increased by 6 percentage points for each month (or portion thereof) in the taxable year after August 15, 1971.

(6) *Additional 3-year carryover period in certain cases.* Any portion of an investment credit carryback or carryover to any taxable year beginning after December 31, 1968, and ending after April 18, 1969, and before January 1, 1971, which—

(A) May be added under this subsection under the limitation provided by paragraph (2), and

(B) May not be added under the limitation provided by paragraph (5),

shall be an investment credit carryover to each of the 3 taxable years following the seventh taxable year after the unused credit year, and shall (subject to the provisions of paragraphs (1), (2), and (5)) be added to the amount allowable as a credit by section 38 for such years.

(c) *Qualified investments* * * *

(2) *Applicable percentage.* For purposes of paragraph (1), the applicable percentage for any property shall be determined under the following table:

If the useful life is—	*The applicable percentage is—*
3 years or more but less than 5 years	33⅓
5 years or more but less than 7 years	66⅔
7 years or more	100

For the purposes of this subpart, the useful life of any property shall be the useful life used in computing the allowance for depreciation under section 167 for the taxable year in which the property is placed in service.

(3) *Public utility property.* * * *

(C) In the case of any interest in a submarine cable circuit used to furnish telegraph service between the United States and a point outside the United States of a taxpayer engaged in furnishing international telegraph service (if the rates for such furnishing have been established or approved by a governmental unit, agency, instrumentality, commission, or similar body described in subparagraph (B)), the qualified investment shall not exceed the qualified investment attributable to so much of the interest of the taxpayer in the circuit as does not exceed 50 percent of all interests in the circuit.

(4) [Deleted]

(d) *Limitations with respect to certain persons.* * * *

(3) *Noncorporate lessors.* A credit shall be allowed by section 38 to a person which is not a corporation with respect to property of which such person is the lessor only if—

(A) The property subject to the lease has been manufactured or produced by the lessor, or

(B) The term of the lease (taking into account options to renew) is less than 50 percent of the useful life of the property, and for the period consisting of the first 12 months after the date on which the property is transferred to the lessee the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) exceeds 15 percent of the rental income produced by such property.

In the case of property of which a partnership is the lessor, the credit otherwise allowable under section 38 with respect to such property to any partner which is a corporation shall be allowed notwithstanding the

first sentence of this paragraph. For purposes of this paragraph, an electing small business corporation (as defined in section 1371) shall be treated as a person which is not a corporation.

[Sec. 46 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 201(d)(4), Rev. Act 1964 (78 Stat. 32); sec. 3, Act of November 8, 1966 (Public Law 89-800, 80 Stat. 1514); sec. 2(a), Act of December 27, 1967 (Public Law 90-225, 81 Stat. 731); secs. 301(b)(4), 401(e)(1), and 703(b), Tax Reform Act 1969 (83 Stat. 585, 603, and 666); secs. 102(a)(1), (b), 105(b)(3), 106 (a), (b), (c), 107(a), and 108(a), Rev. Act 1971 (85 Stat. 499, 503, 506, 507)]

PAR. 2. Section 1.46-1 is amended by adding the following new sentence at the end of paragraph (b)(1):

§ 1.46-1 Determination of amount.

* * * * *

(b) *Limitation based on amount of tax*—(1) *In general.* * * * For a taxable year beginning after December 31, 1970, such excess shall be determined by reducing the limitation described in this paragraph by the amount of any unused credit for a taxable year ending before January 1, 1971, which may, under section 46(b), be added to the amount allowable as a credit for such taxable year beginning after December 31, 1970.

* * * * *

PAR. 3. Section 1.46-2 is amended by revising subparagraphs (2) and (5) of paragraph (a), by adding paragraph (a)(6), by revising subparagraph (2) of paragraph (b), by adding paragraph (b)(3), and by revising examples (3) and (4) of and adding examples (5) and (6) to paragraph (g). The revised and added provisions read as follows:

§ 1.46-2 Carryback and carryover of unused credit.

(a) * * *

(2) *Taxable years to which unused credit may be carried.* Except as provided in subparagraphs (3), (4), (5), and (6) of this paragraph, an unused credit shall be an investment credit carryback to each of the 3 taxable years preceding the unused credit year and an investment credit carryover to each of the 7 taxable years (or 10 taxable years in cases to which subparagraph (5) or (6) of this paragraph applies) succeeding the unused credit year. An unused credit must be carried first to the earliest of the 10 (or 13) taxable years to which it may be carried, and then to each of the other 9 (or 12) taxable years (in order of time) to the extent that the unused credit may not be added (because of the limitations contained in paragraph (b) of this section) to the amount allowable as a credit under section 38 for a prior taxable year.

* * * * *

(5) *Additional 3-year carryover period in certain cases.* Any portion of an unused credit which is an investment credit carryback or carryover to any taxable year beginning after December 31, 1968, and before January 1, 1971, and ending after April 18, 1969, and which may be added to the amount allowable as a credit for such taxable year under the limitation provided in subparagraph (1) of paragraph (b) of this section but may not be added solely because of the limitation provided in subparagraph (2) of paragraph (b) shall be an investment credit carryover to each of the 10 taxable years succeeding the unused credit year. If a portion of an unused credit from any particular unused credit year is, under this subparagraph, an investment credit carryover to each of the 10 taxable years succeeding such unused credit year, and if a part of such unused credit may, under paragraph (b)(1) of this section, be added to the amount allowable as a credit under section 38 for any of the 7 taxable years succeeding such unused credit year, such part shall be considered to consist of ratable portions of (i) the portion of such unused credit which is an investment credit carryover to each of the 10 taxable years succeeding such unused credit year, and (ii) the remainder of such unused credit (i.e., the portion of such unused credit which is an investment credit carryover to each of the 7 taxable years succeeding such unused credit year).

(6) *Extension of carryover period.* Any portion of an unused credit from an unused credit year ending before January 1, 1971, which, without regard to this subparagraph, may be carried over to a taxable year beginning after December 31, 1970, under subparagraph (2) of this paragraph shall be an investment credit carryover to each of the 10 taxable years succeeding the unused credit year.

(b) * * *

(2) *Taxable years beginning after December 31, 1968, and ending after April 18, 1969, and before January 1, 1972.* The total amount of investment credit carryovers and carrybacks which may be added to the amount allowable as a credit under section 38 for any taxable year beginning after December 31, 1968, and ending after April 18, 1969, and before January 1, 1972, shall not exceed 20 percent of the higher of (i) the aggregate of the investment credit carryovers and carrybacks to the taxable year, or (ii) the aggregate of the investment credit carryovers and carrybacks to any preceding taxable year that began after December 31, 1968, and ended after April 18, 1969. In the case of a fractional part of a year which is considered as a taxable year under sections 441(b) and 7701(a)(23), the preceding sentence shall be applied by substituting for 20 percent the percentage determined by multiplying 1⅔ percent by the number of calendar months (or portions thereof) included in such taxable year. In the case of a taxable year ending after August 15, 1971, and before January 1, 1972, the preceding sentences shall be applied by increasing the percentage determined thereunder by 6 percentage points for each calendar month (or portion thereof) in the taxable year after August 15, 1971. For purposes of this subparagraph, the investment credit carrybacks to a taxable year shall be determined without regard to subparagraph (3) of this paragraph and the last sentence of paragraph (b)(1) of § 1.46-1.

(3) *Special rule for carryovers from pre-1971 unused credit years.* In the case of an unused credit arising in an unused credit year ending before January 1, 1971, which may be carried to a taxable year beginning after December 31, 1970, the amount which may be added to the amount allowable as a credit for such succeeding taxable year shall be determined without regard to the credit earned for such succeeding year. Thus, in determining the amount, if any, of an unused credit from a particular unused credit year ending before January 1, 1971, which shall be added to the amount allowable as a credit for a taxable year beginning after December 31, 1970, only unused credits originating in taxable years prior to the particular unused credit year shall be applied against the limitation based on amount of tax for such succeeding taxable year and the credit earned for such succeeding year shall not be so applied.

* * * * *

(g) *Examples.* * * *

Example (3). A, a calendar year taxpayer, has a total of $500 in investment credit carryovers to 1969, composed of a $150 unused credit from 1962 and a $350 unused credit from 1968. A's limitation based on amount of tax for 1969 is $135. Under paragraph (b)(2) of this section, A is limited to the use of only $100 (20 percent of $500) of his unused credits in 1969. Since, in the absence of the 20-percent limitation, A could have used $135 of the carryover from 1962, $35 of such carryover (*i.e.*, the portion that cannot be used in 1969 solely because of the 20-percent limitation) qualifies for the additional 3-year carryover period provided in paragraph (a)(5) of this section.

Example (4). The facts are the same as in example (3) except that in 1972 A places in service property eligible for the investment credit producing a credit earned of $300. A had no credit earned or tax liability in 1970 and 1971. A's tax liability in 1972 is $100. Under paragraph (b)(2) of this section, the limitation on the use of carryovers and carrybacks to 1969 is retroactively increased to $140, i.e., 20 percent of $700, the sum of $500 in carryovers and $200 in carrybacks to 1969. (The amount of the carryback from 1972 is determined without regard to the carryovers from 1962 and 1968 that may be carried to 1972.) Therefore, an additional $35 of the carryover from 1962 becomes usable in 1969. Since the remaining $15 of the carryover from 1962 is not usable because of the limitation provided in paragraph (b)(1) of this section, such $15 amount does not qualify for the additional 3-year carryover period provided in paragraph (a)(5) of this section.

Example (5). (a) B, a calendar year taxpayer that began business on January 1, 1970, has the following amounts of liability for tax and credit earned for its taxable years 1970, 1971, and 1972.

Taxable year	Credit earned	Liability for tax
1970	$1,000	$300
1971	400	600
1972	1,000	1,200

(b) For 1970, B has an unused credit of $700, the excess of $1,000 (the credit earned) over $300 (the limitation based on amount of tax), which, under paragraph (a)(6) of this section is an investment credit carryover to the 10 taxable years succeeding 1970.

(c) Under paragraph (b)(3) of this section, all $700 of the unused credit for 1970

is carried to 1971 and is added to the amount allowable as a credit for 1971 before any of the $400 credit earned for 1971 is so allowable. However, under paragraph (b)(2) of this section, only 50 percent (i.e., 20 percent plus 6 percent for each of the five full or partial months in the taxable year after August 15, 1971) of the $700 unused credit for 1970, or $350, may be added to the amount allowable as a credit for 1971. Accordingly, $250 of the credit earned for 1971 (the excess of $600 (the limitation based on amount of tax for 1971) over $350 (the portion of the unsued credit for 1970 which may be added to the amount allowable for 1971)) may be added to the amount allowable for 1971. Thus, for 1971, B has an unused credit of $150, the excess of $400 (the credit earned for 1971) over $250 (the excess of the limitation based on amount of tax for 1971 over the portion of the unused credit for 1970 which may be added to the amount allowable for 1971). In addition, the remaining $350 of the unused credit for 1970 may be carried to 1972. Since the entire unsued credit for 1970 is an investment credit carryover to the 10 taxable years succeeding 1970 by reason of paragraph (a)(6) of this section, it is irrelevant that some or all of the unused credit would also qualify as a carryover to the 10 taxable years succeeding 1970 by reason of paragraph (a)(5) of this section.

(d) (1) B has no unused credit for 1972 without regard to paragraph (b)(3) of this section and the last sentence of paragraph (b)(1) of § 1.46–1, since the limitation based on amount of tax for 1972 exceeds the credit earned for 1972. Thus, for purposes of paragraph (b)(2) of this section, the aggregate of the investment credit carryovers and carrybacks to 1971 continues to be $700. The limitation under paragraph (b)(2) of this section on the portion of the unused credit for 1970 which may be added to the amount allowable for 1971 continues to be $350.

(2) Under paragraph (b)(3) of this section, the remaining $350 of the unused credit for 1970 is added to the amount allowable as a credit for 1972 before any of the $1,000 credit earned for 1972 is so allowable. However, the remaining $150 carryover from 1971 may not be added to the amount allowable as a credit for 1972 until after the credit earned in 1972 is so added. Accordingly, $850 of the credit earned for 1972 (the excess of $1,200 (the limitation based on amount of tax) over $350 (the unused credit for 1970 which is added to the amount allowable for 1972)) may be added to the amount allowable for 1972. B thus has an unused credit of $150 for 1972, the excess of $1,000 (the credit earned for 1972) over $850 (the excess of the limitation based on amount of tax for 1972 over the portion of the unused credit for 1970 which is added to the amount allowable for 1972), and in addition, the $150 unused credit for 1971 remains as a carryover to years subsequent to 1972.

Example (6). (a) The facts are the same as in example (5) except that B's liability for tax for 1971 and 1972 is $1,200 and $600, respectively.

(b) For 1970, B has an unused credit of $700 which is an investment credit carryover to the 10 taxable years succeeding 1970. See paragraph (b) of example (5).

(c) Under paragraph (b)(3) of this section, all $700 of the unused credit for 1970 is carried to 1971 and is added to the amount allowable as a credit for 1971 before any of the $400 credit earned for 1971 is so allowable. However, under paragraph (b)(2) of this section only $350 of the unused credit for 1970 may be added to the amount allowable for 1971. Accordingly, the entire $400 credit earned for 1971 may be added to the amount allowable for 1971 since it is less than $850, the excess of $1,200 (the limitation based on amount of tax) over $350 (the portion of the unused credit for 1970 which may be added to the amount allowable for 1971). Thus, B has no unused credit for 1971.

(d) (1) The amount of B's unused credit for 1972 and carryback to 1971 without regard to paragraph (b)(3) of this section and the last sentence of paragraph (b)(1) of § 1.46–1 is $400, the excess of $1,000 (the credit earned for 1972) over $600 (the limitation based on amount of tax for 1972). Thus, for purposes of paragraph (b)(2) of this section, the aggregate of the investment credit carryovers and carrybacks to 1971 is $1,100, the sum of the $700 carryover from 1970 to 1971 and the $400 carryback from 1972 to 1971. Thus, under paragraph (b)(2) of this section, the portion of the unused credit for 1970 which may be added to the amount allowable for 1971 is increased from $350 to $550 (50 percent of $1,100). The entire $400 credit earned for 1971 may continue to be added to the amount allowable for 1971 since it is less than $650, the excess of $1,200 (the limitation based on amount of tax for 1971) over $550 (the recomputed portion of the unused credit for 1970 which may be added to the amount allowable for 1971), and B thus has no unused credit for 1971.

(2) Under paragraph (b)(3) of this section, the remaining $150 of the unused credit for 1970 is added to the amount allowable as a credit for 1972 before any of the $1,000 credit earned for 1972 is so allowable. Accordingly, $450 of the credit earned for 1972 (the excess of $600 (the limitation based on amount of tax for 1972) over $150 (the unused credit for 1970 which is added to the amount allowable for 1972)) may be added to the amount allowable for 1972.

(3) B thus has an unused credit of $550 for 1972, the excess of $1,000 (the credit earned for 1972) over $450 (the excess of the limitation based on amount of tax for 1972 over the portion of the unused credit for 1970 which is added to the amount allowable for 1972).

* * * * *

PAR. 4. Section 1.46–3 is amended by revising paragraph (b), by redesignating subparagraph (1) of paragraph (e) as subparagraph (1)(i) and adding a new subdivision (ii), by adding paragraph (e)(7), by revising paragraph (f)(2)(iii)(*b*), by adding subparagraph (5) to paragraph (g), and by revising so much of paragraph (h)(1)(i) as precedes (*a*) thereof. The revised and added provisions read as follows:

§ 1.46–3 Qualified investment.

* * * * *

(b) *Applicable percentage.* The applicable percentage to be applied to the basis (or cost) of property is 33⅓ percent if the estimated useful life of the property is 3 years or more but less than 5 years; 66⅔ percent if the estimated useful life is 5 years or more but less than 7 years; or 100 percent if the estimated useful life is 7 years or more. In the case of property which is not described in section 50, the preceding sentence shall be applied by substituting "4 years" for "3 years," "6 years" for "5 years," and "8 years" for "7 years." The provisions of this paragraph may be illustrated by the following example:

Example. Corporation Y acquires and places in service during 1972 the following new and used section 38 properties:

Property	Estimated useful life	Basis (or cost)
A (new)	4 years	$60,000
B (new)	10 years	90,000
C (new)	6 years	150,000
D (used)	3 years	30,000

Corporation Y's qualified investment for 1972 is $220,000 determined in the following manner:

Property	Basis (or cost)	Applicable percentage	Qualified investment
A	$60,000	33⅓	$20,000
B	90,000	100	90,000
C	150,000	66⅔	100,000
D	30,000	33⅓	10,000
Total			220,000

* * * * *

(e) * * *

(1) * * *

(ii) Except as provided in subparagraph (7), this paragraph shall not apply to property described in section 50.

* * * * *

(7) *Section 50 property.* (i) the provisions of this subparagraph and subparagraphs (4) and (6) of this paragraph shall apply to property which is described in section 50.

(ii) The estimated useful life of property for purposes of computing qualified investment shall be the useful life used or to be used by the taxpayer in computing the allowance for depreciation with respect to such property under section 167 for the taxable year in which the property is placed in service. Thus, if property is placed in service by a taxpayer in a taxable year but the period for depreciation with respect to such property does not begin until a succeeding taxable year (see paragraph (d)(1) of this section), the estimated useful life for purposes of computing qualified investment must be the estimated useful life that the taxpayer uses in computing the allowance for depreciation. See subdivision (iv) of this subparagraph for rules for determining the estimated useful life of property with respect to which the allowance for depreciation under section 167 is computed under the unit of production method, the income-forecast method, or any other method which does not measure the useful life to the property in terms of years.

(iii) (*a*) The estimated useful life of any section 38 property to which an election under section 167(m) applies shall be the asset depreciation period selected for such property under § 1.167(a)–11(b)(4), whether or not such property constitutes mass assets (as defined in § 1.47–1(e)(4)).

(*b*) The estimated useful life of any section 38 property to which an election under section 167(m) does not apply and which is placed in a multiple asset account for which a group, classified, or composite rate is used in computing depreciation (or in single asset accounts for which an average life rate is used) shall be determined individually for each asset on the best estimate obtainable on

the basis of all the facts and circumstances. The individual estimated useful life for each asset placed in a multiple asset account (including a mass asset account) must be the same as the useful life of such asset used in determining the group, classified, or composite life for the account for purposes of computing depreciation. The individual estimated useful lives of assets similar in kind may be determined in accordance with subdivisions (ii) and (iv) of subparagraph (3) of this paragraph. In the case of mass assets, subdivision (iii) of subparagraph (3) of this paragraph shall apply.

(iv) [Reserved]

(f) * * *

(2) * * *

(iii) * * *

(b) Under the partnership agreement, such partner will retire from the partnership during the taxable year or within 7 years after the end of such year; and

* * * * *

(g) * * *

(5) In the case of any interest in a submarine cable circuit which is property described in section 50 used to furnish telegraph service between the United States and a point outside the United States of a taxpayer engaged in furnishing international telegraph service (if the rates for such furnishing have been established or approved by a governmental unit, agency, instrumentality, commission, or similar body described in subparagraph (2) of this paragraph), the qualified investment shall not exceed the qualified investment attributable to so much of the interest of the taxpayer in the circuit as does not exceed 50 percent of all interests in the circuit.

(h) *Certain replacement property.* (1) (i) If section 38 property is placed in service by the taxpayer to replace property (whether or not section 38 property) similar or related in service or use, which was destroyed or damaged before August 16, 1971, by fire, storm, shipwreck, or other casualty, or was stolen before such date, then for purposes of paragraph (a) of this section the basis (or cost) of the replacement section 38 property otherwise determined under paragraph (c) of this section shall be reduced by an amount equal to the lesser of—

* * * * *

PAR. 5. Section 1.46–4 is amended by adding paragraph (d) to read as follows:

§ 1.46–4 **Limitations with respect to certain persons.**

* * * * *

(d) *Noncorporate lessors.* (1) In the case of a lease entered into after September 22, 1971, a credit is allowed under section 38 to a noncorporate lessor of property with respect to the leased property only if—

(i) Such property has been manufactured or produced by the lessor in the ordinary course of his business, or

(ii) The term of the lease (taking into account any options to renew) is less than 50 percent of the estimated useful life of the property (determined under § 1.46–3(e)), and for the period consisting of the first 12 months after the date on which the property is transferred to the lessee the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) exceeds 15 percent of the rental income produced by such property.

In the case of property of which a partnership is the lessor, the credit otherwise allowable under section 38 with respect to such property to any partner which is a corporation shall be allowed notwithstanding the first sentence of this subparagraph. For purposes of this subparagraph, an electing small business corporation (as defined in section 1371) shall be treated as a person which is not a corporation. This paragraph shall not apply to property used by the taxpayer in his trade or business (other than the leasing of property) for a period of at least 24 months preceding the day on which any lease of such property is entered into.

(2) For purposes of subparagraph (1) (ii) of this paragraph, if at the time the lessor files his income tax return for the taxable year in which the property is placed in service, the lessor is unable to show that the more-than-15-percent test has been satisfied, then no credit may be claimed by the lessor on such return with respect to such property unless (i) taking into account the lessor's obligations under the lease it is reasonable to believe that the more-than-15-percent test will be satisfied, and (ii) the lessor files a statement with his return from which it may be determined that he expects to satisfy the more-than-15-percent test. If the more-than-15-percent test is not satisfied with respect to the property, the taxpayer must file an amended return for the year in which the property is placed in service.

(3) (i) The more-than-15-percent test described in subparagraph (1) (ii) of this paragraph is based on the relationship of the expenses of the lessor relating to or attributable to the property to the gross income from rents of the taxpayer produced by the property. The test is applied with respect to such expenses and gross income as are properly attributable to the period consisting of the first 12 months after the date on which the property is transferred to the lessee. When more than one property is subject to a single lease and, pursuant to subparagraph (4) of this paragraph, the arrangement is considered to be a separate lease of each property, the test is applied separately to each such lease by making an apportionment of the payments received and expenses incurred with respect to each such property, considering all relevant factors. Such apportionment is made in accordance with any reasonable method selected and consistently applied by the taxpayer. For example, under subparagraph (4) of this paragraph, where a taxpayer leases an airplane which he owns to an airline along with a baggage truck, he is treated as having made two separate leases, one covering the airplane and one covering the baggage truck. Thus, the test will be applied by apportioning the related income and expenses between the two leases. Similarly, where a taxpayer leases a factory building erected by him containing section 38 property (machinery and equipment), the test will be applied to the taxpayer as though he had leased (to the lessee) the building and the section 38 property separately. Thus, the rental income and expenses are apportioned between the building and the section 38 property.

(ii) Only those deductions allowable solely by reason of section 162 are taken into account in applying the more-than-15-percent test. Hence, depreciation allowable by reason of section 167 (including amortization allowable in lieu of depreciation); interest allowable by reason of section 163; taxes allowable by reason of section 164; and depletion allowable by reason of section 611 are examples of deductions which are not taken into account in applying the test. Moreover, rents and reimbursed amounts paid or payable by the lessor are not taken into account notwithstanding that a deduction in respect of such rents or reimbursed amounts is allowable solely by reason of section 162. For purposes of this paragraph, a reimbursed amount is any expense for which the lessee or some other party is obligated to reimburse the lessor. Section 162 expenses paid or payable by any person other than the lessor are not taken into account unless the lessor is obligated to reimburse the person paying the expense. Further, if the lessee is obligated to pay to the lessor a charge for services which is separately stated or determinable, the expenses incurred by the lessor with respect to those services are not taken into account.

(iii) For purposes of the more-than-15-percent test, the gross income from rents of the lessor produced by the property is the total amount which is payable to the lessor by reason of the lease agreement other than reimbursements of section 162 expenses and charges for services which are separately stated or determinable. The fact that such amount depends, in whole or in part, on the sales or profits of the lessee or the performance of significant services by the lessor shall not affect the characterization of such amounts as gross income from rents for purposes of this paragraph. Gross income from rents also includes any taxes imposed on the lessor by local law but which are paid directly by the lessee on behalf of the lessor.

(4) For purposes of determining under this paragraph whether property is subject to a lease, the provisions of § 1.57–3(d) (1) (relating to definition of a lease) shall apply. If a noncorporate lessor enters into two or more successive leases with respect to the same or substantially similar items of section 38 property, the terms of such leases shall be aggregated and such leases shall be considered one lease for the purpose of determining whether the term of such leases is less than 50 percent of the estimated useful life of the property subject to such leases. Thus, for example, if an individual owns an airplane with an estimated useful life of 7 years and enters

into three successive 3-year leases of such airplane, such leases will be considered to be one lease for a term of nine years for the purpose of determining whether the term of the lease is less than 3½ years (50 percent of the 7-year estimated useful life).

PAR. 6. Section 1.47 is amended by deleting paragraphs (4) and (5) of section 47(a), by revising section 47(a)(6)(A), and by revising the historical note. The revised provisions read as follows:

§ 1.47 Statutory provisions; certain dispositions, etc., of section 38 property.

SEC. 47. *Certain dispositions, etc., of section 38 property*—(a) *General rule.* * * *

(4) [Deleted]

(5) [Deleted]

(6) *Aircraft used outside the United States after April 18, 1969*—(A) *General rule.* Any aircraft which was new section 38 property for the taxable year in which it was placed in service and which is used outside the United States under a qualifying lease or leases shall be treated as not ceasing to be section 38 property by reason of such use until such aircraft has been so used for a period or periods exceeding 3½ years in total. For purposes of the preceding sentence, the registration of such aircraft under the laws of a foreign country shall be treated as use outside the United States.

* * * * *

[Sec. 47 as added by sec. (2)(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 703 (c), Tax Reform Act 1969 (83 Stat. 666); sec. 1, Public Law 91-676 (84 Stat. 2060); secs. 102(c) and 107 (a) and (b), Rev. Act 1971 (85 Stat. 500, 507)]

PAR. 7. Section 1.47-1 is amended by revising paragraph (a)(2)(i), by adding subdivision (iii) to paragraph (a)(2), by revising so much of paragraph (e)(2)(ii) as precedes subdivision (*a*), by adding a new sentence at the end of paragraph (e)(2)(iii), by adding a new sentence at the end of paragraph (e)(2)(iv), by adding subdivision (vi) to paragraph (e)(2), and by revising paragraph (f). The revised and added provisions read as follows:

§ 1.47-1 Recomputation of credit allowed by section 38.

(a) * * *

(2) *Rules for applying subparagraph (1).* For purposes of subparagraph (1) of this paragraph—

(i) In determining whether section 38 property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the estimated useful life which was taken into account in computing the taxpayer's qualified investment, the term "estimated useful life" means the shortest life of the useful life category within which falls the estimated useful life which was assigned to such property under paragraph (e) of § 1.46-3. Thus, section 38 property which is assigned, under paragraph (e) of § 1.46-3, an estimated useful life of 6 years shall not be treated, for purposes of subparagraph (1) of this paragraph, as having been disposed of before the close of its estimated useful life if such property is sold 5 years (that is, the shortest life of the 5 years or more but less than 7 years useful life category) after the date on which it was placed in service. Likewise, section 38 property with an estimated useful life of 15 years which is placed in service on January 1, 1972, shall not be treated as having been disposed of before the close of its estimated useful life if such property is sold at any time after January 1, 1979 (that is, 7 years or more after the date on which it was placed in service).

* * * * *

(iii) In determining the recomputed qualified investment with respect to property which ceases to be section 38 property with respect to the taxpayer after August 15, 1971, or which becomes public utility property after such date, such property shall be treated as if it were property described in section 50 at the time is was placed in service (whether or not it was property described in section 50 at such time). Thus, if property was placed in service on October 15, 1968, and was assigned an estimated useful life of 4 years, there would be no increase in tax under section 47 if the property were disposed of at any time after October 14, 1971, that is, 3 years or more after the property was placed in service.

* * * * *

(e) * * *

(2) * * *

(ii) Subdivision (i) of this subparagraph shall not apply with respect to assets placed in service in a taxable year ending on or after June 30, 1967, and beginning before January 1, 1971, or with respect to assets placed in service for a taxable year beginning after December 31, 1970, for which the taxpayer has not made the election provided by section 167(m), unless the estimated useful lives which were assigned to such assets for purposes of determining qualified investment—

* * * * *

(iii) * * * In the case of a table which is to apply to property which is described in section 50 or to property which is treated as property described in section 50 under paragraph (a)(2)(iii), of this section shall be applied by substituting "3 years" for "4 years," "5 years" for "6 years," and "7 years" for "8 years."

(iv) * * * In the case of property which is described in section 50 or property which is treated as property described in section 50 under paragraph (a)(2)(iii) of this section (other than property the qualified investment with respect to which was determined by use of the standard or an appropriate mortality dispersion table), this subdivision shall be applied by substituting "3-year period" for "4-year period," "5-year period" for "6-year period," and "7-year period" for "8-year period."

* * * * *

(vi) Subdivision (i) of this subparagraph shall not apply with respect to section 38 property to which an election under section 167(m) applies unless the taxpayer assigns actual retirements of such section 38 property for all taxable years to the same vintage account for purposes of section 47 and for purposes of computing the allowance for depreciation under section 167. The assignment of actual retirements of section 38 property for a taxable year to particular vintage accounts may be made on the basis of an appropriate mortality dispersion table (based on an acceptable sampling of the taxpayer's actual experience or other statistical or engineering techniques) or on the basis of a standard mortality dispersion table prescribed by the Commissioner. If the taxpayer assigns actual retirements for any taxable year to particular vintage accounts on the basis of such standard mortality dispersion table, actual retirements for all subsequent taxable years must be assigned to particular vintage accounts on the basis of such table. Actual retirements of section 38 property for a taxable year shall be assigned to particular vintage accounts by—

(*a*) Determining the expected retirements for such taxable year from each vintage account containing such section 38 property, and

(*b*) Ratably allocating such actual retirements to each vintage account containing such section 38 property.

However, the unadjusted basis of retired assets assigned to any particular vintage account shall not exceed the unadjusted basis of the property contained in such account.

* * * * *

(f) *Public utility property*—(1) *Recomputed qualified investment.* In recomputing qualified investment with respect to section 38 property which becomes public utility property (as defined in paragraph (g) of § 1.46-3)—

(i) If such property becomes public utility property less than 3 years from the date on which it was placed in service, then such property shall be treated as public utility property for its entire useful life.

(ii) If such property becomes public utility property 3 years or more but less than 5 years from the date on which it was placed in service, then such property shall be treated as section 38 property which is not public utility property for the first 3 years of its estimated useful life and as public utility property for the remaining period of its estimated useful life.

(iii) If such property becomes public utility property 5 years or more but less than 7 years from the date on which it was placed in service, then such property shall be treated as section 38 property which is not public utility property for the first 5 years of its estimated useful life and as public utility property for the remaining period of its estimated useful life.

If property becomes public utility property before August 16, 1971, this subparagraph shall be applied by substituting "4 years" for "3 years," "6 years" for "5 years," and "8 years" for "7 years."

(2) *Examples.* Subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, which makes its returns on the basis of the calendar year, acquired and placed in service on January 1, 1969, an item of section 38 property with a basis of $12,000 and an estimated useful life of 8 years. The amount of qualified investment with respect to such property was $12,000. For the taxable year 1969, X Corporation's credit earned was $840 (7 percent of $12,000) and for such taxable year X Corporation was allowed under section 38 a credit of $840 against its liability for tax. During the taxable year 1972 such property becomes public utility property (as defined in paragraph (g) of § 1.46-3) with respect to X Corporation.

(ii) Such item of section 38 property is treated as section 38 property which is not public utility property for the first 3 years of its 8-year estimated useful life and is treated as public utility property for the remaining 5 years. The recomputed qualified investment with respect to such item of section 38 property is $7,428, computed as follows:

$12,000 basis × 33⅓ percent applicable percentage	$4,000
$12,000 basis × ⅔ × 66⅔ percent applicable percentage	3,428
Total recomputed qualified investment	7,428

X Corporation's recomputed credit earned for the taxable year 1969 is $520 (7 percent of $7,428). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1972 is increased by the $320 decrease in its credit earned for the taxable year 1969 (that is, $840 original credit earned minus $520 recomputed credit earned).

Example (2). (i) The facts are the same as in example (1) and in addition the item of section 38 property which became public utility property in 1972 is sold to Y Corporation on January 2, 1975.

(ii) The actual useful life of such item of property is 6 years. For the first 3 years of its 8-year estimated useful life such item is treated as section 38 property which is not public utility property and for the remaining 3 years is treated as public utility property. The recomputed qualified investment with respect to such item of property is $5,714, computed as follows:

$12,000 basis × 33⅓ percent applicable percentage	$4,000
$12,000 basis × ⅔ × 33⅓ percent applicable percentage	1,714
Total recomputed qualified investment	5,714

X Corporation's recomputed credit earned for the taxable year 1969 is $400 (7 percent of $5,714). The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1975 is increased by $120 (that is, $440 ($840 original credit earned minus $400 recomputed credit earned) minus $320 increase in tax for 1969).

§ 1.47-2 [Amended]

PAR. 8. Paragraph (c)(1) of § 1.47-2 is amended by deleting "4 years" and inserting in lieu thereof "3 years".

§ 1.47-3 [Amended]

PAR. 9. Section 1.47-3 is amended as follows:

1. Paragraph (c)(1) is amended to read as follows.

(c) *Property destroyed by casualty—*(1) *Dispositions after April 18, 1969.* Notwithstanding the provisions of § 1.47-2, relating to "disposition" and "cessation", paragraph (a) of § 1.47-1 shall not apply to property which, after April 18, 1969, and before August 16, 1971, is disposed of or otherwise ceases to be section 38 property with respect to the taxpayer on account of its destruction or damage by fire, storm, shipwreck, or other casualty, or by reason of its theft.

2. The example in paragraph (h)(1)(ii) of § 1.47-3 is amended by deleting "January 15, 1972" and inserting in lieu thereof "January 15, 1971".

PAR. 10. Section 1.48 is amended by revising paragraph (1) of section 48(a), by striking out "and" at the end of paragraph (2)(B)(vi) of section 48(a), by striking out the period at the end of paragraph (2)(B)(vii) of section 48(a) and inserting in lieu thereof a semicolon, by adding subdivisions (viii), (ix), and (x) at the end of paragraph (2)(B) of section 48(a), by revising paragraph (3), (5), and (6) of section 48(a), by adding paragraphs 7, 8, and 9 to section 48(a) by revising section 48(d), and by revising the historical note. The revised and added provisions read as follows:

§ 1.48 Statutory provisions; definitions; special rules.

SEC. 48. *Definitions; special rules*—(a) *Section 38 property*—(1) *In general.* Except as provided in this subsection, the term "section 38 property" means—

(A) Tangible personal property, or

(B) Other tangible property (not including a building and its structural components) but only if such property—

(i) Is used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or

(ii) Constitutes a research facility used in connection with any of the activities referred to in clause (i), or

(iii) Constitutes a facility used in connection with any of the activities referred to in clause (i) for the bulk storage of fungible commodities (including commodities in a liquid or gaseous state), or

(C) Elevators and escalators, but only if—

(i) The construction, reconstruction, or erection of the elevator or escalator is completed by the taxpayer after June 30, 1963, or

(ii) The elevator or escalator is acquired after June 30, 1963, and the original use of such elevator or escalator commences with the taxpayer and commences after such date.

Such term includes only property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and having a useful life (determined as of the time such property is placed in service) of 3 years or more.

(2) *Property used outside the United States.* * * *

(B) *Exceptions.* * * *

(viii) Any communications satellite (as defined in section 103(3) of the Communications Satellite Act of 1962, 47 U.S.C., sec. 702(3)), or any interest therein, of a U.S. person:

(ix) Any cable, or any interest therein, of a domestic corporation engaged in furnishing telephone service to which section 46(c)(3)(B)(iii) applies (or of a wholly owned domestic subsidiary of such a corporation), if such cable is part of a submarine cable system which constitutes part of a communication link exclusively between the United States and one or more foreign countries; and

(x) Any property (other than a vessel or an aircraft) of a U.S. person which is used in international or territorial waters for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or deposits under such waters.

(3) *Property used for lodging.* Property which is used predominantly to furnish lodging or in connection with the furnishing of lodging shall not be treated as section 38 property. The preceding sentence shall not apply to—

(A) Nonlodging commercial facilities which are available to persons not using the lodging facilities on the same basis as they are available to persons using the lodging facilities,

(B) Property used by a hotel or motel in connection with the trade or business of furnishing lodging where the predominant portion of the accommodations is used by transients, and

(C) Coin-operated vending machines and coin-operated washing machines and dryers.

* * * * * *

(5) *Property used by governmental units.* Property used by the United States, any State or political subdivision thereof, any international organization (other than the International Telecommunications Satellite Consortium or any successor organization), or any agency or instrumentality of any of the foregoing shall not be treated as section 38 property.

(6) *Livestock.* Livestock (other than horses) acquired by the taxpayer shall be treated as section 38 property, except that if substantially identical livestock is sold or otherwise disposed of by the taxpayer during the 1-year period beginning 6 months before the date of such acquisition and if section 47(a) (relating to certain dispositions, etc., of section 38 property) does not apply to such sale or other disposition, then, unless such sale or other disposition constitutes an involuntary conversion (within the meaning of section 1033), the cost of the livestock acquired shall, for purposes of this subpart, be reduced by an amount equal to the amount realized on such sale or other disposition. Horses shall not be treated as section 38 property.

(7) *Property completed abroad or predominantly of foreign origin*—(A) *In general.* Property (other than pretermination property) shall not be treated as section 38 property if—

(i) Such property was completed outside the United States, or

(ii) Less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term "United States" includes the Commonwealth of Puerto Rico and the possessions of the United States.

(B) *Period of application of paragraph.* Except as provided in subparagraph (D), subparagraph (A) shall apply only with respect to property described in section 50—

(i) The construction, reconstruction, or erection of which by the taxpayer is begun after August 15, 1971, and on or before the date of termination of Proclamation 4074, or

(ii) Which is acquired pursuant to an order placed on or before the date of termination of Proclamation 4074, unless acquired pursuant to an order which the taxpayer establishes was placed before August 16, 1971.

(C) *President may exempt articles.* If the President of the United States shall at any time determine that the application of subparagraph (A) to any article or class of articles is not in the public interest, he may by Executive order specify that subparagraph (A) shall not apply to such article or class of articles. Subparagraph (A) shall not apply to an article or class of articles for the period specified in such Executive order. Any period specified under the preceding sentence shall not apply to property ordered before (or to property the construction, reconstruction, or erection of which began before) the date of the Executive order specifying such period, except that, if the President determines it to be in the public interest, such period shall apply to property ordered (or property the construction, reconstruction, or erection of which began) after a date (before the date of the Executive order) specified in the Executive order.

(D) *Countries maintaining trade restrictions or engaging in discriminatory acts.* If, on or after the date of the termination of Proclamation 4074, the President determines that a foreign country—

(i) Maintains nontariff trade restrictions, including variable import fees, which substantially burden U.S. commerce in a manner inconsistent with provisions of trade agreements, or

(ii) Engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting U.S. commerce,

he may provide by Executive order for the application of subparagraph (A) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by Executive order.

(8) *Amortized property.* Any property with respect to which an election under section 167(k), 169, 184, 187, or 188 applies shall not be treated as section 38 property. In the case of any property to which section 169 applies, the preceding sentence shall apply only to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169.

(9) *Railroad track.* In the case of a railroad (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, the term "section 38 property" includes replacement track material, if—

(A) The replacement is made pursuant to a scheduled program for replacement,

(B) The replacement is made pursuant to observations by maintenance-of-way personnel of specific track material needing replacement,

(C) The replacement is made pursuant to the detection by a rail-test car of specific track material needing replacement, or

(D) The replacement is made as a result of a casualty. Replacements made as a result of a casualty shall be section 38 property only to the extent that, in the case of each casualty, the qualified investment with respect to the replacement track material exceeds $50,000. For purposes of this paragraph, the term "track material" includes ties, rail, other track material, and ballast.

* * * * *

(d) *Certain leased property*—(1) *General rule.* A person (other than a person referred to in section 46(d)(1)) who is a lessor of property may (at such time, in such manner, and subject to such conditions as are provided by regulations prescribed by the Secretary or his delegate) elect with respect to any new section 38 property (other than property described in paragraph (4)) to treat the lessee as having acquired such property for an amount equal to—

(A) Except as provided in subparagraph (B), the fair market value of such property, or

(B) If the property is leased by a corporation which is a component member of a controlled group (within the meaning of section 46(a)(5)) to another corporation which is a component member of the same controlled group, the basis of such property to the lessor.

(2) *Special rule for certain short term leases.* (A) *In general.* A person (other than a person referred to in section 46(d)(1)) who is a lessor of property described in paragraph (4) may (at such time, in such manner, and subject to such conditions as are provided by regulations prescribed by the Secretary or his delegate) elect with respect to such property to treat the lessee as having acquired a portion of such property for the amount determined under subparagraph (B).

(B) *Determination of lessee's investment.* The amount for which a lessee of property described in paragraph (4) shall be treated as having acquired a portion of such property is an amount equal to a fraction, the numerator of which is the term of the lease and the denominator of which is the class life of the property leased (determined under section 167(m)), of the amount for which the lessee would be treated as having acquired the property under paragraph (1).

(C) *Determination of lessor's qualified investment.* The qualified investment of a lessor of property described in paragraph (4) in any such property with respect to which he has made an election under this paragraph is an amount equal to his qualified investment in such property (as determined under section 46(c)) multiplied by a fraction equal to the excess of one over the fraction used under subparagraph (B) to determine the lessee's investment in such property.

(3) *Limitations.* The elections provided by paragraphs (1) and (2) may be made with respect to property which would be new section 38 property if acquired by the lessee. For purposes of the preceding sentence and section 46(c), the useful life of property in the hands of the lessee is the useful life of such property in the hands of the lessor. If a lessor makes the election provided by paragraph (1) with respect to any property, the lessee shall be treated for all purposes of this subpart as having acquired such property. If a lessor makes the election provided by paragraph (2) with respect to any property, the lessee shall be treated for all purposes of this subpart as having acquired a fractional portion of such property equal to the fraction determined under paragraph 2(B) with respect to such property.

(4) *Property to which paragraph (2) applies.* Paragraph (2) shall apply only to property which—

(A) Is new section 38 property,

(B) Has a class life (determined under section 167(m)) in excess of 14 years,

(C) Is leased for a period which is less than 80 percent of its class life, and

(D) Is not leased subject to a net lease (within the meaning of section 57(c)(2)).

* * * * *

[Sec. 48 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by secs. 203(a)(1) and (3)(A), (b), and (c), Rev. Act 1964 (78 Stat. 33, 34); sec. 1, Act of November 8, 1966 (Public Law 89-800, 80 Stat. 1508); sec. 201(a), Act of November 13, 1966 (Public Law 89-809, 80 Stat. 1575, 1576); secs. 1, 2(a), and (3), Act of June 13, 1967 (Public Law 90-26, 81 Stat. 57, 58); sec. 401(e)(2), (3), and (4), Tax Reform Act 1969 (83 Stat. 603); secs. 102(a), 103, 104(a)(1), (b), (c), (d), (e), (f), and (g), Rev. Act 1971 (83 Stat. 499-502)]

PAR. 11. Section 1.48-1 is amended as follows:

1. Paragraph (a) is amended by deleting "4 years" and inserting in lieu thereof "3 years", and by adding a new sentence at the end thereof as set forth below.

2. Paragraph (d)(5) is redesignated as paragraph (d)(5)(i) and new subdivision (ii) is added.

3. The next to the last sentence and the last sentence of paragraph (e)(1) are deleted and new material is inserted in lieu thereof as set forth below.

4. Paragraph (g)(2) is amended by deleting "and" at the end of subdivision (vi), by deleting the period at the end of subdivision (vii) and inserting a semicolon in lieu thereof, and by adding new subdivisions (viii), (ix), and (x).

5. New subdivision (iii) is added to paragraph (h)(2).

6. The first sentence of paragraph (k) is revised to read as set forth below.

7. Paragraph (l) is revised to read as set forth below.

8. New paragraphs (n) and (o) are added.

§ 1.48-1 Definition of section 38 property.

(a) * * * In the case of property which is not described in section 50, this paragraph shall be applied by substituting "4 years" for "3 years".

* * * * *

(d) * * *

(5) * * *

(ii) In the case of property described in section 50, property will constitute a storage facility only if the facility is used principally for the bulk storage of fungible commodities. Bulk storage means the storage of a commodity in a large mass prior to its consumption or utilization. Thus, if a facility is used to store oranges that have been sorted and boxed, it is not used for bulk storage.

(e) *Definition of building and structural components.* (1) * * * Such term does not include (i) a structure which is essentially an item of machinery or equipment, or (ii) a structure which houses property used as an integral part of an activity specified in section 48(a)(1)(B)(i) if the use of the structure is so closely related to the use of such property that the structure clearly can be expected to be replaced when the property it initially houses is replaced. Factors which indicate that a structure is closely related to the use of the property it houses include the fact that the structure is specifically designed to provide for the stress and other demands of such property and the fact that the structure could not be economically used for other purposes. Thus, the term "building" does not include such structures as oil and gas storage tanks, grain storage bins, silos, fractionating towers, blast furnaces, basic oxygen furnaces, coke ovens, brick kilns, and coal tipples.

* * * * *

(g) * * *

(2) * * *

(viii) Any communications satellite (as defined in section 103(3) of the Communications Satellite Act of 1962, 47 U.S.C., sec. 702(3)), or any interest therein, of a U.S. person;

(ix) Any cable which is property described in section 50, or any interest therein, of a domestic corporation engaged in furnishing telephone service to which section 46(c)(3)(B)(iii) applies (or of a wholly owned domestic subsidiary of such corporation), if such cable is part of a submarine cable system which constitutes part of a communications link exclusively between the United States and one or more foreign countries; and

(x) Any property described in section 50 (other than a vessel or an aircraft) of a U.S. person which is used in international or territorial waters for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or deposits under such waters.

(h) * * *

(2) * * *

(iii) *Coin-operated machines.* In the case of property which is described in section 50, coin-operated vending machines and coin-operated washing machines and dryers shall not be considered as property which is used predominantly to furnish lodging or predominantly in connection with the furnishing of lodging.

* * * * *

(k) *Property used by governmental units.* The term "section 38 property" does not include property used by the United States, any State (including the District of Columbia) or political subdivision thereof, any international organization (as defined in section 7701(a)(18)) other than the International Telecommunications Satellite Consortium or any successor organization, or any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any such international organization. * * *

(l) *Livestock*—(1) *In general.* The term "section 38 property" does not include horses but such term does include all other livestock that is property described in section 50. The term "livestock" includes cattle, hogs, sheep, goats, and mink and other fur-bearing animals.

(2) *Cost.* For purposes of computing qualified investment under section 46(c) with respect to livestock, the cost of livestock acquired by the taxpayer shall be reduced by any amount realized on the sale or other disposition of substantially identical livestock which is sold or otherwise disposed of by the taxpayer during the 1-year period beginning 6 months before the date of such acquisition, except that no reduction shall be made on account of a sale or other disposition to which section 47(a) (relating to recapture) applies or which constitutes an involuntary conversion (within the meaning of section 1033). If a particular sale or other disposition of substantially identical livestock falls within 2 or more 1-year periods relating to separate acquisitions, the amount realized from such sale or other disposition shall be applied in order of time beginning with the earliest acquisition of livestock which is section 38 property. If there is more than one sale or other disposition of substantially identical livestock during a particular 1-year period, the sales or dispositions are to be taken into account in order of time beginning with the earliest. If an amount realized from a sale or other disposition has been taken into account to reduce the cost of acquired livestock, such amount is not to be taken into account to reduce the cost of any other acquired livestock. If a taxpayer claims a credit for any livestock acquired in a taxable year and if the amount realized on any sale or other disposition of substantially identical livestock in a subsequent taxable year is applied to reduce the cost of the acquired livestock, the taxpayer must file an amended return for the year in which the credit was claimed.

(3) *Substantially identical.* In determining whether livestock sold or otherwise disposed of by the taxpayer is substantially identical to livestock acquired by the taxpayer, the sex and age of the livestock and the use to which it is put are taken into account. Thus, if the taxpayer sells a cow used for breeding purposes and acquires another cow of approximately the same age to be used for breeding purposes, the two cows are substantially identical. However, a cow suitable for dairy purposes which is acquired by the taxpayer to replace a cow no longer suitable for dairy purposes is not substantially identical to the replaced cow.

(4) *Original use.* For purposes of determining whether livestock is "new section 38 property," that is, whether the original use of livestock commences with the taxpayer under § 1.48-2(b)(7), the original use of a breeding or dairy animal for breeding or dairy purposes begins at the time the animal first becomes suitable for such purposes unless the animal has previously been used for other purposes. Thus, if a taxpayer acquires for dairy purposes an animal that previously has not been used for any purpose, the animal will be new section 38 property at the time it first gives milk. However, if the taxpayer acquires an animal for breeding purposes which previously had been used for dairy purposes, the animal will not be new section 38 property when it is first used for breeding purposes.

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

Example (1). (a) Individual A, a farmer and calendar year taxpayer, owns three dairy cows which he purchased in 1970 for $250 each. In 1971, A buys three dairy cows, one each on October 1, November 1, and December 1, for $290 each. On October 15, 1971, A sells for $300 one of the cows purchased in 1970, and on November 15, 1971, he sells for $300 another of the cows purchased in 1970. All of the cows bought and sold by A are substantially identical. The cows purchased by A have an estimated useful life of 5 years.

(b) Of the $300 realized from the October 15 sale, $290 is applied to reduce the cost of the cow purchased October 1 to zero. The remaining $10 realized from the October 15 sale and $280 of the $300 realized from the November 15 sale are applied to reduce the cost of the cow purchased November 1 to zero. The remaining $20 realized from the November 15 sale is applied to reduce the cost of the cow purchased December 1 to $270.

(c) Since the basis of the cows purchased October 1 and November 1 is zero for investment credit purposes, no credit is allowable with respect to those two cows. The cow purchased December 1 has a basis for investment credit purposes of $270. Since the useful life of the cow purchased December 1 is at least 5 years but less than 7 years, the qualified investment of A with respect to the cow is $180 ($\frac{2}{3} \times \$270$).

Example (2). Assume the same facts as in example (1) except that on May 1, 1972, A sells for $300 the third cow purchased in 1970. Since the third cow is sold within 6 months of the acquisition of the cow purchased December 1, 1971, the amount realized on such sale is applied to reduce the cost of the cow purchased December 1, 1971, to zero. Consequently, A must file an amended return for 1971 and claim no investment credit for the cow purchased December 1, 1971.

* * * * *

(n) *Amortized property.* Any property with respect to which an election under 167(k), 169, 184, 187, or 188 applies shall not be treated as section 38 property. In the case of any property to which section 169 applies, the preceding sentence shall apply only to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169. This paragraph shall not apply to property with respect to which an election under section 167(k), 184, 187, or 188 applies unless such property is described in section 50.

(o) *Property of foreign origin*—(1) *In general.* Property (other than pretermination property) shall not be treated as section 38 property if (i) such property was completed outside the United States, or (ii) less than 50 percent of the basis or cost of such property is attributable to value added within the United States. For purposes of this paragraph, the term "United States" includes the Commonwealth of Puerto Rico and the possessions of the United States.

(2) *Period of application.* (i) Subparagraph (1) of this paragraph shall apply only to property described in section 50—

(*a*) The construction, reconstruction, or erection of which by the taxpayer is begun after August 15, 1971, and before December 20, 1971, or

(*b*) Which is acquired pursuant to an order placed before December 20, 1971, unless acquired pursuant to an order which the taxpayer establishes was placed before August 16, 1971.

The principles of § 1.48-2 (b) and (c) shall be applied in determining when construction, reconstruction, or erection by the taxpayer begins. An order is any directive, written or oral, to another person reasonably designed to effect the acquisition of property at a later date. An order need not be a binding contract. Where an order placed during the surcharge period (August 16, 1971, through December 19, 1971) is canceled and a

reorder is placed which is substantially the reinstitution of the original order, the property acquired as a result of the reorder is considered to be acquired pursuant to the original order.

(ii) See section 48(a)(7)(C) and (D) for circumstances under which the President of the United States may provide by Executive order for the period specified in such order that (*a*) section 48(a)(7)(A) shall not apply to certain property, or (*b*) such section shall apply to certain property notwithstanding the termination of Proclamation 4074.

(3) *Property completed outside the United States.* Property is completed outside the United States if it enters the country in a form which is operational for the purposes for which it is intended or designed, regardless of the United States content of the property. Property is in an operational state even though it is necessary to perform minor activities such as packaging, labeling, testing, or adjusting. On the other hand, substantial assembly of an article in the United States, such as in the case of aircraft, the installation of the customer's engines, or the installation of navigation equipment and the completion of the seating and interior arrangements, is to be considered completion of the article in the United States, rather than outside the United States.

(4) *Value added within the United States.* In determining whether less than 50 percent of the basis of property is attributable to value added within the United States, shipping and insurance costs incurred in transporting any part of such property to the United States and any duty payable upon entry of the property into the United States are treated as value added without the United States. Profit realized on the sale of property completed in the United States, and any profit attributable to any other U.S. activity, is treated as value added within the United States. The cost of any component part of the property (whether added to the property within or without the United States) which originates and is completed in the United States and meets the United States value added test is treated as value added within the United States.

PAR. 12. Section 1.48–4 is amended by revising paragraphs (a), (c), (d), (e), (f) (1) (v) and (vi) and (2), and (g) (2) and (4) to read as follows:

§ 1.48–4 Election of lessor of new section 38 property to treat lessee as purchaser.

(a) *In general*—(1) *Lessee treated as purchaser.* Under section 48(d), a lessor of property may elect to treat the lessee of such property as having purchased such property (or, in the case of short-term lease property described in subparagraph (2) of this paragraph, a portion of such property) for purposes of the credit allowed by section 38 if the following conditions are satisfied:

(i) The property must be "section 38 property" in the hands of the lessor; that is, it must be property with respect to which depreciation (or amortization in lieu of depreciation) is allowable to the lessor, it must have a useful life of 3 years (4 years in the case of property which is not described in section 50) or more in his hands, and in every other respect it must meet the requirements of § 1.48–1. Thus, for example, property leased by a municipality to a taxpayer for use in what is commonly known as an "industrial park" is not eligible for the election since, under paragraph (k) of § 1.48–1, property used by a governmental unit is not section 38 property. In addition, property used by the lessee predominantly outside the United States is not eligible for the election since, under paragraph (g) of § 1.48–1, such property is not section 38 property. For purposes of this subdivision, if the lessor is an estate or trust, depreciation (or amortization in lieu of depreciation) will be considered allowable to the estate or trust even if it is apportioned to the beneficiaries or other persons.

(ii) The property must be "new section 38 property" (within the meaning of § 1.48–2) in the hands of the lessor, and the original use of such property must commence with the lessor. See paragraph (b) of this section for the application of the rules relating to "original use" in the case of leased property.

(iii) The property would constitute "new section 38 property" to the lessee if such lessee had actually purchased the property. Thus, the election is not available if the lessee is not the original user of the property. See paragraph (b) of this section for the application of the rules relating to "original use" in the case of leased property. See paragraph (d) of this section for the determination of the estimated useful life of leased property in the hands of the lessee.

(iv) A statement of election to treat the lessee as a purchaser has been filed in the manner and within the time provided in paragraph (f) or (g) of this section.

(v) The lessor is not a person referred to in section 46(d)(1), that is, a mutual savings bank, cooperative bank, or domestic building and loan association to which section 593 applies; a regulated investment company or real estate investment trust subject to taxation under subchapter M, chapter 1 of the Code; or a cooperative organization described in section 1381(a).

The election may be made on a property-by-property basis or a general election may be made with respect to each taxable year of a particular lessee. If the conditions of this subparagraph have been met, the lessee shall be treated as though he were the actual owner of all or a portion of the property for purposes of the credit allowed by section 38. Thus, the lessee shall be entitled to a credit allowed by section 38 with respect to such property for the taxable year in which he places such property in service, and the lessor shall not be entitled to a credit allowed by section 38 with respect to such property unless the property is short-term lease property (as defined in subparagraph (2) of this paragraph). Moreover, if the leased property is disposed of, or if it otherwise ceases to be section 38 property, the property will be subject to the provisions of section 47 (relating to early dispositions, etc.).

(2) *Short-term lease property.* For purposes of this section, the term "short-term lease property" means property which—

(i) Is new section 38 property;

(ii) Has a class life (determined under section 167(m)) in excess of 14 years;

(iii) Is leased under a lease entered into after November 8, 1971, for a period which is less than 80 percent of the class life of such property; and

(iv) Is not leased subject to a net lease within the meaning of section 57(c)(1)(B) and the regulations thereunder.

The class life of property shall be determined under section 167(m) and the regulations prescribed in connection with that section, except that such class life shall be determined without regard to any variance from the class life permitted under such section. If a class life has not been prescribed for property under section 167(m) on the date such property is leased, the class life of the property shall be the estimated useful life used to compute the allowance for depreciation with respect to such property under section 167. For purposes of subdivision (iii) of this subparagraph, the period for which a lease is entered into shall be determined without regard to any option on the part of the lessee to extend or renew such lease, and without regard to any option on the part of the lessee to cancel the lease after a specified period if under the terms of such lease, such a cancellation would result in the imposition of a substantial penalty upon the lessee. Generally, a penalty equal to 25 percent of the total remaining rental payments due under the lease will be regarded as substantial.

* * * * *

(c) *Qualified investment*—(1) *In general.* If a valid election is made under this section, the amount of qualified investment under section 46(c) with respect to the leased property shall be determined under this paragraph and paragraphs (d) and (e) of this section.

(2) *Nonshort-term lease property.* In the case of property which is not short-term lease property, the lessee is treated as having acquired the entire property for an amount equal to—

(i) The fair market value of such property on the date possession is transferred to the lessee, or

(ii) If the property is leased by a component member of a controlled group to another component member of the same controlled group (within the meaning of paragraph (f)(4) of § 1.46–1) on the date possession of the property is transferred to the lessee, the basis of the property in the hands of the lessor.

(3) *Short-term lease property.* (i) In the case of short-term lease property, the lessee is treated as having acquired a portion of such property. The amount for which the lessee is treated as having acquired such portion is an amount equal to a fraction, the numerator of which is

the term of the lease and the denominator of which is the class life of the property leased, of the amount for which the lessee would be treated as having acquired the property under subparagraph (2) of this paragraph if the property were not short-term lease property.

(ii) In the case of short-term lease property, the qualified investment of the lessor is an amount equal to his qualified investment in such property determined under section 46(c) multiplied by a fraction, the numerator of which is the class life of the property leased minus the term of the lease and the denominator of which is the class life of such property.

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

Example. (a) On December 1, 1971, X corporation completed construction of an item of new section 38 property with a basis of $10,000. Under section 167(m), the property has a class life of 16 years. On December 1, 1971, X leases the property to individual A for 4 years and A immediately places the property in service. The lease is not a net lease within the meaning of section 57(c)(1)(B). On the date of the lease, the fair market value of the property is $12,000. The property would qualify as new section 38 property in A's hands if it had been purchased by A. Under this section, the property is short-term lease property. X makes the election under this section to treat A as having acquired a portion of the property.

(b) A is treated as having acquired from X a portion of the property for $3,000 (the fair market value of the property, $12,000, multiplied by a fraction, 4/16, the numerator of which is the term of the lease and the denominator of which is the class life of the leased property). Since under paragraph (d) of this section the useful life of such property in the hands of A is the same as the useful life of such property in the hands of X, and such useful life is at least 7 years, A's qualified investment with respect to the property is $3.000.

(c) The qualified investment of X is $7,500 (the qualified investment of X under section 46(c), $10,000, multiplied by a fraction, 12/16, the numerator of which is the class life of the leased property, 16, minus the term of the lease, 4, and the denominator of which is the class life of the property).

(d) *Estimated useful life of leased property.* The estimated useful life to the lessee of property subject to the election shall be deemed to be the estimated useful life in the hands of the lessor for purposes of computing depreciation, regardless of the term of the lease. The lessor shall determine the estimated useful life of each leased property on an individual basis even though multiple asset accounts are used. However, in the case of assets similar in kind contained in a multiple asset account, the lessor shall assign to each of such assets the average useful life of such assets used in computing depreciation. Thus, for example, if during a taxable year a lessor leases 10 similar trucks with an average estimated useful life for depreciation purposes of 6 years, based on an estimated range of 5 to 7 years, he must assign a useful life of 6 years to each of the 10 trucks.

(e) *Lessor itself a lessee*—(1) *In general.* If the lessee of property is treated, under this section, as having purchased all or a portion of such property and if such lessee leases such property to a sublessee, the qualified investment with respect to such property in the hands of the sublessee shall be determined under paragraphs (c) and (d) of this section as if the original lessor had leased the property directly to the sublessee for the term of the sublessee's lease on the date possession of the property is transferred to the sublessee. For this purpose, property which is short-term lease property in the hands of the lessee shall be treated as short-term lease property in the hands of the sublessee regardless of whether such property is leased to the sublessee subject to a net lease (within the meaning of section 57(c)(1)(B)). In the case of property which is short-term lease property in the hands of the sublessee, the amount for which the lessee is treated as having acquired such property under paragraph (c) of this section shall be reduced by an amount equal to such amount multiplied by a fraction, the numerator of which is the term of the lease of the sublessee and the denominator of which is the term of the lease of the lessee.

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

Example. (a) On December 1, 1971, corporation X completes construction of a machine at a cost of $10,000. The machine has a class life under section 167(m) of 20 years. On December 1, 1971, X leases the machine to corporation Y for 12 years, and Y immediately subleases the machine to individual A for 8 years. X and Y are component members of the same controlled group. The lease between X and Y is not a net lease within the meaning of section 57(c)(1)(B). The fair market value of the property on December 1, 1971, is $16,000. Both X and Y make valid elections under this section.

(b) The property is short-term lease property and this paragraph applies.

(c) The qualified investment of A is $6,400. Such amount is determined by multiplying $16,000, the amount for which A would be treated under paragraph (c)(2) of this section as having acquired the property if it were not short-term lease property, by 8/20.

(d) The qualified investment of Y is $2,000. Such amount is determined by multiplying $10,000, the amount for which Y would be treated under paragraph (c)(2) of this section as having acquired the property if it were not short-term lease property, by 12/20, and by reducing the amount so determined ($6,000) by 8/12 of such amount ($4,000) to $2,000.

(e) The qualified investment of X is $4,000. Such amount is determined by multiplying the amount of X's qualified investment determined under section 46(c) without regard to this section ($10,000) by 8/20.

(f) * * *

(1) * * *

(v) The estimated useful life category of the property (or properties) in the hands of the lessor, that is, 3 years or more but less than 5 years, 5 years or more but less than 7 years, or 7 years or more;

(vi) The amount for which the lessee (or sublessee) is treated as having acquired the leased property under paragraph (c)(2) or (3) of this section; and

* * * * *

(2) *Time for making election.* This statement referred to in subparagraph (1) of this paragraph shall be filed with the lessee on or before the due date (including any extensions of time) of the lessee's return for the lessee's taxable year during which possession of the property is transferred to the lessee, except that if such taxable year ends after March 31, 1971, and before December 11, 1971, the statement shall be filed with the lessee on or before the due date (including any extensions of time) of the lessee's return for such taxable year, or on or before March 15, 1972, whichever is later.

* * * * *

(g) * * *

(2) *Manner and time for making general election.* The general election of a lessor with respect to a taxable year of a lessee shall be made by filing a statement with the lessee, signed by the lessor and including the written consent of the lessee, on or before the due date (including any extensions of time) of the lessee's return for such taxable year, except that if such taxable year ends after March 31, 1971, and before December 11, 1971, the statement shall be filed with the lessee on or before the due date (including any extensions of time) of the lessee's return for such taxable year, or on or before March 15, 1972, whichever is later. Such statement of general election shall contain:

* * * * *

(4) *Information requirement.* If a lessor, with respect to a taxable year of the lessee, makes a general election under this paragraph, such lessor shall provide such lessee, on or before the date required for filing the statement under subparagraph (2) of this paragraph, with a statement (or statements) containing the information required by paragraph (f)(1)(iii), (iv), (v), and (vi) of this section with respect to all properties possession of which is transferred under lease by the lessor to the lessee during such taxable year.

* * * * *

PAR. 21. The fifth sentence of § 1.48–4 (j) is deleted and the following is inserted in lieu thereof:

§ 1.48–4 Election of lessor of new section 38 property to treat lessee as purchaser.

* * * * *

(j) * * * In the case of a taxable year ending after March 31, 1971, and before December 11, 1971, a summary statement may be filed on or before the due date (including any extensions of time) of the return or on or before March 15, 1972, whichever is later, with the Internal Revenue Service Center with which the return has been filed. * * *

* * * * *

PAR. 22. Paragraph (a)(1) of § 1.48–5 is amended by revising the sixth sentence thereof to read as follows:

§ 1.48–5 Electing small business corporations.

(a) *In general.* (1) * * * The useful life categories are: (i) 3 years or more

but less than 5 years; (ii) 5 years or more but less than 7 years; and (iii) 7 years or more. * * *

* * * * *

PAR. 23. Paragraph (a)(1) of § 1.48–6 is amended by revising the sixth sentence thereof to read as follows:

§ 1.48–6 Estates and trusts.

(a) *In general.* (1) * * * The useful life categories are: (i) 3 years or more but less than 5 years; (ii) 5 years or more but less than 7 years; and (iii) 7 years or more. * * *

* * * * *

PAR. 24. Section 1.49 is amended by revising the heading thereof, by revising section 49(a), by revising that part of subsection (b) of section 49 that precedes paragraph (1), by deleting subsection (d) of section 49, and by revising the historical note. The revised provisions read as follows:

§ 1.49 Statutory provisions; termination for period beginning April 19, 1969, and ending during 1971.

SEC. 49. *Termination of credit for period beginning April 19, 1969, and ending during 1971*—(a) *General rule.* For purposes of this subpart, the term "section 38 property" does not include property—

(1) The physical construction, reconstruction, or erection of which is begun after April 18, 1969, or

(2) Which is acquired by the taxpayer after April 18, 1969, other than pretermination property. This subsection shall not apply to property described in section 50.

(b) *Pretermination property.* For purposes of this subpart—* * *

(d) [Deleted]

[Sec. 49 as added by sec. 703(a), Tax Reform Act 1969 (83 Stat. 660); as amended by sec. 101(b), Rev. Act 1971 (85 Stat. 498)]

PAR. 25. There is added immediately after § 1.49 the following new sections:

§ 1.50 Statutory provisions; restoration of credit.

SEC. 50. *Restoration of credit*—(a) *General rule.* Section 49 (a) (relating to termination of credit) shall not apply to property—

(1) The construction, reconstruction, or erection of which—

(A) Is completed by the taxpayer after August 15, 1971, or

(B) Is begun by the taxpayer after March 31, 1971, or

(2) Which is acquired by the taxpayer—

(A) After August 15, 1971, or

(B) After March 31, 1971, and before August 16, 1971, pursuant to an order which the taxpayer establishes was placed after March 31, 1971.

(b) *Transitional rule.* In applying section 46(c)(1)(A) in the case of property described in subsection (a)(1)(A) the construction, reconstruction, or erection of which is begun before April 1, 1971, there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after August 15, 1971. This subsection shall not apply to pretermination property (within the meaning of section 49(b)).

[Sec. 50 as added by sec. 101(a), Rev. Act 1971 (85 Stat. 498)]

§ 1.50–1 Restoration of credit.

(a) *In general.* Section 49(a) (relating to termination of credit) does not apply to property—

(1) The construction, reconstruction, or erection of which by the taxpayer—

(i) Is completed after August 15, 1971, or

(ii) Is begun after March 31, 1971, or

(2) Which is acquired by the taxpayer—

(i) After August 15, 1971, or

(ii) After March 31, 1971, and before August 16, 1971, pursuant to an order which the taxpayer establishes was placed after March 31, 1971.

(b) *Transitional rule.* In the case of property (other than pretermination property) the construction, reconstruction, or erection of which by the taxpayer is begun before April 1, 1971, and completed after August 15, 1971, there shall be taken into account as the basis of new section 38 property in determining qualified investment only that portion of the basis which is properly attributable to construction, reconstruction, or erection after August 15, 1971.

(c) *Principles to be applied.* The principles of § 1.48–2 (b) and (c) shall be applied in determining when property is acquired and in determining that portion of the basis of property properly attributable to construction, reconstruction, or erection after August 15, 1971.

PAR. 26. Paragraph (b) of § 1.167(a)–1 is amended by adding the following new sentence at the end thereof:

§ 1.167(a)–1 Depreciation in general.

* * * * *

(b) * * * If a taxpayer claims an investment credit with respect to an asset for a taxable year preceding the taxable year in which the asset is considered as placed in service under § 1.167(a)–10(b) or § 1.167(a)–11(e), the useful life of the asset under this paragraph shall be the same useful life assigned to the asset under § 1.46–3(e).

§ 1.169 [Amended]

PAR. 27. Section 1.169 is amended by deleting subsection (h) of section 169.

§ 1.169–1 [Amended]

PAR. 28. Section 1.169–1 is amended by deleting subparagraph (4) of paragraph (a).

PAR. 29. Section 1.1245 is amended by revising section 1245(a)(3)(B)(ii), by adding subdivision (iii) to section 1245(a)(3)(B), and by revising the historical note. The revised and added provisions read as follows:

§ 1.1245 Statutory provisions; gain from dispositions of certain depreciable property.

SEC. 1245. *Gain from dispositions of certain depreciable property*—(a) *General rule.* * * *

(3) *Section 1245 property.* * * *

(B) * * *

(ii) Constituted a research facility used in connection with any of the activities referred to in clause (i), or

(iii) Constituted a facility used in connection with any of the activities referred to in clause (i) for the bulk storage of fungible commodities (including commodities in a liquid or gaseous state).

* * * * *

[Sec. 1245 as added by sec. 13(a), Rev. Act 1962 (76 Stat. 1032); amended by sec. 203(d), Rev. Act 1964 (78 Stat. 35); amended by secs. 212(a) and 704(b)(4), Tax Reform Act 1969 (83 Stat. 571, 670); amended by sec. 104(a)(2), Rev. Act 1971 (85 Stat. 501)]

[FR Doc.72-4483 Filed 3-23-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Ch. IX]

[Docket AO-373]

LETTUCE GROWN IN CALIFORNIA, ARIZONA, COLORADO, NEW MEXICO, AND DESIGNATED PART OF TEXAS

Determination on Basis of Results of Referendum on Proposed Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Los Angeles, Calif., March 2–6, 1971, and continued at Albuquerque, N. Mex., March 10–12, 1971.

It was held pursuant to a notice thereof which was published in the January 27, 1971, issue of the FEDERAL REGISTER (36 F.R. 1266) with a minor correction in the February 2, 1971, issue (36 F.R. 1541) upon a proposed marketing agreement and order regulating the handling of lettuce grown in California, Arizona, Colorado, New Mexico and a designated part of Texas.

The recommended decision of the Deputy Administrator, Consumer and Marketing Service, was published in the August 4 and 21, 1971, issues of the FEDERAL REGISTER (36 F.R. 14316, 16517). The decision of the Assistant Secretary was published in the January 28, 1972, issue (37 F.R. 1365), accompanied by an order directing that a referendum be conducted among producers of lettuce in the aforesaid production area to determine whether the requisite majority of such producers favored or approved issuance of the proposed marketing order.

It is hereby determined on the basis of the results of the referendum conducted February 4 through March 13, 1972, pursuant to the aforesaid referendum order, that the issuance of the proposed marketing order regulating the handling of lettuce grown in California, Arizona, Colorado, New Mexico, and a designated part of Texas, is not approved or favored (1) by at least two-thirds of the producers participating in such referendum and who, during the determined representative period (August 1, 1970, to July 31, 1971), were engaged in the production for market of lettuce grown in such production area, or (2) by producers of at least two-thirds of the volume of production of such lettuce represented in the aforesaid referendum.

It is hereby further determined that the proposed marketing order set forth

in aforesaid Assistant Secretary's decision (37 F.R. 1365) should not be made effective and, in view of the circumstances, the proposed marketing agreement should not be entered into.

Dated: March 20, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-4532 Filed 3-23-72;8:50 am]

Farmers Home Administration

[7 CFR Part 1804]

[FHA Instruction 424.3]

PLANNING AND PERFORMING DEVELOPMENT WORK

Handling Construction Complaints

Notice is hereby given that the Farmers Home Administration has under consideration amending Part 1804 by adding a new Subpart C, "Handling Construction Complaints," Title 7, Code of Federal Regulations. This new Subpart C prescribes the policies, methods, and responsibilities with respect to handling construction complaints in connection with single family loans authorized by title V of the Housing Act of 1949. The purpose is to provide assistance for the borrower-owner and also to protect FHA's financial interest in the property.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, Washington, D.C. 20250, within 30 days after date of 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 Assistant Administrator for Management during regular business hours. (8:15 a.m.–4:45 p.m.)

As proposed, the new Subpart C will read as follows:

Sec.
1804.51 Introduction.
1804.52 Definitions.
1804.53 Handling of complaints by the County Supervisor.

AUTHORITY: The provisions of this Subpart C issued under sec. 510, 63 Stat. 437, 42 U.S.C. 1480; Order of Acting Secretary of Agriculture, 36 F.R. 21529; Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529.

Subpart C—Handling Construction Complaints

§ 1804.51 Introduction.

The County Supervisor is charged with the responsibility of receiving and resolving, with such assistance and advice as he deems necessary, all complaints concerning the construction of houses financed by the Farmers Home Administration (FHA). The County Supervisor must decide whether the complaints are "justified" or "not justified." If a complaint is justified, the builder is expected to make the necessary corrections. If it is not justified, the builder is not obligated to correct the defect. The handling of construction complaints is a matter of prime importance because the FHA has an interest not only in assisting the borrower-owner, but also in protecting its financial position in the property. The desire to retain homeownership is directly related to the homeowner's satisfaction with his house. If the homeowner is dissatisfied with the condition of his property, he will be less likely to maintain the property and less likely to meet his financial obligations with respect to it.

§ 1804.52 Definitions.

(a) The term "proposed construction" means that the plans and specifications were reviewed and accepted by the FHA prior to the start of construction and that the property was inspected by the FHA during construction to determine that it was being completed in accordance with the accepted plans and specifications.

(b) The term "plans and specifications" means the accepted plans and specifications which were the basis of FHA's commitment on a proposed construction application. These accepted plans and specifications should be available at all times for the homeowner's review. If necessary, technical assistance shall be made available to help the homeowner review and understand the plans and specifications and any other requirements that are a part of our commitment.

(c) The term "existing construction" means a property on which construction has started or has been completed prior to the date an application was received. A property may be accepted during the construction period and the balance of compliance inspections may be made after the date of acceptance.

(d) The term "rehabilitation" means major repairs and improvements to existing dwellings such as the installation or completion of bathroom facilities, installation of major items of equipment, additions or structural changes.

(e) The term "builder's warranty" means a written document by which the builder who contracted for proposed construction, existing construction which has been approved prior to occupancy, or rehabilitation, warrants for a given period to the homeowner-purchaser that the property was constructed in substantial conformity with the drawings and specifications upon which the FHA appraisal and loan were based. The warranty extends to the initial purchaser and his successors or transferees.

(1) In the case of proposed construction or existing construction, the warranty runs for a period of 1 year from the date of initial occupancy or the date of the initial conveyance of title, whichever occurs first.

(2) In the case of rehabilitation, the warranty runs from 1 year from the date of completion of the work.

(3) A builder's warranty is required in all proposed construction cases, on newly completed, previously unoccupied homes, and on rehabilitation.

(f) The term "homeowner" means the original borrower-owner or any subsequent successors or transferees.

(g) The term "initial occupancy" means the date of first occupancy of the dwelling by the borrower-owner.

(h) The term "justified complaints" means a complaint is justified if: (1) It is covered by the warranty.

(2) It is received within the warranty period: *Provided*, That a complaint may be made after 1 year if there is evidence of accelerated deterioration of structural soundness or material failure in advance of normal life expectancy and the defect can be ascertained with exactness to be the builder's responsibility; and

(3) It is determined that: (i) The construction is defective in workmanship, material, or equipment, or

(ii) That the structure has not been constructed in accordance with the approved drawings and specifications, or

(iii) The structure does not comply with FHA's Minimum Property Standards; or

(iv) The property does not meet code requirements.

(i) The term "not justified complaint" means any complaint that does not meet the definition of a justified complaint. If the complaint is not justified, the repairs are the responsibility of the homeowner who should be encouraged to make them immediately to preserve the property.

(1) Examples of complaints that are not justified are those involving the question of who is responsible for such matters as:

(i) The repairs of cracks attributed to normal curing or settlement.

(ii) The repairs of leaky faucets.

(iii) The application of protective painting and grouting to prevent accelerated deterioration of material.

(iv) Normal care of mechanical equipment.

(v) Changing the contour of the land or drainage system.

(vi) Keeping the well free from contamination.

(vii) Cleaning of individual sewage disposal systems.

(j) The term "escrowed items" means incompleted onsite work which was not completed by the builder because of inclement weather or other justified reasons and money was set aside in escrow to complete the work within a reasonable period of time.

(k) The term "latent defects" means serious construction defects which develop subsequent to the expiration of the builder's warranty, but are traceable to work performed during the construction period. These defects are not caused by any act of the homeowner but seriously affect the livability, value, and marketability of the property. The defects may be due to structural design, materials, workmanship, deviation from plans and specifications, and so forth. Failure of footings and foundations and sagging of ceilings and roofs are examples of major structural deficiencies.

§ 1804.53 Handling of complaints by the County Supervisor.

The County Supervisor is assigned the function of receiving and resolving with such assistance and advice as he deems necessary, all complaints concerning the construction of FHA financed housing in the following manner:

(a) Each complaining homeowner should be requested to make a written complaint, but an oral complaint may be accepted if making a written complaint will impose a hardship.

(b) The homeowner will be told that he must first endeavor to resolve the complaint with the builder.

(1) The homeowner should be urged to give the builder a written list of the alleged defects, except where it would involve a hardship.

(2) The homeowner should be informed that if after 30 days the defects have not been corrected or other satisfactory arrangements have not been made by the builder, the homeowner should so notify the County Supervisor, preferably in writing.

(c) If the County Supervisor does not hear from the homeowner within 30 days, he can reasonably assume that the complaint has been satisfied, unless he has or receives information to the contrary.

(d) If the homeowner notifies the County Supervisor that the complaint has not been satisfied, the County Supervisor should request the homeowner to furnish copies of all correspondence between the builder and himself, and, unless it would involve a hardship, reduce the complaint to writing if that has not already been done.

(e) The County Supervisor should write the builder and notify him of the homeowner's complaint and request the immediate correction of the defects.

(f) If the builder informs the FHA that he has corrected or will correct the alleged defects, the County Supervisor will notify the homeowner by letter and the case will be closed unless a subsequent complaint is received from the homeowner.

(g) If no reply is received from the builder within 15 days, the County Supervisor should send a followup letter to the builder.

(h) If the builder fails to respond within 15 days thereafter, the County Supervisor should advise the homeowner that the builder has not responded to FHA's inquiries and it is presumed that he will not correct the alleged defects.

(i) The County Supervisor should make a finding that: (1) None of the complaints are justified, or

(2) Some of the complaints are justified, or

(3) All of the complaints are justified.

NOTE: Advice and assistance must be obtained before the question of responsibility can be determined. Such advice and assistance should be sought immediately.

(j) If the County Supervisor is unable to reconcile differences within a reasonable period of time, and if a review of his findings is desired by either the homeowner or the builder, the County Supervisor should refer the complete file, including all correspondence, to the District Supervisor. Should the parties fail to resolve their differences, the findings of the County and District Supervisor with all related correspondence should be referred to the State Director for review and final determination. Such a proceeding should be very informal. The principal goal is to work out a satisfactory solution while avoiding unnecessary expense.

(k) Should a builder decline to correct a justified complaint after being officially requested in writing to do so, formal proceedings should be instituted promptly in accordance with Subpart J of Part 1822 of this chapter, which contains the suspension and debarment procedure. If the builder fails to reply to official correspondence, his failure can be taken as his refusal to correct the justified complaint. Also, a builder's inability to correct a justified complaint constitutes noncompliance.

(l) In all instances involving a complaint, the County Supervisor shall notify the homeowner and builder in writing at each stage what their respective obligations are. They shall both be informed of the final disposition of the case. All letters must be courteous and clearly state the position of the FHA.

(m) All actions in connection with complaints shall be maintained in a complaint file under the builder's name. A chronological history of every action of the complaint from date of receipt to the date of final disposition shall be kept in the file as well as related documentary information. Such records should be reviewed periodically for the purpose of evaluating the performance of such builders or for formulating a course of action to be taken.

Dated: March 20, 1972.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.72-4529 Filed 3-23-72;8:50 am]

Forest Service

[36 CFR Part 231]

GRAZING

Revocation and Suspension of Grazing Permits

Notice is hereby given that pursuant to the authority contained in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 551); the Act of February 1, 1905 (33 Stat. 628, 16 U.S.C. 472); and the Act of July 22, 1937 (50 Stat. 525, as amended; 7 U.S.C. 1011); it is proposed to amend § 231.6, Part 231 of Title 36, Code of Federal Regulations, by changing the introductory paragraph and adding paragraph (c) as follows:

§ 231.6 Revocation and suspension of grazing permits.

The Chief, Forest Service, is authorized to revoke or suspend grazing permits in whole or in part on all National Forest System lands and on other lands under Forest Service control:

* * * * *

(c) For violation of, or failure to comply with, Federal or State laws or Federal regulations relating to environmental and natural resource conservation or protection when exercising the grazing use authorized by the permit.

(30 Stat. 35, as amended; 16 U.S.C. 551; 33 Stat. 628, 16 U.S.C. 472; 50 Stat. 525, as amended; 7 U.S.C. 1011)

The purpose of this amendment is to provide authority to revoke or suspend all types of grazing permits for violation of, or failure to comply with, Federal and State laws or Federal regulations relating to the conservation or protection of natural resources and the environment.

All persons who wish to submit written data, views, or objections pertaining to the proposed amendment may do so by submitting them to the Department of Agriculture, Forest Service, Division of Range Management, 1621 North Kent Street, Room 610, Arlington, VA 22209, within 30 days of the date of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Forest Service during regular business hours. (7 CFR 1.27(b))

T. K. COWDEN,
Assistant Secretary
of Agriculture.

MARCH 20, 1972.

[FR Doc.72-4530 Filed 3-23-72;8:50 am]

[36 CFR Part 261]

TRESPASS

Use of Pesticides and Chemical Toxicants

Notice is hereby given that pursuant to the authority contained in the Act of June 4, 1897 (30 Stat. 34, 35, as amended; 16 U.S.C. 475, 551); the Act of July 22, 1937 (50 Stat. 525, as amended; 7 U.S.C. 1011); the Act of June 12, 1960 (74 Stat. 215, 16 U.S.C. 528–531); the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 et seq.); and in accordance with the policy set forth in Executive Order 11643 (Environmental Safeguards on Activities for Animal Damage Control on Federal Lands) February 8, 1972, it is proposed to amend Part 261 of Title 36, Code of Federal Regulations, by adding § 261.17 to read as follows:

§ 261.17 Use of Pesticides and Chemical Toxicants.

(a) *Pesticides.* Unless authorized in writing by the Regional Forester or his designated representative, the use of pesticides on National Forests, National Grasslands, and other lands administered by the Forest Service by persons is prohibited. This prohibition does not apply to minor use(s) of aerosols or other hand-applied insect repellants, insecticides, or similar substances.

(b) *Chemical toxicants.* Except as provided in paragraph (c) of this section, the field use of chemical toxicants on the national forests, national grasslands, and

other lands administered by the Forest Service is prohibited as follows: (1) The use of chemical toxicants for the purpose of killing predatory mammals or birds, and (2) the use of chemical toxicants which cause any secondary poisoning effects for the purpose of killing other mammals, birds, or reptiles.

(c) *Exceptions.* The Chief, Forest Service, may authorize the emergency use on national forests, national grasslands, and other lands administered by the Forest Service of a chemical toxicant for the purpose of killing predatory mammals or birds, or a chemical toxicant which causes a secondary poisoning effect for the purpose of killing other mammals, birds, or reptiles, if in each specific case he makes a written finding, following consultation with the Secretaries of the Interior and Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, that an emergency exists that cannot be dealt with by means which do not involve the use of chemical toxicants, and that such use is essential:

(1) To the protection of the health and safety of human life;

(2) To the preservation of one or more wildlife species threatened with extinction, or likely within the foreseeable future to become so threatened; or

(3) To the prevention of substantial irretrievable damage to national significant natural resources.

(d) *Definitions.* As used in this section:

(1) "Person" means any individual, partnership, corporation, association, organization, or other private entity (does not include governmental agencies).

(2) "Pesticide" means any substance or mixture of substances to prevent, destroy, repel, or mitigate any insect, rodent, nematode, fungus, weed, or other form of aquatic or terrestrial plant or animal life or virus, bacteria, or other micro-organism (except bacteria, viruses, or other micro-organisms in or on living man or other animals).

(3) "Chemical toxicant" means any chemical substance which, when ingested, inhaled, or absorbed, or when applied to or injected into the body in relatively small amounts, by its chemical action may cause significant bodily malfunction, injury, illness, or death to animals or man.

(4) "Predatory mammal or bird" means any mammal or bird which habitually preys upon other animals or birds.

(5) "Secondary poisoning effect" means the result attributable to a chemical toxicant which, after being ingested, inhaled, or absorbed, or when applied to or injected into a mammal, bird, or reptile, is retained in its tissue, or otherwise retained in such a manner and quantity that the tissue itself or retaining part if thereafter ingested by man, mammal, bird, or reptile, produces the effects described in subparagraph (3) of this paragraph.

(6) "Field use" means use on lands not in or immediately adjacent to occupied building.

(30 Stat. 34, 35, as amended; 16 U.S.C. 475, 551; 50 Stat. 525, as amended; 7 U.S.C. 1011; 74 Stat. 215, 16 U.S.C. 528–531; 83 Stat. 852, 42 U.S.C. 4321 et seq.)

The purpose of the new section is to provide positive control over the use of pesticides and chemical toxicants on the national forests, national grasslands, and other lands administered by Forest Service.

All persons who wish to submit written data, views, or objections pertaining to the proposed amendment may do so by submitting them to the Department of Agriculture, Forest Service, Division of Wildlife Management, 1621 North Kent Street, Room 607, Arlington, VA 22209, within 30 days of the date of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Division of Wildlife Management during regular business hours (7 CFR 1.27(b)).

T. K. COWDEN,
Assistant Secretary of Agriculture.

MARCH 20, 1972.

[FR Doc.72-4531 Filed 3-23-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

ADMINISTRATIVE RULE MAKING AND ADJUDICATORY HEARINGS ON A RECORD

Separation of Functions and Ex Parte Communications

At the present time, the Food and Drug Administration has no regulation governing the extent to which an FDA employee or attorney who participates as an advocate in a public hearing may or may not participate in the resulting decision. The present regulation governing ex parte communications (21 CFR 2.104) does not clearly define permissible and impermissible communication among parties to the hearing and FDA officials, employees, and attorneys. The Administrative Conference of the United States and other authorities have recommended that new, more specific regulations be promulgated to establish both a clear separation of the litigation and decision functions of FDA officials, employees, and attorneys and explicit rules governing ex parte communications with respect to all matters subject to public hearings on a record.

Present law does not require separation of functions in rule making proceedings and does not prohibit ex parte communications during hearings, as long as they are made a matter of record. In the interest of avoiding even the appearance of unfairness, however, the Commissioner of Food and Drugs has concluded that, in both rule making and adjudicatory proceedings, there should be a strict separation of functions and an outright prohibition of ex parte communications in all public hearings on a record.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 371) and the Administrative Procedure Act (secs. 4, 5, 60 Stat. 238, 239 as amended; 5 U.S.C. 553, 554)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 2 be amended by revising § 2.104 to read as follows:

§ 2.104 Separation of functions; ex parte communications.

(a) In a matter on which a public hearing on a record may be requested, any interested person may communicate with any official, employee, or attorney of the Food and Drug Administration:

(1) Prior to publication of a final order on the matter,

(2) After the time for submitting objections has expired without the filing of objections on the basis of which a public hearing is requested, or

(3) After a request for a public hearing has been denied.

(b) In any FEDERAL REGISTER announcement of a public hearing, the Commissioner shall designate by name the employee(s) and attorney(s) who will represent the Food and Drug Administration in that hearing and the Bureau(s) that will participate in his decision on that matter. Additional employees, attorneys, and Bureaus may be designated in subsequent FEDERAL REGISTER notices. The notice(s) designating hearing representatives may limit their participation in the hearing to a nonadvocate monitoring role.

(c) (1) In a matter on which a public hearing on a record may be requested, any interested person may make a written request for conference concerning the subject matter of the order or hearing with any person in the Office of the Commissioner, the Office of the General Counsel, or the Office of the Director of a Bureau in an effort to resolve issues or for other purposes:

(i) Between the date of publication of a final order in the matter and the expiration date for filing objections,

(ii) After the filing of objections on the basis of which a public hearing is requested, or

(iii) After publication of a notice of a public hearing.

(2) If the request is granted, notice of the conference shall be published in the FEDERAL REGISTER not less than 10 days before the conference and with an invitation for any other interested persons to attend.

(3) A transcript of the conference shall be kept, shall be made public, and shall be a part of the record of the hearing.

(d) Communication with respect to the subject matter of the order or hearing between the date of publication of the final order and the date of the Commissioner's final decision shall be restricted. During this time, no advocate

or representative of any party to a public hearing (except a hearing representative designated pursuant to paragraph (b) of this section and limited to a nonadvocate monitoring role) and no other person not in the Office of the Commissioner or the Office of the General Counsel or in the Office of the Director of the Bureau(s) designated pursuant to paragraph (b) of this section shall communicate orally or in writing with any person in those offices except to request or participate in a conference pursuant to paragraph (c) of this section. Any such inadvertent written communication shall immediately be filed in the appropriate public docket file, and any such inadvertent oral communication shall immediately be reduced to writing and filed in the appropriate public docket file. Employees or representatives of any party to the hearing who are involved in such inadvertent oral communication shall be available for cross-examination with respect to the substance of that communication. Rebuttal testimony pertinent to any such inadvertent written or oral communication shall also be permitted.

(e) Any Food and Drug Administration official, employee, or attorney in the Office of the Commissioner or the Office of the General Counsel or in the Office of the Director of the Bureau(s) designated pursuant to paragraph (b) of this section (except an official, employee, or attorney designated as a hearing representative pursuant to paragraph (b) of this section and not limited to a nonadvocate monitoring role) may participate in the Commissioner's decision or order concerning the subject matter of the proceeding. No other person may participate directly or indirectly in the Commissioner's decision or order except through the administrative procedures established in this part for all parties.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during business hours, Monday through Friday.

Dated: March 17, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-4496 Filed 3-23-72;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

[24 CFR Part 390]

[Docket No. R-72-175]

GUARANTY OF MORTGAGE-BACKED SECURITIES

Proposed Minimum Net Worth Requirement for Issuers of Modified Pass-Through Securities Backed by Mortgages on Mobile Homes

Government National Mortgage Association under the authority of section 306(g) of the National Housing Act, 82 Stat. 542 (12 U.S.C. 1721) proposes to amend Part 390 to Title 24 of the Code of Federal Regulations.

The proposed amendments would set the minimum net worth requirement for issuers of modified pass-through securities backed by mortgages on mobile homes, as well as those backed by other mortgages except for those backed by mortgages on one- to four-family residences, at $100,000 and would reduce the minimum pool size in the case of securities based on mortgages on mobile homes from $2 million to $500,000.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements. Communications should be identified by the above docket number and title and should be filed in triplicate with the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material received on or before April 20, 1972, will be considered before adoption of the final rule. Copies of comments submitted will be available for examination during business hours at the above address.

The proposed changes to Part 390 are as follows:

1. Section 390.3(c) is revised to read:

§ 390.3 Eligible issuers of securities.

* * * * *

(c) For modified pass-through securities other than those described in paragraph (b) of this section, (1) not less than 3 percent of the first $5 million of modified pass-through securities outstanding after such issue, and (2) not less than 2 percent on the succeeding $5 million of such securities, and (3) not less than 1 percent on all over $10 million, provided that the minimum net worth shall be at least $100,000, but in no case need net worth exceed $500,000.

2. Section 390.5(b) is revised to read:

§ 390.5 Securities.

* * * * *

(b) *Issue amount.* Each issue of guaranteed securities must be in a minimum face amount of $2 million provided that in the case of modified pass-through securities based on and backed by mortgages on mobile homes said minimum face amount is $500,000. The total face amount of any issue of securities cannot exceed the aggregate unpaid principal balances of the mortgages in the pool.

* * * * *

WOODWARD KINGMAN,
President, Government National Mortgage Association.

[FR Doc.72-4561 Filed 3-23-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 30, 151]

[CGD72-58PH]

BULK MOLASSES

Proposed Revocation of Tank Vessel and Bulk Dangerous Cargoes Requirements

The Coast Guard is considering amending the tank vessel and bulk dangerous cargo regulations to revoke their applicability to vessels carrying bulk molasses.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commandant (CMC), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting comments should include his name and address, identify the notice (CGD 72-58PH), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will hold the hearing required by 46 U.S.C. 391a(3) on April 25, 1972, at 9:30 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal.

Tables 30.25-1 and 151.01-10(d) list molasses among the commodities, liquids, and liquefied gases that, if carried by a vessel, require its inspection under the tank vessel inspection requirements, which are in Subchapter D of Chapter I of Title 46. Subchapter D is applicable to vessels carrying combustible or flammable liquid cargo in bulk.

The question has been raised as to whether molasses is flammable or combustible. After an extensive review of literature on flash points and molasses, manufacturer's information on molasses, vessel accident histories, and reports of flashpoint tests, the Coast Guard has found no evidence that molasses has a flashpoint or gives off flammable vapors as described in § 30.10–15, which defines "combustible liquid," or in § 30.10–22, which describes "flammable liquid." Therefore, the Coast Guard proposes to delete molasses from the lists of commodities regulated by Subchapter D.

If this proposed amendment is adopted, the Coast Guard intends to make it effective in less than 30 days after the final rule is published, inasmuch as this proposed amendment would relieve a restriction on those persons engaged in the carriage of molasses.

In consideration of the foregoing, it is proposed to amend Parts 30 and 151 of Title 46 of the Code of Federal Regulations as follows:

1. By deleting the words "Molasses, all" in table 30.25–1.

2. By deleting the words "Molasses, all" in table 151.01–10(d).

This proposal is made under authority of 46 U.S.C. 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Dated: March 6, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-4536 Filed 3-23-72;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24322; EDR-221]

[14 CFR Ch. II]

REPORTING DATA PERTAINING TO FREIGHT ORIGIN-DESTINATION TRAFFIC MOVEMENT

Certain Air Carriers and Foreign Air Carriers

MARCH 16, 1972.

Notice is hereby given that the Civil Aeronautics Board has under consideration the enactment of a new part of the Economic Regulations to establish a system of reporting freight origin-destination (O&D) traffic movement by certain air carriers and foreign air carriers. This system is designed to enable the Board and numerous other organizations, both public and private, to be informed of the movement of domestic and international air freight.

The background and principal features of the proposed part are described and discussed in the attached Explanatory Statement and attachments thereto, and the proposed new part is set forth in the proposed rule. The part is proposed under the authority of sections 204(a), 402, and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, and 766 (as amended by 83 Stat. 103); 49 U.S.C. 1324, 1372, and 1377.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before April 24, 1972, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

EXPLANATORY STATEMENT

Historically, data collection programs of the Board have been directed largely at detailed market data, cost and operations with respect to passenger service. No such information is presently available concerning the character and geographic markets of freight movements by air. Data recurrently collected with respect to freight have been limited to the most basic ton-mile and revenue indicators of volumes in "combination" and "all-cargo" services, respectively. This situation has posed difficulties for the Board in connection with its rate-making functions, inasmuch as the domestic and international air freight rate structures are highly differentiated, embracing a wide variety of rates for different commodities, shipment sizes, types of service, markets, and directional application.[1] Moreover, rates are frequently introduced or changed on a selective basis, i.e., for certain commodities in particular markets; manifestly, the Board's lack of precise information as to the nature of the traffic which would be affected hampers effective evaluation of the proposed rates. Even an across-the-board increase in general commodity rates is difficult to evaluate, because the Board is unaware of the separation between traffic carried at general rates and at specific commodity rates. Similarly, beyond broad freight revenue ton-mile averages having no reference to the variabilities of densities, pieces and shipments comprising individual property movements, unit cost analyses are not feasible from presently available information.

We have previously indicated the need for more factual data with regard to air freight rates and our intention to utilize appropriate rule making procedures to establish necessary reports.[2] The Board's staff, in conjunction with the Department of Transportation (DOT) and the Massachusetts Institute of Technology (MIT), informally surveyed the data-gathering activities and capabilities of the industry.[3] The development of an operational system for computer application is underway at the Board, and the proposed rule would provide for industry inputs.

As proposed, the rule would require the monthly submission of basic data concerning the origin-destination movement patterns of freight moving by air.[4] Submission would be made for each individual, serially identified airbill, in the form of magnetic tape. Reporting would be made by each U.S. certificated route air carrier and foreign flag route air carrier with respect to each airbill in which it was a participating carrier.

Specifically, the Board contemplates that it will require data along the following lines:

General market data. The proposed rule is basically oriented to markets, i.e., the origin-destination (city-pair or airport-to-airport) from and to which the shipment moves, both domestically within the United States, and internationally from and to the United States.

By including the actual local or interline airline routing of the shipment, this O&D market data can be further identified as to share of market by carrier.

Commodity data. By identifying the numeric code of one of a modest number of commodity identifiers (descriptors) on each shipment, the foregoing market data will be further stratified.

Shipment characteristics—bulk. By identifying the number of loose (noncontainerized) pieces in a shipment, and the weight and revenue, information will be developed as to the distribution of bulk freight traffic by shipment size, number of pieces per shipment and per 100 pounds, and revenue per shipment.

Shipment characteristics—container traffic. Essentially as above for bulk traffic, but with further identification by type of container.

Service and rate class data. Inasmuch as there are numerous freight service classes in existence (principally in domestic service), such as standard, deferred, airconomy, blocked-space, daylight, etc., and since each such service may be expressed as a general commodity rate, specific commodity rate, premium commodity rate, or a minimum charge in any of these three rate classes, a combination Service and Rate Class Code will be employed to develop this information.

Miscellaneous data. Other data to be collected covers such matters as Assembly or Distribution Service, Stop-in-Transit Service, Excess Valuation Revenue and Shipper Code (forwarder vs. nonforwarder only) Container Packing/Unpacking Code, and Intra-Interline Rate

[1] In addition, freight O&D traffic data are needed for the economic analysis of markets by the Board in fulfilling other functions, such as the evaluation of routes to be considered for exchange with foreign governments, the preparation of exhibits for formal route proceedings, and the historical evaluation of routes based on operating experience.

[2] Order 70-12-44 dated December 8, 1970.

[3] A copy of the MIT report is available for inspection in the Board's public files in this proceeding.

[4] The foregoing would be in addition to any freight data now reported to the Board.

Code, which will be useful in evaluating the data cited above.

It is intended initially that all U.S. route air carriers report all scheduled freight traffic, and that foreign route air carriers also report all scheduled freight traffic moving from and to the United States, irrespective of whether their participation in the movement involves the actual arrival in, or departure from, the United States. Under this arrangement, it is recognized that two or more participating carriers in a particular movement will report the same shipment, which the Board intends to purge by accepting the data record of only the first reporting carrier in the movement. This duplicative arrangement is necessary to simplify carrier selection of data to be reported and to insure complete data.[5]

Technical aspects of implementation would be handled, under the proposed rule, by standard practice instructions to be issued by the Director, Bureau of Accounts and Statistics, upon conclusion of this rule making proceeding. A data record format, as presently visualized, is attached as appendix A. Presently planned information identification codes are also noted in conjunction with the data record format. Although the long-standing problem of commodity coding is still being actively considered by groups interested in intermodal information exchanges, the air freight O&D program cannot be deferred pending the development of a universally acceptable coding system. Accordingly, for purposes of the proposed rule, a classification of selected commodities is tentatively utilized as a basis for assigning commodity codes (see appendix B). It should be noted that we particularly solicit comment on the proposed code.

Should the Board determine to adopt a final rule in connection with this proceeding, we presently contemplate that the rule would apply to freight carried on and after July 1, 1972. Carriers may initiate source data automation activities in accordance with the data record format described in appendix A. This advance effort will facilitate their compliance with the aforementioned standard practice instructions when they are issued.

The Board intends to edit original carrier input data for such items as air carrier codes, city codes and cities served, weight versus revenue versus rate class code tests, and similar data checks. To the extent that a significant amount of raw carrier data fails to meet such reasonableness and consistency tests as will be described in the standard practice instructions, the Board anticipates that monthly listings of such unacceptable data will be produced and furnished to the carriers promptly, in conjunction with appropriate diagnostic comments, and that corrected data will be subsequently and expeditiously resubmitted.

It is proposed to add a new Part _____ of the Economic Regulations to read as follows:

[5] At a later date, summarization of repetitive and identical traffic from each carrier may be developed, as well as a sampling technique in lieu of the initial 100 percent data base.

PART _____—FREIGHT ORIGIN-DESTINATION REPORTS

Sec.

_____.1 Applicability.
_____.2 Definitions.
_____.3 Reporting frequencies and dates.
_____.4 Report contents.
_____.5 Form of report.
_____.6 Extension of filing time.
_____.7 Certification.

§ _____.1 Applicability.

This part applies to the carriage of freight in individually waybilled air transportation by all U.S. certificated route air carriers and foreign route air carriers.

§ _____.2 Definitions.

For purposes of this part:

(a) "Air carrier" means a holder of certificate of public convenience and necessity issued pursuant to section 401 (d) (1) or 401 (d) (2) of the Act.

(b) "Airbill" is synonymous with "Air Waybill" and means the original contractual document issued by the air carrier describing and authorizing the transportation by air to be accorded freight shipments.

(c) "Foreign air carrier" means a holder of a foreign air carrier permit authorizing individually waybilled air transportation, except where such authorization is limited to casual, occasional, and infrequent service.

(d) "Freight" means goods encompassed by published freight tariffs.

(e) "United States" means the several States, the District of Columbia, and the several territories and possessions of the United States, including the territorial waters and the overlying airspace thereof.

§ _____.3 Reporting frequencies and dates.

Each air carrier and foreign air carrier shall file the report prescribed in this part. The report shall be filed monthly, addressed to the Civil Aeronautics Board, Washington, D.C. 20428, Attention: Bureau of Accounts and Statistics. Each report shall be filed so as to be received by the Civil Aeronautics Board not later than 30 days after the end of the month to which the report pertains.

§ _____.4 Report contents.

(a) The report for each month shall reflect the information set forth in § _____.4(b) with respect to each airbill honored by the performance of transportation during the month for which report is being made. The report shall be made by each air carrier and foreign air carrier as follows:

(1) By each air carrier participating in the scheduled air freight transportation, and

(2) By each foreign air carrier participating in any portion of the carriage in a scheduled air freight movement to or from the United States.

(b) The information set forth in Appendices A and B shall be reported.

§ _____.5 Form of report.

Each report shall be prepared and submitted in the form of magnetic computer tapes in accordance with standard practice instructions of the Director, Bureau of Accounts and Statistics.

§ _____.6 Extension of filing time.

If circumstances prevent the filing of a report within the prescribed time limit, consideration will be given to the granting of an extension upon receipt of a written request therefor. Such a request must give a sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the due date to permit proper time for consideration and communication to the air carrier or foreign air carrier of the action taken. Except in cases of emergency, no request for extension will be entertained which is not received in sufficient time to enable the Board to pass thereon before the prescribed due date. If a request is denied, the air carrier or foreign air carrier remains subject to the filing requirements to the same extent as if no request for extension had been made.

§ _____.7 Certification.

The certificate contained in Appendix C shall be executed by the officer in charge of the carrier's freight operations and shall apply to all reports, and any supporting documents, filed pursuant to the requirements of this part.

APPENDIX A

PROPOSED MAGNETIC TAPE SUBMISSION FORMAT [1]

Positions	Description
	VOLUME LABEL FOR TAPES (NINE-TRACK)
1-3	"VOL".
4	"1".
5-80	Not used by CAB (can be all blanks).
	HEADER AND TRAILER LABEL (NINE-TRACK)
1-3	"HDR"=header; "EOF"=trailer.
4	"1"=header; blank=trailer.
5-12	"AFbYYMMb". b=blank; YY=units and tens position of calendar year; MM=numeric month of report.
13-21	Blank.
22-27	"000001".
28-31	"0001".
32-35	"0001".
36-41	Blank.
42-27	Creation date (Julian) bYYDDD. b=blank; YY=year; DDD=day.
48-53	Expiration date (Julian) bYYDDD. b=blank; YY=year; DDD=day.
54	"0".
55-60	Block count (trailer only). Total number of blocks written on tape. (Right justify; zero fill.)
61-80	Blank.

See footnotes at end of tables.

Data Record Format

Field No.	Positions	Description
1	1–3	Carrier code of airbill/airwaybill. (Numeric—see airline prefix numbers decoding, Air Cargo Guide).
2	4–6	Airbill/airwaybill origin station.[2]
3	7–14	Serial number of airbill/airwaybill. (Numeric—right justify; zero fill.)
4	15	Assembly, distribution, and stop-in-transit code (alpha).
5	16–21	Airbill/airwaybill date. (Numeric format=YYMMDD; YY=units and tens position of calendar year, e.g., 72=1972; MM=numeric month code, e.g., 05=May; DD=numeric day of the month, e.g., 23=23d day of May.)
6	22–24	Origin airport code.[2]
7	25–26	Origin carrier code.[3]
8	27–29	Destination airport code [2] on local (one-carrier routing) traffic; or airport code [2] of first interchange on interline traffic.[4]
9	30–31	Second carrier code [3] on interline traffic.
10	32–34	Destination airport code [2] on two-carrier interline traffic; or airport code [2] of second interchange on three-or-more-carrier interline traffic.[4]
11	35–36	Third interline carrier code.[3]
12	37–39	Destination airport code [2] on three-carrier interline traffic; or airport code [2] of third interchange on four-or-more-carrier interline traffic.[4]
13	40–41	Delivering carrier code [3] on four-or-more-carrier interline traffic.
14	42–44	Destination airport code [2] on four-or-more-carrier interline traffic.[4]
15	45–49	Number of loose pieces. (Numeric—right justify; zero fill.)
16	50–56	Actual weight of loose pieces. (Numeric—right justify; zero fill—whole pounds or whole kilos.)
17	57–62	Weight of containerized traffic in a single container type. (Numeric—whole pounds or kilos; right justify; zero fill.)[5]
18	63–65	Type code of such container (alpha/numeric).[5]
19	66–70	Blank.
20	71–73	Number of such container units. (Numeric—right justify; zero fill.)[5]
21	74–79	Weight of containerized traffic in the second container type. (Numeric—whole pounds or kilos; right justify; zero fill.)[6]
22	80–82	Type code of such container (alpha/numeric).[6]
23	83–87	Blank.
24	88–90	Number of such container units. (Numeric—right justify; zero fill.)[6]
25	91–96	Weight of containerized traffic in third container type. (Numeric—whole pounds or kilos; right justify; zero fill.)[7]
26	97–99	Type code of such container (alpha/numeric).[7]
27	100–104	Blank.
28	105–107	Number of such container units. (Numeric—right justify; zero fill.)[7]
29	108	Container packing/unpacking code (numeric).
30	109	Weight measurement code (alpha, "P"=pounds; "K"=kilos).
31	110–117	Transport revenue. (Numeric—U.S. dollars and cents, omit decimal; right justify; zero fill.)
32	118–123	Excess value revenue. (Numeric—U.S. dollars and cents, omit decimal; right justify; zero fill.)
33	124–126	Service/rate class (alpha).
34	127	Intra-interline rate code (alpha).
35	128	Basis-for-rate code (numeric).
36	129	Shipper code (alpha; "F"=Forwarder; "N"=Nonforwarder).
37	130	Code for total number of carriers participating in actual routing (numeric).
38	131–134	Commodity code. (Numeric—left justify; zero fill.)
39	135–150	Blank; reserved for CAB future use.

Footnotes:

[1] Specifications herein are subject to final standardization in future issues of standard practice instructions.
[2] Alpha three-letter airport code.
[3] Alpha two-letter carrier code.
[4] Intraline transfer points are to be ignored.
[5] If the airbill covers more than a single container type, enter the weight, type, and number of units in Fields 17, 18 and 20, respectively, which represent that container type having the greatest portion of the containerized weight.
[6] If the airbill covers more than two container types, enter the weight, type, and number of units (Fields 21, 22, and 24, respectively) which represent that container type having the second greatest portion of the containerized weight.
[7] If the airbill covers more than three container types, enter the aggregate weight and total number of remaining units (in excess of the greatest and second greatest as defined in footnotes 5 and 6) in Fields 25 and 28, and enter the code "MCT" (denoting mixed container types) in Field 26.

Explanation of Data Items to be Collected from the Airbill/Airwaybill

As indicated in the accompanying Explanatory Statement, it is intended that *each* carrier (including online and interline movements) report the following data and in the Data Record Format fields and positions cited.

Field No.	Positions	Explanation
1–3	1–14	Airbill/airwaybill number. Self-explanatory.
4	15	Assembly, distribution, or stop-in transit code. Enter "A" if shipment moved in Assembly Service; enter "D" if shipment moved in Distribution Service; or enter "S" if shipment moved in Stop-in Transit Service. If none of the above, leave blank.
5	16–21	Airbill/airwaybill date. Date airbill/airwaybill executed by the carrier, i.e., date of shipment.
6	22–24	Originating airport code. The airport at which air transportation begins.
7	25–26	Originating carrier code. The origin scheduled route air carrier which is the first to provide air carriage is to be identified herein. Generally, this will be the same as the originating carrier coded in Field 1 in the airbill/airwaybill number. This will not always hold true on traffic wherein the shipping document may bear the numeric code of one carrier, but the movement will actually originate on the lines of another carrier.
8	27–29	Destination or first interchange airport code. Destination (final) airport on single-carrier routing traffic only. On interline traffic, report airport code of first interchange.[2]
9	30–31	Second interline carrier code. First connecting carrier, if any; e.g., second carrier in an interline movement.[2]
10	32–34	Destination or second interchange airport code. Destination airport code on two-carrier interline movement; or airport code of second interchange on three-or-more-carrier interline traffic.[2]
11	35–36	Third interline carrier code. Second connecting carrier. if any; e.g., third carrier in an interline movement.[2]
12	37–39	Destination or third interchange airport code. Destination airport code on three-carrier interline movement; or airport code of third interchange on four-or-more-carrier interline traffic.[2]
13	40–41	Delivering carrier code. Delivering carrier code on four-or-more-carrier interline traffic; if five or more carriers participtaed in routing, omit final intermediate carriers and additional points of interchange.[2] (See also Field 37.)
14	42–44	Destination airport code. Destination airport code on four-or-more-carrier interline traffic; if five or more carriers participated in routing, omit final intermediate carriers and additional points of interchange.
15	45–49	Number of loose pieces. Enter the number of loose, noncontainerized pieces (whether or not accompanied by containerized traffic).
16	50–56	Actual weight of loose pieces. Enter the actual gross weight of the loose pieces. (Do not enter minimum-charge weight, weight-break minimum weight, or dimensional weight.) The amount of weight may be entered as a number of whole pounds in the avoirdupois weight, or as kilograms in metric weight. The weight entered in this Field (16) and in the Container Weight Fields (17, 21, 25) must be consistent with the Weight Measurement Code expressed in Field 30.
17	57–62	Weight of containerized traffic. If the airbill covers more than a single container type. enter the weight, type, and number of units in Fields 17, 18, and 20, respectively, which represent that container type having the greatest portion of the containerized weight.
18	63–65	Type code of containers.[3] (See Field 17.)
19	66–70	Blank; reserved for future CAB use.
20	71–73	Number of containers. (See Field 17.)
21	74–79	Weight of containerized traffic. If the airbill covers more than two container types, enter the weight, type, and number of units (Fields 21, 22, and 24, respectively) which represent that container type having the second greatest portion of the containerized weight.
22	80–82	Type code of containers.[3] (See Field 21.)
23	83–87	Blank; reserved for future CAB use.
24	88–90	Number of containers. (See Field 21.)
25	91–96	Weight of containerized traffic. If the airbill covers more than three container types, enter the aggregate weight and total number of remaining units (in excess of the greatest and second greatest as defined in Fields 17 and 21) in Fields 25 and 28 and enter the code "MCT" (denoting mixed container types) in Field 26.
26	97–99	Type code of containers.[3] (See Field 25.)
27	100–104	Blank; reserved for future CAB use.
28	105–107	Number of containers. (See Field 25.)
29	108	Container packing/unpacking code. Enter one of the following codes: "1"—if shipment was packed and unpacked by consignor and consignee, respectively, "2"—if shipment was packed by consignor and unpacked by the destination carrier, or Blank—denotes no containers in the shipment.
30	109	Weight measurement code. Indicate by one of the following codes whether the units of weight in Fields 16, 17, 21, and 25 are in pounds or kilos: "P"=pounds; "K"=kilos.

Footnotes at end of table.

EXPLANATION OF DATA ITEMS TO BE COLLECTED FROM THE AIRBILL/AIRWAYBILL—Continued

Field No.	Positions	Explanation
31	110–117	Transport revenue. Airport-to-airport line-haul billed revenue (excluding PU&D, excess value, c.o.d., and other accessorial service fees) including that resulting from the minimum charge per shipment or per container(s), minimum weight, or dimensional weight.[4]
32	118–123	Excess value revenue. Billed revenue resulting solely from declaration of value for carriage (do not include fee on shippers' all-risk insurance).[4]
33	124–126	Service/rate-class code. Identify the type of rate and service which produced the line-haul revenue (Field 31 above), using one of the service/rate-class codes.[5]
34	127	Intra-interline rate code. Indicate by one of the following codes whether rate(s) applied were local, joint, or a combination: "L"—if shipment is wholly intraline, "J"—if shipment is interlined and moves wholly under a single-factor joint rate, or "C"—if shipment is interlined and moves under a combination of local and/or joint rates.
35	128	Basis-for-rate code. Indicate the basis for the chargeable shipment weight according to the following codes: "1"—if based on actual weight, "2"—if based on dimensional weight (application of cube rule), or "3"—if based on excessive length or width (oversize shipment rule).
36	129	Shipper code. Enter "F" if shipper is an air freight forwarder; enter "N" on all other traffic.
37	130	Code for total number of carriers participating in actual routing. If four or less carriers participated in the routing, this figure will agree with the count of Fields 7, 9, 11, and 13; if five or more carriers, show the count of such carriers in order that the omission of final intermediate carriers will be indicated.
38	131–134	Commodity code: (a) Enter the appropriate numeric code for the single commodity shipped, as set forth in Appendix B. (b) For mixed shipments of more than a single commodity, and if a particular commodity (identified by name and by weight) represents at least 40 percent of the total chargeable weight of the shipment, enter the appropriate code for such major article. (c) For mixed shipments where no single commodity attains 40 percent of the total weight, enter one of the following codes: ØØØØ—when entire shipment is rated at general commodity rates; 9998—when shipment is not rated entirely at general commodity rates.
39	135–150	Blank; reserved for future CAB use.

Footnotes:
[1] Specifications herein are subject to final standardization in future issues of standard practice instructions.
[2] Do *not* report online interchanges, e.g., JFK DL ATL DL MSY should be reported as JFK DL MSY.
[3] Container codes (Fields 18, 22, and 26):

DOMESTIC OPERATIONS

Type	*Carrier-owned code no.*	*Type*	*Shipper-owned code no.*
A1	CA1	A1	SA1
A2	CA2	A2	SA2
A3	CA3	A3	SA3
LD1	CC1	B	SSB
LD3	CC3	B2	SB2
LD7	CC7	QD	SDQ
LDW	CCW	E	SSE
		LD3 insert unit	SSN

INTERNATIONAL OPERATIONS

IATA Type no.	*Code no.*	*IATA Type no.*	*Code no.*
IATA 1	XØ1	IATA 10	X1Ø
IATA 2	XØ2	IATA 11	X11
IATA 3	XØ3	IATA 12	X12
IATA 4	XØ4	IATA 13	X13
IATA 5	XØ5	IATA 14	X14
IATA 6	XØ6	IATA 15	X15
IATA 7	XØ7	IATA 16	X16
IATA 8	XØ8	IATA 17	X17
IATA 9	XØ9		

[4] In U.S. dollars and cents with decimal omitted.

[5] Service/rate-class codes:

Service class	Rate class: General [j] Min chg[n] (GM)	General [j] Other[o] (GR)	General [j] Specific[k] (SC)	Premium [l] Min chg[n] (PM)	Premium [l] Other[o] (PR)	Mixed[m] (XX)
Standard[a] (A)	GMA	GRA	SCA	PMA	PRA	XXA
Export[b] (B)	GMB	GRB	SCB	PMB	PRB	XXB
Import[c] (C)	GMC	GRC	SCC	PMC	PRC	XXC
Deferred[d] (D)	GMD	GRD	SCD	PMD	PRD	XXD
Airconomy[e] (E)	GME	GRE	SCE	PME	PRE	XXE
Daylight[f] (F)	GMF	GRF	SCF	PMF	PRF	XXF
Parcel Post[g] (G)	GMG	GRG	SCG	PMG	PRG	XXG
Small package[h] (H)	GMH	GRH	SCH	PMH	PRH	XXH
Blocked space[i] (I)	GMI	GRI	SCI	PMI	PRI	XXI

[a] "Standard" denotes normal air freight service and other than the eight types of service defined below.
[b] "Export" denotes a domestic service and rate which is dependent upon a subsequent (export) movement by ocean vessel.
[c] "Import" denotes a domestic service and rate which is dependent upon a prior (import) movement by ocean vessel.
[d] "Deferred" denotes traffic moving under service and rates subject to a specified delay prior to delivery, and includes traffic (other than Parcel Post freight traffic as defined herein) accepted subject to available space after the accommodation of all other revenue traffic.
[e] "Airconomy" denotes traffic moving under service and rates subject to a specified delay at origin prior to loading aboard aircraft.
[f] "Daylight" denotes traffic subject to restrictions as to hours of tender, such as "between the hours of 10 a.m. and 4 p.m."
[g] "Parcel Post" denotes traffic consigned to the U.S. Postal Service (for onward transportation by mail), and bearing postage affixed by the shipper for such onward movement.
[h] "Small package" denotes traffic moving under rates published in tariffs bearing such name, such as Airline Tariff Publishers, Inc., agent, Tariff CAB No. 140.
[i] "Blocked space" denotes traffic moving under a contract or similar written agreement wherein the rate is dependent upon a specified minimum quantity and/or frequency of quantities over a specified period of time.
[j] "General" denotes only a general commodity minimum charge or rate is applicable.
[k] "Specific" denotes that: (1) only a rate or a combination of rates named for a specific commodity from and to named points is applicable to the shipment; or (2) that a combination of the foregoing specific commodity rate(s) with one or more general commodity rate(s) was applicable.
[l] "Premium" denotes that: (1) only a percentage exception rating (5 percent, 165 percent, etc.) to a general commodity rate on a named specific commodity rate is applicable to the shipment; or (2) that a combination of such an exception rating and a general commodity rate is applicable.
[m] "Mixed" denotes that a combination of general, specific, or premium rate was applicable.
[n] "Minimum charge" denotes that: (1) only a minimum charge per shipment is applicable to the shipment; or (2) that a combination of a minimum charge with one or more other types of rate, such as a general or specific commodity rate, is applicable. Shipments rated at a minimum weight or charge (general, specific, or container), other than as a minimum charge option (i.e., the charge for 50 pounds), should not be coded as "Minimum" shipments. (See "Other" below.)
[o] "Other" in rate class denotes that a rate is applicable, and not a minimum charge (as defined in [n] above), except that a minimum charge per container shall be coded as "Other."

APPENDIX B

PROPOSED CAB COMMODITY LIST

Following are several pages of commodities on which the Board proposes to collect freight traffic movement data.

The numbering system in column (1) is arbitrary and has no direct relationship to any existing code system or structure.

Respondents, and specifically all scheduled direct air carriers, are asked to complete the attached pages in response to the following:

Column (3)—Need

Enter YES if it is believed that the collection of data on the particular commodity description is worthwhile; conversely, enter NO, and explain in footnotes or a supplementary memorandum.

If additional, complimentary, or supplementary descriptions are believed to be warranted, enter at close of list and show ADD in column (3). Do not assign numbers to such items in column (1).

Column (4)—Best-Match Number; and Column (5)—Carrier Best-Match Commodity Description

If an existing commodity code system is currently in use, enter the best-match number of such code in column (4) and its accompanying commodity description in column (5) opposite each particular description in column (2), irrespective of whether a YES

or NO appears in column (3). For ADD references in column (3), similarly enter numbers and descriptions in columns (4) and (5).

If the existing code system is an established, publicly available code, such as SIC, STCC, TCC, SITC, WACCC, BTN, TSUSA, etc., respondents are asked to so indicate in a covering memorandum to their response; do not send copies of any such complete codes.

Conversely, if existing codes are of the in-house, not-publicly-available variety, respondents are asked to forward one complete copy of such codes.

If a particular CAB-proposed description is not encompassed in an existing in-house code, or if no code is in use, enter NONE in columns (4) and (5).

PROPOSED CAB COMMODITY LISTS

Column (1) No.	Column (2) Description	Column (3) Need	Column (4) Code No. used	Column (5) Carrier best-match commodity description
0000	General commodity rated traffic (if commodity is not otherwise identifiable).			
1100	Vegetables, n.e.c.:			
1101	Lettuce			
1102	Tomatoes			
1103	Asparagus			
1104	Avocados			
1105	Broccoli			
1106	Artichokes			
1110	Fruits, fresh, n.e.c.:			
1111	Pineapples			
1112	Grapes			
1113	Cherries			
1114	Papayas			
1120	Berries, fresh, n.e.c.:			
1121	Strawberries			
1200	Poultry, n.e.c.:			
1201	Poultry, live baby			
1202	Eggs, n.e.c			
1203	Eggs, hatching			
1210	Shellfish, n.e.c.:			
1211	Lobster, live			
1212	Lobster, n.e.c			
1220	Fish, n.e.c.:			
1221	Fish, frozen			
1222	Fish, fresh (edible)			
1230	Meat, n.e.c.:			
1231	Meat, fresh			
1232	Meat, frozen			
1233	Meat products, n.e.c			
1300	Food preparations, bakery and confectionary products, n.e.c.			
2100	Horticulture products, n.e.c.:			
2101	Decorative greens			
2102	Nursery stock			
2103	Flowers, cut, n.e.c			
2104	Floral products			
2200	Animals, live, n.e.c.:			
2201	Dogs			
2202	Cats			
2203	Birds			
2204	Fish, marine and tropical			
3100	Fabricated textile products, n.e.c. (excluding wearing apparel).			
3101	Carpets			
3110	Fur pelts, skins, or hides (unfinished)			
3120	Leather goods, n.e.c			
3200	Wearing apparel and accessories, n.e.c.:			
3201	Wearing apparel on hangers or racks, n.e.c.			
3202	Furs (finished)			
3203	Fur trimmed wearing apparel			
3204	Footwear, n.e.c			
4100	Chemicals, Elements and Compounds, n.e.c.:			
4101	Pigments, paints, and varnishes			
4110	Drugs and Pharmaceuticals, n.e.c			
4120	Cosmetics, toiletries, perfumes			
4200	Ceramics, n.e.c.:			
4201	Chinaware			

PROPOSED CAB COMMODITY LISTS—Continued

Column (1) No.	Column (2) Description	Column (3) Need	Column (4) Code No. used	Column (5) Carrier best-match commodity description
4210	Glass products, n.e.c.:			
4211	Glassware			
5100	Printed matter, n.e.c.:			
5101	Magazines and periodicals			
5102	Newspapers			
5103	Greeting cards			
5104	Display equipment, signs, advertising			
5200	Paper products, n.e.c			
6100	Machinery and machinery parts, n.e.c.:			
6101	Machinery and machinery parts agricultural, n.e.c.			
6102	Machinery and machinery parts food products, n.e.c.			
6103	Machinery and machinrey parts metal working, n.e.c.			
6104	Machinery and machinery parts construction, n.e.c.			
6105	Engines, Combustion			
6110	Office machines, n.e.c.:			
6111	Accounting or calculating machines and parts.			
6112	Addressing, dictating or duplicating machines and parts.			
6113	Typewriters and parts			
6120	Electronic Components and Accessories, n.e.c.:			
6121	EDP magnetic tape			
6122	Tubes, electronic, X-ray			
6130	Hardware and tools, n.e.c			
6140	Fabricated metal products, n.e.c			
6150	Telephone and telegraph equipment and apparatus.			
6160	Aircraft and aerospace parts, n.e.c.:			
6161	Aircraft engines and aircraft engine parts.			
6170	Electrical machinery and parts, n.e.c.:			
6171	Household appliances			
6172	Lighting fixtures and fittings			
6173	Electrical motors and generators			
6180	Motor vehicles and motor vehicle parts and accessories, n.e.c.:			
6181	Motorcycles, motorbikes and parts and accessories.			
6200	Audio components, n.e.c.:			
6201	Phonographic instruments			
6202	Phonographic records			
6203	Radios			
6204	T.V. receivers			
6205	Recording tape, wire and cassettes			
6206	Tape recorders			
6210	Photographic equipment and supplies, n.e.c.:			
6211	Film			
6212	Cameras and camera parts			
6213	Projection equipment (including viewer).			
6300	Instruments and instrument parts, n.e.c.:			
6301	Engineering instruments			
6302	Laboratory/scientific instruments			
6303	Measuring/controlling instruments			
6304	Medical/surgical instruments			
6305	Dental instruments			
6306	Optical instruments and lenses			
7100	Luggage, new			
7200	Furniture and fixtures, new (excluding electrical fixtures).			
7300	Plastic and rubber material and products, n.e.c.			
7400	Musical instruments, n.e.c.:			
7410	Electronic stringed instruments			
7500	Wigs and human hair products			
7600	Games and toys			
7610	Sporting goods			

PROPOSED CAB COMMODITY LISTS—Continued

Column (1) No.	Column (2) Description	Column (3) Need	Column (4) Code No. used	Column (5) Carrier best-match commodity description
7700	Art works, collectors items, n.e.c. (including stamps and coins).			
7710	Gold and silver, including precious jewelry.			
7720	Clocks and watches and parts			
7800	Military stores/supplies (Impedimenta) moving on GBL.			
7810	Military unaccompanied baggage			
7900	Baggage and personal effects			
7910	Household goods, used, not for resale			
8100	Human remains			
9998	Mixed shipments (other than all general commodity rated).			
9999	All other shipments of a single specific commodity or premium rated article for which a code and description is not listed above.			

APPENDIX C

CIVIL AERONAUTICS BOARD

Washington, D.C. 20428

REPORT OF FREIGHT ORIGIN AND DESTINATION

Month of _____, 19__.

_____

(Full name of reporting company)

_____

CERTIFICATION [1]

I, the undersigned _____

(Title of officer in

_____

charge of freight operations)

of the _____

(Full name of reporting company)

do certify that this report and all schedules and supporting documents which are submitted herewith, filed for the above indicated month, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

_____

(Signature)

_____

(Air carrier post office address or foreign air carrier address)

Date _____, 19__.

[FR Doc. 72-4369 Filed 3-23-72;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[72-325]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Selection of Depositary

MARCH 14, 1972.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 563 of the rules and regulations for Insurance of Accounts (12 CFR Part 563) for the purpose of requiring prior approval of the Federal Savings and Loan Insurance Corp. for the establishment of any depositary relationship where a person or entity who owns 10 percent or more of the stock or voting rights in the insured institution is also connected with the depositary. Accordingly, the Federal Home Loan Bank Board proposes to amend said Part 563 by revising paragraph (a) of § 563.34 thereof to read as follows:

§ 563.34 Selection of depositary.

(a) Except with the prior written approval of the corporation, no insured institution may establish or maintain a depositary arrangement with a depositary on or after June 1, 1972, of which any officer, director, employee, controlling person, attorney regularly serving the institution in the capacity of attorney at law, or the spouse of any such officer, director, employee, controlling person or attorney is an officer, partner, director, or trustee, or owner of 10 percent or more of such depositary's stock. Any such depositary arrangement existing prior to June 1, 1972, may be continued unless disapproved by the corporation. For the purpose of this section, the term "controlling person" shall mean any person or entity owning or holding 10 percent or more of the stock or voting rights in an insured institution or otherwise having the power, directly or indirectly, to direct or cause the direction of the management or policies of an insured institution.

* * * * *

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Washington, D.C. 20552, by April 10, 1972, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-4537 Filed 3-23-72;8:51 am]

[1] Title 18 U.S.C. sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and wilfully make or cause to be made any false or fraudulent statements or representations in any matter within jurisdiction of any agency of the United States.

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1006]

[Ex Parte No. 284]

SHIPMENTS OF PERISHABLE COMMODITIES

Investigation and Proposed Definition of Reasonable Dispatch

Notice of proposed rule making and order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 13th day of March 1972.

The conclusion to institute this rule making proceeding, in which we intend to look into the need for this Commission further to define the meaning of the term "reasonable dispatch" as it pertains to the interstate transportation of perishable commodities, was reached during the course of our deliberations in Ex Parte No. 263, "Rules, Regulations, and Practices of Regulated Carriers With Respect to the Processing of Loss and Damage Claims," 340 ICC 515 (1972). On pages 602–605 of that decision, we specifically formalized our commitment to the shippers and receivers of perishable commodities, and to the regulated carriers concerned with the transportation thereof, that we soon would initiate an investigatory rule making proceeding for the purpose of determining the need more completely to define "reasonable dispatch" as to the interstate transportation of those commodities.

The representations submitted in Ex Parte No. 263 contain ample evidence to indicate to us that, insofar as the transportation of perishable commodities by the several modes of transport is concerned, this is now the proper time to examine further the quantitative and qualitative elements of such service and its responsiveness to the needs of the Nation at large. Thus, we deem it prudent here to examine closely not only all of those factors which contribute to and underlie the views expressed on this point by the participants in Ex Parte No. 263, but also to obtain the opinions of other interested parties as well, so that the judgments we may make on the matters involved herein will be as fully informed as possible.

The provision by carriers of transportation services on perishable commodities, including services in aid thereof, historically has had a vital part in the development and growth of this country. The more recent chapters of that history, however, contain numerous elements of substantial change in the

economic and social roles played by such transportation. Certain of these are traceable to technological improvements and innovations or broad scale economic changes not directly related to transportation. The roots of many others are, apparently, to be found in changes in managerial attitudes of shippers and carriers, modifications in marketing conditions and methods, and many other factors of an even less tangible nature.

We have previously given a certain amount of attention to a number of these problems in other proceedings. For example, in Mechanical Protective Serv. of Perishables—Nationwide, 340 ICC 470 (1972), proposals by carriers to increase or, in some instances, reduce their charges on approximately 1 million carloads of perishable commodities annually were found unlawful. It was there noted that the development of different (mechanical protective) equipment for the rail movement of perishables was first introduced in 1949 with the placement in service of three special cars, and that almost 24,000 such cars were in operation by January 1, 1971. Similar equipment innovations have occurred in motor transportation. Moreover, while carriers originally were confronted with quite limited problems incident to the seasonal transportation by rail of fresh fruit and vegetables, they are now faced with many other problems that stem from the transportation of an ever-widening variety of fresh and frozen commodities throughout the year.

These developments have also given rise to new problems in transport regulation. We were confronted, for example, in No. 35341, Provisions on Vegetables and Melons, Transcontinental, with the regulatory question of whether a proposal by carriers to publish in their tariffs or in their other nontariff publications (The Official Guide of the Railways) a rule governing the payment of claims for delay and market decline on shipments of vegetables and melons from origins in three Western States to destinations in the East, is consistent with the requirements of sections 1(6), 6(1), and 20(11) of the act. Another issue in that proceeding was whether carriers proposing to restructure their rates on the movement of perishable commodities must also publish in their tariffs their applicable operational schedules. Improvements in equipment, the manner in which shippers may be damaged or otherwise affected by delays in transit and price declines in destination markets, the provision of premium service requested and paid for, and numerous other factors—all contribute in some measure to the present question of whether we should now define reasonable dispatch with respect to the transportation in interstate or foreign commerce of perishable commodities.

In Ex Parte No. MC–19 (Sub-No. 8), Practices of Motor Common Carriers of Household Goods, 111 M.C.C. 427 (1970), we defined "reasonable dispatch" for the first time. That definition, however, applies only to the interstate transportation of household goods by motor common carrier. It is worthwhile also to note here that our decision to define the term in that proceeding was founded on two major factors that were prominent in that record: (1) That segment of the shipping public directly concerned with the transportation of household goods is, for the most part, composed of one-time, unsophisticated shippers, who are in the process of moving all of their worldly possessions during a time of personal stress and who seldom are aware of the problems inherent in or associated with interstate transportation so as to be able completely to protect their own interests; and (2) numerous shipments of household goods had been transported in the past in a fashion that was described by many as "at the convenience of the carrier."

During our deliberations in Ex Parte No. 263, we recognized the impropriety of our attempting to deal directly with the numerous allegations of service failures that were made on such a broad scale by shippers of produce, meats, and other perishable commodities, which constituted matters essentially beyond the published scope of that proceeding. At the same time, however, we became convinced that it would not be proper for us to dismiss those assertions on mere procedural grounds. We are deeply concerned, for example, with the apparently widespread belief that the term "reasonable dispatch" of perishable commodities by rail often is understood to mean "whenever the train arrives." Other specific assertions of similar purport made against motor carriers tend to corroborate those allegations and to reinforce our growing concern over the this matter. A representative sampling of the points made by the shipper participants in Ex Parte No. 263 appears in appendix A [1] to this notice and order.

The responses made by carriers to the types of allegations set forth in Appendix A were duly noted in our report in Ex Parte No. 263, to the extent relevant to the cargo claims issues there being considered. It is our present view that the assertions and the responses to them tend to demonstrate that a much greater problem is lurking in the background and, perhaps more importantly, that all that is involved in maintaining reasonable dispatch in the transportation of perishable commodities is neither patent nor readily discernible. Furthermore, we believe that we will have to go well beyond the monetary and other narrower interests of individual shippers and carriers in this proceeding, not only to obtain a clear perspective of the total problem, but also to be in a sound position to evaluate the question of reasonable dispatch completely and properly. It is in this light, then, that we think it fitting to weigh the interest of the public generally, and to consider also the adverse effects on our national transportation capability and economy both locally and nationally of the operational and other difficulties found to exist in the transportation of perishable commodities. To this end we shall also specifically invite the participation in this proceeding of those trade unions whose members will play a direct, vital, and continuing role in effecting any changes in the surface transportation of perishable traffic that may be found to be necessary in the national interest.

The definition of "reasonable dispatch" adopted in Ex Parte No. MC–19 (Sub-No. 8) and codified in 49 CFR 1056.1(c), represents a slightly modified version of that which was proposed in the notice and order which initiated that proceeding. Despite the fact that the proposal there remained largely intact, however, we believe that a proposed rule should also be drafted here with respect to the timely transportation of perishable commodities. Although it is evident that the operational problems inherent in transporting household goods are distinguishable from those associated with the movement and handling of perishables there is no sound reason why a modified version of our current limited definition cannot serve as a starting point from which to launch our inquiry in this proceeding. The definition set forth and identified as proposed § 1006.1 will, we believe, serve that purpose. Other proposed supporting regulations are also set forth below in order to give participants an opportunity to express their views on the questions of requiring shipments to be transported with reasonable dispatch, notification of delay in initiating service and making delivery, false and misleading information, and the keeping of records of notification.

It is for the purposes described in our decision in Ex Parte No. 263, as well as those set forth more specifically in this notice and order, that the instant investigation and rule making proceeding is instituted:

It is ordered, That based upon the foregoing explanation, and good cause appearing therefor, a proceeding be, and it is hereby, instituted under the authority of the national transportation policy (49 U.S.C. preceding section 1), parts I, II, III, and IV of the Interstate Commerce Act (49 U.S.C. 1, 301, 901, and 1001, all et seq.), and pursuant to 5 U.S.C. 553 and 559 (the Administrative Procedure Act): (1) To examine the nature and scope of all practices engaged in by regulated carriers insofar as they relate to the quantity and quality of service provided on shipments of perishable commodities; (2) to investigate more specifically the practices of regulated carriers that may be found to give rise to delays and other inefficiencies of operation in the transportation of perishable commodities; (3) to determine the nature and extent of the influence those carrier practices found to exist have upon the Nation's commerce generally and regionally as well as the impact such practices have upon the interests of shippers, receivers, and ultimate consumers of the various perishable commodities so transported; (4) to specify

[1] Appendix A filed as part of the original document.

the scope of this Commission's jurisdiction with respect to the matters described in this notice and order; and (5) to consider the need for this Commission to adopt the regulations proposed herein or other regulations or to recommend legislation to the Congress in order to ensure that carriers subject to the Interstate Commerce Act will provide continuous and adequate service in the movement of perishable commodities in interstate or foreign commerce equally and fairly and without unjust discrimination and undue preference.

It is further ordered, That all railroads, express companies, motor carriers, water carriers, brokers, and freight forwarders of perishables subject to the Intestate Commerce Act be, and they are hereby, made respondents in this proceeding.

It is further ordered, That the Bureau of Enforcement of this Commission be, and it is hereby, authorized and directed to participate in this proceeding.

It is further ordered, That the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, the United Transportation Union (AFL–CIO), the International Longshoremen's Association, the International Longshoremen's and Warehousemen's Union, and all other trade unions whose members are involved in the interstate or foreign transportation of perishable commodities be, and they are hereby, invited to participate actively in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that the respondents or other interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any person intending to participate in this proceeding by submitting initial or reply statements, or otherwise, shall notify this Commission, by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before May 1, 1972, the original and one copy of a statement of his intention to participate. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing initial and/or reply statements, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interests being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be issued in this proceeding; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding and upon whom copies of all statements must be filed; and that at the time of service of this service list the Commission will fix the time within which initial statements and replies must be filed.

It is further ordered, That while this proceeding does not currently appear to be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, initial and reply statements filed by parties participating herein shall indicate the presence or absence of any effect of the recommendations made therein to this Commission on the quality of the human environment. Cf. Implementation—National Environmental Policy Act, 1969, 340 I.C.C. 431 (1972).

And it is further ordered, That a copy of this order shall be served upon each party of record in Ex Parte No. 263 and that statutory notice of the institution of this proceeding be given to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

NOTE: Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Ave., Washington, DC, during regular business hours.

§ 1006.1 Reasonable dispatch.

The term "reasonable dispatch," when employed in connection with the transportation of perishable commodities, means the performance of transportation on the dates or within the time published by a carrier in its schedules, or during the period of time agreed upon by the carrier and the shipper and shown on the bill of lading: *Provided, however,* That the defenses of force majeure as construed by the courts shall not be denied the carrier.

§ 1006.2 Reasonable dispatch required.

Each carrier subject to the Interstate Commerce Act will cause to be transported with reasonable dispatch each shipments of perishable commodities accepted by it for transportation.

§ 1006.3 Notification of delay in providing service.

(a) *Notification of delay in initiating service.* Whenever a carrier is unable to initiate a shipment of a perishable commodity or commodities on the dates or within the times published by the carrier in its schedules or during the period of time specified in the receipt or bill of lading, the carrier shall notify the shipper or his representative, by telephone, telegraph, or in person, at the carrier's expense, of the delay, the date or period of time during which initiation of the shipment will be made, and shall repeat such notification if any subsequent date or period of time so assigned is not met. Such notification shall be given as soon as it becomes apparent to the carrier that it is unable to initiate the transportation service in accordance with the terms originally understood by the parties. Notification as required herein shall not affect the determination of compliance by the carrier with reasonable dispatch as required in § 1006.2.

(b) *Notification of delay in delivery.* Whenever a carrier is unable to make delivery of a shipment of a perishable commodity or commodities on the dates or within the times published by the carrier in its schedules or during the period specified in the receipt or bill of lading, the carrier shall notify the shipper (or person designated by the shipper to receive such notice), by telephone, telegraph, or in person, at the carrier's expense, of the location and general condition of the shipment, the reason for such delay, and the date or period of time during which delivery of the shipment will be made. The carrier shall also repeat such notification if any subsequent date or period of time so assigned is not met. Such notification shall be given as soon as it becomes apparent to the carrier that it is unable to complete delivery of the shipment in accordance with the terms of the receipt or bill of lading, or its published schedules: *Provided,* That the requirement of this paragraph shall not apply where the carrier is unable to obtain from the shipper an address or telephone number for such notification. Notification as required herein shall not affect the determination of compliance by the carrier with reasonable dispatch as required in § 1006.2.

§ 1006.4 False or misleading information prohibited.

No carrier shall knowingly and willingly give false or misleading information as to the reason for delay in initiating or delivering a shipment of a perishable commodity or commodities.

§ 1006.5 Record of notification.

When notification required by paragraph (a) or (b) of § 1006.3 is given, a record shall be prepared by the carrier setting forth the time and method of notification, the name of the person notified, the reason for delay, the location and general condition of the shipment involved in cases of delay in delivery, the new date or period assigned for initiating service or making delivery, and the signature of the person who gave such notification. The carrier shall preserve the record thus made as a part of its record of the shipment or shipments involved.

[FR Doc.72-4461 Filed 3-23-72;8:50 am]

Notices

DEPARTMENT OF STATE

[Public Notice 353]

TRAVEL INTO OR THROUGH CUBA

Restriction on Use of U.S. Passports

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), use of U.S. passports for travel into or through Cuba is restricted as unrestricted travel into or through Cuba would seriously impair the conduct of U.S. foreign affairs. To permit unrestricted travel would be incompatible with the resolutions adopted at the Ninth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States, of which the United States is a member. At this meeting, held in Washington from July 21 to 26, 1964, it was resolved that the governments of the American States not maintain diplomatic, consular, trade or shipping relations with Cuba under its present government. This resolution was reaffirmed in the Twelfth Meeting of Ministers of Foreign Affairs of the OAS held in September 1967, which adopted resolutions calling upon member States to apply strictly the recommendations pertaining to the movement of funds and arms from Cuba to other American nations. Among other things, this policy of isolating Cuba was intended to minimize the capability of the Castro government to carry out its openly proclaimed programs of subversive activities in the hemisphere.

U.S. passports shall not be valid for travel into or through Cuba unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire at the end of a year from the date of publication in the FEDERAL REGISTER unless extended or sooner revoked by public notice.

Effective date. This notice becomes effective on March 16, 1972.

Dated: March 16, 1972.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[FR Doc.72-4539 Filed 3-23-72;8:51 am]

[Public Notice 354]

TRAVEL INTO OR THROUGH NORTH KOREA

Restriction on Use of U.S. Passports

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), use of U.S. passports for travel into or through North Korea is restricted as unrestricted travel into or through North Korea would seriously impair the conduct of U.S. foreign affairs. In view of the expressed virulent hostility of the North Korean regime toward the United States, the provocation by North Korea of incidents along the military demarcation line, and the special position of the Government of the Republic of Korea which is recognized by resolution of the United Nations General Assembly as the only government in Korea, the Department of State believes that wholly unrestricted travel by American citizens to North Korea would seriously impair the conduct of U.S. foreign affairs.

U.S. passports shall not be valid for travel into or through North Korea unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire at the end of a year from the date of publication in the FEDERAL REGISTER unless extended or sooner revoked by public notice.

Effective date. This notice becomes effective on March 16, 1972.

Dated: March 16, 1972.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[FR Doc.72-4540 Filed 3-23-72;8:51 am]

[Public Notice 355]

TRAVEL INTO OR THROUGH NORTH VIET-NAM

Restriction on Use of U.S. Passports

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(b), use of U.S. passports for travel into or through North Viet-Nam is restricted as this is "a country or area where armed hostilities are in progress."

U.S. passports shall not be valid for travel into or through North Viet-Nam unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire at the end of a year from the date of publication in the FEDERAL REGISTER unless extended or sooner revoked by public notice.

Effective date. This notice becomes effective on March 16, 1972.

Dated: March 16, 1972.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[FR Doc.72-4541 Filed 3-23-72;8:51 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Cost of Living Council Ruling 1972-33]

TRANSACTIONS WITHIN THE UNITED STATES BY FOREIGN FIRMS

Cost of Living Council Ruling

Facts. A is a firm incorporated in country X which has sales outlets in the United States. Products purchased from these U.S. outlets are delivered in the United States, and services which the firm renders in connection with products sold in the United States are at least partially rendered in the United States.

Issue. Are transactions executed by the firm's U.S. outlets subject to the Economic Stabilization Regulations?

Ruling. Transactions executed by the firm's U.S. outlets for delivery of property in the United States and for services rendered partially or wholly within the United States are governed by the Economic Stabilization Regulations.

It is clear that commercial transactions occurring within the United States are subject to Federal law, regardless of the citizenship of the parties, unless specifically exempted. It is also clear that certain transactions involving parties not domiciled within, or citizens of the United States, are specifically exempt from the Economic Stabilization Regulations. See, for example, Economic Stabilization Regulations 6 CFR 101.34 (d), 37 F.R. 1237 (January 27, 1972) which exempts exports, imports, and international ocean shipping rates.

However, the transactions of a foreign corporation occurring within the United States are not exempt from the Economic Stabilization Regulations merely because it has a foreign domicile. On the contrary, such transactions are specifically within the coverage of the regulations; Economic Stabilization Regulations 6 CFR 101.1(e), 37 F.R. 3913 (February 24, 1972).

Therefore, A's transactions involving the sale of property to be delivered within the United States and its sales of services which are to be rendered wholly or partially within the United States are subject to the Economic Stabilization Regulations.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-4501 Filed 2-23-72;8:48 am]

[Cost of Living Council Ruling 1972-34]

DEFINITION OF RESTAURANT FOR THE PURPOSE OF THE $100,000 EXEMPTION

Cost of Living Council Ruling

Facts: A recent amendment to the Cost of Living Council's Regulations, Economic Stabilization Regulation, 6

CFR 101.34(j), 37 F.R. 2678 (February 4, 1972), provides for an exemption of price adjustments by retail firms including restaurants with annual sales or revenues of less than $100,000.

Issue: What is the definition of "restaurant" for the purpose of the exemption?

Ruling: A restaurant is any retail establishment described in Major Group 58 of the Standard Industrial Classification Manual. Examples of such retail establishments are:

Automats (eating places).
Cafeterias.
Carryout restaurants (retail).
Diners (lunch stands).
Drive-in restaurants.
Lunch counters.
Luncheonettes.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-4502 Filed 3-23-72;8:48 am]

[Cost of Living Council Ruling 1972-36]

EXEMPTION FOR COMMERCIAL PROPERTY

Cost of Living Council Ruling

Facts. Real estate corporation, R, owns a high-rise apartment building. In its only transaction, R leases the entire building on a long term lease to a university, U, who in turn leases individual apartments and rooms to its students.

Issue. R contends that his contract with U is a commercial transaction, and that since U does not itself use the property for residential purposes, the transaction between R and U is exempt from the Economic Stabilization Regulations. Is the transaction between R and U exempt from regulation?

Ruling. The transaction is not exempt from regulation. Economic Stabilization Regulation, 6 CFR 101.33(a)(2)(i), 37 F.R. 2678 (February 4, 1972) exempts "all nonresidential property, including property leased for industrial, farm, or commercial purposes."

In order to qualify for this exemption, the property itself must be nonresidential. A commercial transaction involving residential property is not exempt even though the lessee does not use it for a residence. The exemption applies to the actual use of the property, not the transaction involved. The phrase "including property leased for industrial, farm, or commercial purposes" emphasizes some of the nonresidential property that is exempt. It does not add these types of property to nonresidential property for the purpose of the exemption.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-4503 Filed 3-23-72;8:48 am]

[Cost of Living Council Ruling 1972-37]

SALE OF PERPETUAL CARE CEMETERY LOTS

Cost of Living Council Ruling

Facts. A owns a cemetery and is in the business of selling perpetual care cemetery lots to the public. His practice is to grant a deed of sepulcher giving the purchaser the right to use a designated section of real property for the purpose of depositing human remains but retaining title to the property in himself. The purchase price includes a fee for the deed of sepulcher and payment for perpetual care which A agrees to render. A believes that the sale of deeds of sepulcher, being a grant of an interest in real property, are exempt from the Economic Stabilization Regulations.

Issue. Are sales of deeds of sepulcher exempt from the Economic Stabilization Regulations as sales of unimproved real estate?

Ruling. Sales of deeds which grant only the right to use a designated section of real property for burial purposes are not exempt as sales of unimproved real estate.

The regulations do specifically provide that sales of real estate which meets certain conditions are exempt from price controls. Economic Stabilization Regulations, 6 CFR 101.33(a)(1)(i), 37 F.R. 3913 (February 24, 1972). However, "Sales" of real estate as used in that section is intended to include only those sales which convey a fee simply interest, or a fee simply subject to insubstantial rights held by other persons, such as easements, licenses, mineral rights or other limited interests.

On the above facts, the interest conveyed by A was the very limited right of burial on the property; A himself retained the fee simply interest subject to the interest he granted in the deed of sepulcher. Therefore, the sale of the deed of sepulcher and the agreement for perpetual care is not a sale of real estate within § 101.33(a)(1) and is not exempt under the section.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel, Department of the Treasury.

[FR Doc.72-4504 Filed 3-23-72;8:48 am]

[Pay Board Ruling 1972-19]

RIGHT TO SEEK INJUNCTIVE RELIEF

Pay Board Ruling

Facts. Employer X has entered into collective bargaining agreements for a number of years with a union representing an employee bargaining unit of 100. The prior contract had an expiration date of September 4, 1971. Collective bargaining sessions for a new contract began in late August 1971, but were suspended because of the "freeze." Negotiations were renewed November 4–13, 1971. The unit went on strike on November 15, 1971.

On November 21, 1971, a memorandum of agreement was entered into by the employer and the union which called for aggregate wage increases of approximately 20 percent. Faced with the threat of a continued strike unless the increases were implemented, the employer paid the new wages but filed a complaint with the District Director contending that the pay adjustment exceeded 5.5 percent.

Issue. Can an employer, who is in violation of the Economic Stabilization Regulations by paying an increase in excess of 5.5 percent without the prior approval of the Pay Board, request the Internal Revenue Service to seek injunctive relief against the payment of these increases to the employees?

Ruling. Yes. The District Director, upon receipt of such a request will, in appropriate cases, recommend through the Stabilization Agencies that the Attorney General of the United States apply for an injunction, Economic Stabilization Regulations, 6 CFR 401.502(c), 37 F.R. 1015 (January 21, 1972), if it can be shown that an individual or organization has engaged, is engaged, or is about to engage in any acts or practices that constitute a violation of the regulations. It constitutes a violation for "any person to pay or to receive any portion of a wage and salary increase not authorized by such regulations or Pay Board decision." Economic Stablization Regulations, 6 CFR 201.17, 36 F.R. 25427 (December 31, 1971).

However, an employer who is in violation of the regulations and does request the Internal Revenue Service to seek injunctive relief will not be immune from prosecution or other legal action that might be available against him under the circumstances.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.
General Counsel,
Department of the Treasury.

[FR Doc.72-4505 Filed 3-23-72;8:48 am]

[Pay Board Ruling 1972-20]

CHANGE OF WAGE BASE TO REFLECT RETROACTIVE PAYMENTS

Pay Board Ruling

Facts. Pursuant to the Economic Stabilization Act Amendments of 1971 and §§ 201.13 and 201.15 of the Economic Stabilization Regulations (6 CFR 201.13 and 201.15, 37 F.R. 1242-1245 (January 27, 1972)), employer X is authorized to make retroactive payments for those increases that were prohibited during the freeze period.

Issue. Can X adjust the wage base on each appropriate employee unit affected by the retroactivity to reflect the retroactive payments?

Ruling. If, in initially calculating "permissible annual aggregate increases" a frozen wage base was required to be used but was subsequently unfrozen by approval of retroactive payments pursuant to the provision(s) of § 201.13 or § 201.15 of Economic Stabilization Regulations, the wage base may be changed to reflect the retroactive payments.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-4506 Filed 3-23-72;8:48 am]

[Pay Board Ruling 1972-21]

VALUE OF INCENTIVE COMPENSATION IN WAGE BASE

Pay Board Ruling

Facts. A corporation desires to raise executive salaries. In the past executive compensation consisted of salary plus incentive compensation and bonuses pursuant to an existing plan.

Issue. Is the value of incentive compensation and bonuses under an existing plan included in the wage base when computing the permissible annual aggregate increase for an executive salary?

Ruling. No. Items constituting incentive compensation shall not be treated as wages and salaries, Economic Stabilization Regulations, 6 CFR 201.72(a), 37 F.R. 3357 (February 15, 1972), but shall be treated separately in determining the allowable amount of annual aggregate increases. The allowable amount of any item of incentive compensation granted to the employees in a plan unit during any wage year under a plan that qualifies as an established plan or a Pay Board approved plan under the Regulations shall not exceed an amount determined as follows: The base year amount plus such base year amount multiplied by the permissible wage and salary standard. Sections 201.74(b)(1), 37 F.R. 3357 (February 15, 1972).

For example, assume the appropriate employee unit had a salary of $20,000 and incentive compensation of $20,000 for an aggregate executive compensation of $40,000 in the base year. For the next wage year, the salary may be increased by 5.5 percent to $21,100 and the incentive compensation may be increased by 5.5 percent to $21,100. This represents an overall increase of $2,200 which equals an increase of 5.5 percent of the total executive compensation of $40,000. In subsequent wage years, the incentive compensation cannot exceed $21,100 but the salary base may be increased each year by the general pay standard.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-4507 Filed 3-23-72;8:48 am]

[Price Commission Ruling 1972-113]

POSTING FOR HEALTH PROVIDERS

Price Commission Ruling

Facts. A hospital intends to raise its prices April 1, 1972, based on allowable costs incurred at that time. The hospital has not raised any price since the freeze base period and intends to wait until April 1, 1972, to provide a schedule of base prices. It does not know which services must be listed in the schedule of base prices. See Economic Stabilization Regulations, 6 CFR 300.18(g), 36 F.R. 25384 (December 30, 1971).

Issue. Is it necessary for a provider to post the sign stating the availability and location of a schedule of prices and make that schedule available even if the provider does not intend to increase these prices at this time? What constitutes principal service prices as stated in the regulations for listing in the schedule?

Ruling. All institutional providers are responsible for maintaining a schedule of the base prices and all changes in such prices, after posting a 22" x 28" sign stating the availability and location of the schedule. This must be done as of December 29, 1971, regardless of whether the provider intends to increase prices. The "principal services" for which base prices will be listed in the schedule (and which a noninstitutional provider must list in a schedule under § 300.19(d)) are those which comprise 90 percent of the annual revenues, except any price of $5 or less need not be listed.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-4508 Filed 3-23-72;8:48 am]

[Price Commission Ruling 1972-114; Cost of Living Council Ruling 1972-32]

PRICES—BOTTLE DEPOSITS

Price Commission Ruling and Cost of Living Council Ruling

Facts. X conducts the business of producing soft drinks. The beverage is sold in returnable and disposable bottles. As a result of pressure from environmental groups X has decided to eliminate the use of disposable containers. The use of returnable bottles is only feasible if X is assured that the bottles will be returned. Thus, X wishes to increase the deposit on the returnable bottles.

Issue. Whether deposits on soft drink containers are subject to the price controls of the Economic Stabilization Program?

Ruling. No. A deposit on a soft drink container is paid by the purchaser of the soft drink with the understanding that if the container is returned, the full deposit will also be returned. It is an amount exacted to insure the safe return of the soft drink container. Thus, deposits on soft drink containers are not prices and are therefore not subject to the current regulations.

This ruling has been approved by the General Counsel of the Price Commission and Cost of Living Council.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-4509 Filed 3-23-72;8:48 am]

[Price Commission Ruling 1972-115; Cost of Living Council Ruling 1972-35]

INTERNAL REVENUE SERVICE RULINGS WITH RESPECT TO TRANSACTIONS OCCURRING AFTER APRIL 30, 1973

Cost of Living Council Ruling and Price Commission Ruling

Facts. Company A, a service organization, plans to begin construction of a new facility, to which it will move its business in 1975. Company A has requested a ruling from the Internal Revenue Service that the conduct of its business in this new facility in 1975 will consti-

tute a sale of new services, and that its prices will be determined under Economic Stabilization Regulations, 6 CFR 300.409, 37 F.R. 3913 (February 24, 1972).

Issue. Will the Internal Revenue Service issue a ruling or interpretation on the prices which Company A will charge in 1975?

Ruling. No. The authority to issue and enforce orders and regulations under the Economic Stabilization Act of 1970, as amended, expires on April 30, 1973, with respect to acts after that date. Economic Stabilization Acts amendments of December 22, 1971, Public Law 92–210, sec. 218, 85 Stat. 743. Therefore the Internal Revenue Service generally will not issue rulings or interpretations with respect to prices to be charged after April 30, 1973.

This ruling has been approved by the General Counsel of the Price Commission and the Cost of Living Council.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–4510 Filed 3–23–72;8:48 am]

[Price Commission Ruling 1972–116]

INSTITUTIONAL PROVIDERS OF HEALTH CARE

Price Commission Ruling

Facts. A hospital corporation owns three separate and distinct hospital facilities, each located in a different city. The corporation proposed to treat these groups as an entity applying price increases in such a way that the two prosperous hospitals can support the third hospital which is operating at a loss. This would be done by using allowable cost increases justified for the loss hospital and making adjustments in the charges of the prosperous hospitals where the additional costs will be accepted by the consumer.

Issue. Can the increased allowable costs of the loss hospital be used to justify a price increase by the two prosperous hospitals when all three are owned by the same corporation?

Ruling. No. Regardless of its ownership, each separate and distinct institutional health care facility can use only its own allowable cost increases to justify a price increase. Economic Stabilization Regulations, 6 CFR 300.18, 36 F.R. 25385 (December 30, 1971); Appendix 1, 6 CFR Part 300, 36 F.R. 25386 (December 30, 1971).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: March 20, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel.

Approved: March 20, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–4511 Filed 3–23–72;8:49 am]

Office of the Secretary

CADMIUM FROM JAPAN

Determination of Sales at Less Than Fair Value

Information was received on January 27, 1971, that cadmium from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "withholding of appraisement notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of December 24, 1971.

I hereby determine that for the reasons stated below, cadmium from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this determination is based. Analysis of the information from all sources reveals that the proper basis of comparison for fair value purposes is between purchase price and adjusted home market price of such or similar merchandise.

Purchase price was calculated by deducting from the c.i.f. price for exportation to the United States or the exgodown price, as appropriate, the included shipping charges and insurance costs.

Home market price was based on a net, packed delivered price. Deductions were made for inland freight, costs of credit, and, where appropriate, insurance charges. Adjustments were made for differences in packing costs and, where appropriate, commissions.

The comparisons indicate that purchase price was lower than the adjusted home market price.

The U.S. Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

MARCH 21, 1972.

[FR Doc.72–4628 Filed 3–23–72;9:36 am]

RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

Notice of Discontinuance of Antidumping Investigation

On November 20, 1970, information was received that railway track maintenance equipment from Austria was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "withholding of appraisement notice" issued by the Acting Commissioner of Customs was published in the FEDERAL REGISTER of December 22, 1971. A statement of reasons was published in the above mentioned notice and interested parties were afforded until January 21, 1972, to make written submissions and to present oral views in connection with the withholding of appraisement.

The attorneys for the exporter submitted a written request for an opportunity to present views in person in opposition to the notice. The opportunity was afforded to the attorneys and all interested parties were notified and were represented.

After consideration of all written and oral arguments presented, I hereby discontinue the antidumping investigation of railway track maintenance equipment from Austria.

Statement of reasons on which this notice is based. The information before the Bureau indicates the basis of comparison is between exporter's sales price and third country prices of such or similar merchandise.

Exporter's sales price was computed by deducting from resale prices of the related U.S. firm to unrelated purchasers in the United States any discounts to arrive at a net selling price. From this net selling price, deductions were made for the following: U.S. selling expenses, U.S. inland freight and handling charges, U.S. duty, ocean freight, marine insurance, and foreign inland freight and surance, and foreign inlan dfreight and handling charges. An addition was made for rebated Austrian sales taxes.

Third country prices were computed based on terms of sale to a particular third country purchaser less, where appropriate, the following items: Discounts, inland freight, f.o.b. charges, ocean freight, marine insurance, sales commissions, selling expenses, warranty costs, and technical assistance costs. An addition was made for rebated Austrian sales taxes. Appropriate adjustments were also made for differences in the merchandise and for costs of manufacture.

Comparisons made revealed some instances where exporter's sales price was lower than adjusted third country price of such or similar merchandise. Such instances were confined to a single model which has not been exported to the United States for some time. Specific assurances were received from the exporter that no further sales of this model will be made to the United States. In addition, the exporter provided general assurances that no future sales of railway track maintenance equipment would be made at less than fair value within the meaning of the Act. These facts constitute evidence warranting the discontinuance of the investigation.

This "notice of discontinuance of antidumping investigation" is published pursuant to § 153.15(b) of the Customs Regulations (19 CFR 153.15(b)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

MARCH 22, 1972.

[FR Doc.72–4626 Filed 3–23–72;9:36 am]

SHOEBOARD FROM THE UNITED KINGDOM

Notice of Discontinuance of Antidumping Investigation

MARCH 17, 1972.

On January 20, 1972, there was published in the FEDERAL REGISTER a "notice of intent to discontinue antidumping investigation" of shoeboard from the United Kingdom.

The statement of reasons for intending to discontinue this investigation was published in the above-mentioned notice, and interested parties were afforded an opportunty to make written submissions and to present oral views in connection with the intended action.

No written submissions or requests having been received and for the reasons stated in the "notice of intent to discontinue antidumping investigation," I hereby discontinue the antidumping investigation of shoeboard from the United Kingdom.

This "notice of discontinuance of antidumping investigation" is published pursuant to § 153.15(b) of the Customs Regulations (19 CFR 153.15(b)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-4627 Filed 3-23-72;9:36 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 3941; Project No. 237]

CALIFORNIA

Order Providing for Opening of Lands

MARCH 16, 1972.

Pursuant to the vacating order of the Federal Power Commission (37 F.R. 634, January 14, 1972), and by virtue of the authority contained in section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and in accordance with the authority redelegated to me by the Chief, Division of Technical Services, California State Office, Bureau of Land Management, approved by the California State Director, effective January 12, 1972 (37 F.R. 491) it is ordered as follows:

1. The Commission finds that the lands are no longer needed for power development and that the withdrawal for Project No. 237 should be vacated. The areas described below are hereby restored to disposition under applicable land laws from the withdrawal for Federal Power Project No. 237, dated August 19, 1921, subject to valid existing rights and the provisions of existing withdrawals:

TAHOE NATIONAL FOREST

MOUNT DIABLO MERIDIAN

T. 17 N., R. 10 E.,
Sec. 4, Lots 9, 10, 15, 16 (part of SW¼), Lots 12, 14 (part of S½NW¼);
Sec. 9, Lot 2 (part of N½NW¼).

The area described aggregates 83.47 acres in Nevada County.

The State of California has waived its preference right of application for highway rights-of-way or material sites afforded it by section 24 of said act.

2. The land shall immediately be made available for consummation of pending Forest Service Exchange S 3797.

Inquires concerning the lands should be addressed to the Bureau of Land Management, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

ELIZABETH H. MIDTBY,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-4499 Filed 3-23-72;8:47 am]

[Colorado 15142]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 13, 1972.

The Forest Service, U.S. Department of Agriculture has filed an application, serial No. C-15142, for the withdrawal of the lands described below, from prospecting, location and entry under the General Mining Laws only, subject to valid existing rights.

The applicant desires the lands for an administrative site, roadside zone, ski area, and two public campgrounds.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

RIO GRANDE NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

Park Creek Administrative Site

T. 38 N., R. 3 E.,
Sec. 31: W½NE¼.

UNCOMPAHGRE NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

Highway 145 Roadside Zone

A strip of land 200 feet wide on each side of the Colorado State Highway 145 centerline through the following described lands:

T. 41 N., R. 9 W.,
Sec. 5, lot 2, SW¼SW¼NE¼, E½SW¼, W½SE¼;
Sec. 7, E½SE¼;
Sec. 8, NE¼NW¼;
Sec. 18, NE¼, NE¼SW¼, NW¼SE¼.
T. 42 N., R. 9 W.,
Sec. 20, E½SW¼;
Sec. 28, SW¼SW¼;
Sec. 29, W½E½, NE¼NW¼, E½SE¼;
Sec. 32, NE¼NE¼, S½NE¼, E½SW¼, W½SE¼;
Sec. 33, W½E½NW¼, W½NW¼.

Excluding portions of mineral patents M.S. 1005, 1167A, 7301, 8603A, 12342, 12416, 14048, 15590, and 20027.

Prospect Basin Ski Area

T. 42 N., R. 9 W.,
Sec. 1, lots 2, 3, S½NW¼, SW¼;
Sec. 2, lots 1, 2, 3 and 4, S½NE¼, S½SW¼, SE¼;
Sec. 3, SE¼SW¼;
Sec. 4, lot 2, SW¼SE¼;
Sec. 9, NW¼NE¼, S½NE¼, SE¼NW¼, SE¼;
Sec. 10, SW¼NW¼, W½SW¼, E½SE¼;
Sec. 11, all;
Sec. 12, W½NW¼;
Sec. 14, N½NE¼, SW¼NE¼, W½, NW¼NW¼SE¼;
Sec. 15, E½, N½NW¼, SE¼NW¼;
Sec. 22, NE¼NE¼;
Sec. 23, NW¼NW¼.
T. 43 N., R. 9 W.,
Sec. 32, NE¼SW¼, N½SE¼;
Sec. 33, NW¼SW¼;
Sec. 35, S½SW¼, SW¼SE¼.

Excluding all or portions of mineral patents M.S. 244, 658, 801, 2019, 2169, 2200, 2238, 4859A, 4883A, 7054, 8542, 9002, 9066A, 9148, 12688, 14485, 15337, 15525, 17044, 17980 and 24912.

SAN JUAN NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

Roaring Fork Campground

T. 39 N., R. 11 W.
Sec. 31, SE¼NW¼SE¼, SW¼NE¼SE¼, E½NE¼SW¼SE¼, and SE¼SE¼.

GUNNISON NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Rivers End Campground

T. 14 S., R. 82 W.
Sec. 5, E½NE¼SW¼, NE¼SE¼SW¼, NW¼SE¼, N½SW¼SE¼, except the portion included in M.S. 8806.

The areas described aggregate approximately 3479 acres.

ALLAN E. ARNOLD,
Acting Chief, Division of Technical Services.

[FR Doc.72-4500 Filed 3-23-72;8:47 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications and Supersedeas Decisions; New Determinations

There are set forth below general Area Wage Determination Decisions Nos. AM–6710 and 6711 of the Secretary of Labor. These decisions specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein. The decisions are applicable to Federal and federally assisted construction in described localities situated within the States of Arizona and Idaho.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal or federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

These wage determinations are effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR, Part 5. Accordingly, the applicable determination together with any modification issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

The area wage determination decisions for localities within the above States are set forth below:

Modifications and/or Supersedeas Decisions to are a wage determination decisions for specified localities in Alaska, California, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, New Jersey, New Mexico, Ohio, Pennsylvania, Texas, Washington, and West Virginia.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM–1706, AM–1707, AM–1709, AM–1710, AM–1711, AM–1712, AM–1714, AM–1715, AM–1716, AM–1717, AM–1718, AM–1719, AM–1720	Aug. 11, 1971
AM–409	Aug. 18, 1971
AM–449, AM–450, AM–459, AM–460, AM–469, AM–470, AM–1852, AM–1876 (AM–9690), AM–9679	Aug. 20, 1971
AM–2454, AM–3555, AM–3615 (AM–11,406), AM–3621, AM–3623, AM–3624, AM–3625, AM–3627, AM–3629, AM–7718	Aug. 25, 1971
AM–2505, AM–2506, AM–2507, AM–6704	Aug. 27, 1971
AM–6242	Sept. 3, 1971
AM–7489	Nov. 12, 1971
AM–7714, AM–7715, AM–7717	Nov. 19, 1971

Are hereby modified and/or superseded as set forth below.

Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modification and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modification and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified and/or superseded were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modification and/or supersedeas decisions to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

Signed at Washington, D.C., this 17th day of March 1972.

HORACE E. MENASCO,
Administrator, Employment Standards Administration.

State: Arizona; County: Pima.
Decision No. AM-6710; date of decision: Mar. 24, 1972.
Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including 4 stories.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
10(r)-Ariz-Pim-1-2-3:						
Asbestos workers	$7.93	$0.35	$0.40			
Boilermakers	7.20	.30	.70	$0.45	$0.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons:						
Zone A (Tucson City limits through 10 miles)	7.175	.40	.30	.25	.02	
Zone B (Tucson City limits 10-25 miles)	7.55	.40	.30	.25	.02	
Zone C (Tucson City limits 25-40 miles)	7.925	.40	.30	.25	.02	
Zone D (Tucson City limits over 40 miles)	8.675	.40	.30	.25	.02	
Carpenters:						
Carpenters	7.45	.30	.45		.025	
Millwrights	7.825	.30	.45		.025	
Piledrivermen	7.70	.30	.45		.025	
Cementmasons	7.285	.30	.45		.025	
Electricians:						
Zone A (within 16 miles of city hall, Tucson)	6.00	.30	1%		½%	
Zone B (from 16-32 miles from city hall)	6.50	.30	1%		½%	
Zone C (from 32-48 miles from city hall)	7.00	.30	1%		½%	
Zone D (48 miles and over)	7.50	.30	1%		½%	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob. 6 mo.)	50%JR					
Ironworkers:						
Structural and ornamental	$8.58	.43	.425		$0.04	
Reinforcing	8.58	.43	.425		.04	
Lathers:						
Zone A (area to 30 miles from Tucson)	7.66	.20				
Zone B (area 30-40 miles from Tucson)	8.16	.20				
Zone C (area 40-50 miles from Tucson)	8.41	.20				
Zone D (area outside Zone C)	9.16	.20				
Painters, brush:						
Zone A (1-30 miles from Tucson Post Office)	4.93	.24				
Zone B (31-40 miles from Tucson Post Office)	5.43	.24				
Zone C (41-50 miles from Tucson Post Office)	5.68	.24				
Zone D (51 miles and over)	5.93	.24				
Painters, structural steel, brush:						
Zone A (1-30 miles from Tucson Post Office)	6.13	.24				
Zone B (31-40 miles from Tucson Post Office)	6.63	.24				
Zone C (41-50 miles from Tucson Post Office)	6.88	.24				
Zone D (51 miles and over)	7.13	.24				
Plasterers:						
Zone A (0-30 miles from Tucson Post Office)	7.62	.30	.45			
Zone B (30-40 miles from Tucson Post Office)	8.12	.30	45			
Zone C (40-50 miles from Tucson Post Office)	8.37	.30	.45			
Zone D (over 50 miles from Tucson Post Office)	9.12	.30	.45			
Plumbers; steamfitters:						
Zone I (0-15 miles from Tucson)	7.74	.45	.70	$0.75	.06	
Zone II (15-30 miles from Tucson)	8.04	.45	.70	.75	.06	
Zone III (30-45 miles from Tucson)	8.39	.45	.70	.75	.06	
Zone IV (45 miles and beyond Tucson)	9.49	.45	.70	.75	.06	
Sheet metal workers:						
Zone A (0-17 miles from Tucson)	6.83	.38	.75		.01	
Zone B (18-23 miles from Tucson)	7.28	.38	.75		.01	
Zone C (24-31 miles from Tucson)	7.73	.38	.75		.01	
Zone D (32-43 miles from Tucson)	8.33	.38	.75		.01	
Zone E (44 miles and over from Tucson)	8.78	.38	.75		.01	
Sprinkler fitters	7.95	.25	.40		.05	
Line construction:						
Zone 1 (Tucson and 30 miles radius):						
Linemen	7.40	.23	1%+4%b		½%	
Cable splicers	7.66	.23	1%+4%b		½%	
Equipment operators	6.96	.23	1%+4%b		½%	
Groundman	6.04	.23	1%+4%b		½%	
Zone 2 (other areas):						
Linemen	8.55	.23	1%+4%b		½%	
Cable splicers	8.81	.23	1%+4%b		½%	
Equipment operators	8.11	.23	1%+4%b		½%	
Groundman	7.21	.23	1%+4%b		½%	

Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to vacation fund. 6 paid holidays: A through F.
b. Of gross labor payroll, employer contributes 1% to NEBF and 4% to management pension fund.

LABORERS:					
Group I: All helpers not herein separately classified; cesspool diggers and installers; chat box man; checker, tool dispatcher; concrete dump man—belt, pipe and/or hoseman; dumpman and/or spotter; fence builder, guardrail builder highway; form strippers; labor, general or construction; landscape gardner and nurseryman; packing rod steel and pans; rip rap stoneman	5.23	.30	$0.45	$0.05	
Group II: Cement finisher tender; concrete curer (impervious membrane); cutting torch operator; fine grader (highway, engineering and sewer work only); kettleman—tarman; power-type concrete buggy	5.34	.30	.45	.05	
Group III: Bander; chucktender (except tunnel); creosote tieman; guinea chaser; powderman helper; rip-rap stone paver; sandblaster (pot tender); spikers and wrenchers	5.45	.30	.45	.05	
Group IV: Cement dumpers (skip-type mixer or handling bulk cement); chain saw machines (on clearing and grubbing); concrete vibrating machines; cribber and shorer (except tunnel); floor sanders—concrete; hydraulic jacks, and similar mechanical tools not separately herein classified; operators and tenders of pneumatic and electric tools; pipe caulker and/or backup man (pipeline); pipe wrapper; pneumatic gopher; rigger/signalman (pipeline)	5.53	.30	.45	.05	
Group V: Air and water washout nozzleman; asphalt rakers and ironers; drillers; grade setter (pipeline); hand guided trencher and similar operated equipment; jackhammer and/or pavement breakers; pipe layer (including but not limited to nonmetallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); rock slinger; scaler (using bos'ns chair of safety belt); tampers (mechanical—all types)	5.67	.30	.45	.05	
Group VI: Concrete cutting torch; concrete saw (hand guided); driller (core, diamond, wagon or air track); drill doctor and/or air tool repairman; gunman and mixerman (Gunite); sandblaster (nozzleman)	5.975	.30	.45	.05	

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS—Continued						
Group VII:						
Concrete road form setter; Gunite nozzleman or rodman; drillers, Joy, Mustang, P R143,2200 Gardner-Denver, Hydrasonic; powder man; sealer (drillers); welders and/or pipe layers installing process piping	6.485	.30	.45		.05	
Mason tenders	5.835	.30	.45		.05	
Plasterers' tenders	6.15	.30	.45		.05	
Employees working underground shall receive 20 cents per hour additional above the regular rate, except where herein specifically covered.						
Laborers employed where they may have a free fall over 30 ft. or on construction scaffolds above 30 ft. or bos'n chair above 30 ft., or where gas masks are necessary, shall receive 50 cents per hour in addition to their regular rate, except where inherent in classifications.						
Tunnel and shaft workers:						
Group I: Bull gang, muckers, trackman; dumpmen; concrete crew (includes rodders and spreaders); grout crew; swamper (brakeman and switchmen on tunnel work)	5.425	.30	.45		.05	
Group II: Nipper; chucktender, cabletender; vibratorman, jackhammer, pneumatic tools (except driller)	5.56	.30	.45		.05	
Group III: Grout gunman	5.66	.30	.45		.05	
Group IV: Timberman, retimberman—wood or steel blaster, driller powderman; cherry pickerman; powderman—primer house; steel form raiser and setter; kemper and other pneumatic concrete placer operator; miner—finisher	5.76	.30	.45		.05	
Group IV-A: Miners—tunnel (hand or machine)	5.96	.30	.45		.05	
Group V: Diamond drill	6.095	.30	.45		.05	
Group V-A: Shaft and raise miner welder	6.295	.30	.45		.05	
Power equipment operators:						
Group I: Air compressor operator; field equip—servicemen helper; heavy-duty repair helper; heavy-duty welder helper; oiler; pump operator	5.98	.40	.50		.02	
Group II: Conveyor operator; generator operator—portable; power grizzly operator; self-propelled chip spreading machine—conveyor operator; watch fireman; welding machine operator—gasoline and diesel power	6.28	.40	.50		.02	
Group III: Concrete mixer operator—skip type; dinky operator (under 20 tons weight); driver-moto paver, slurry seal machine, and similar type equipment; motor crane driver; power sweeper operator—self-propelled; Ross carrier or forklift operator; skip loader operator—all types with rated capacity 1½ cu. yd. or less; wheel-type tractor operator (Ford-Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment	6.68	.40	.50		.02	
Group IV: A-frame boom truck or winch truck operator; asphalt plant firemen; elevator hoist operator (including Tuskey hoist or similar types); grade checker (excluding civil engineer); multiple power concrete saw operator; pavement breaker, mechanical compactor operator, power propelled; roller operator—all types except as otherwise classified; screed operator; self-propelled chip spreading machine operator (including slurry seal machine operator) stationary pipewrapping and cleaning machine operator; tugger operator	7.12	.40	.50		.02	
Group V: Aggregate plant operator (including crushing screening and sand plants, etc.); asphalt laydown machine operator; asphalt plant mixer operator; beltcrete machine; boring machine operator; concrete mechanical tamping, spreading or finishing machine (including Clary, Johnson, or similar types); concrete pump operator; concrete batch plant operator, all types and sizes; conductor, brakeman, or handler; elevating grader operator—all types and sizes (except as otherwise classified); field equipment serviceman; highline cableway signalman; Kolman belt loader operator or similar type, w/belt width 48 in. or over; locomotive engineer (including dinky—20 tons weight and over); Moto-paver and similar type equipment operator; operating engineer rigger; pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock, and similar equipment) up to and including 12 cu. yd.; power jumbo form setter operator; pressure grout machine operator (as used in heavy engineering construction); road oil mixing machine operator; roller operator—on all types asphalt pavement; self-propelled compactor, with blade; skip loader operator—all types with rated capacity over 1½ but less than 4 cu. yd.; slip form operator (power driven lifting device for concrete forms); soil cement road mixing machine operator—single pass type; stationary central generating plant operator-rated 300 kw. or more; surface heater and planer operator; traveling pipewrapping machine operator	7.56	.40	.50		.02	
Group V-A: Heavy-duty mechanic and/or welder; pneumatic-tired scraper, all sizes and types over 12 cu. yd. up to and including 45 cu. yd. MRC (Turnapull, Euclid, Cat, D-W, Hancock, and similar equipment); tractor operator (pusher, bulldozer, scraper) up to 400 net horsepower rating; trenching machine operator	7.82	.40	.50		.02	
Group VI: Auto-grade machine (CMI and similar equipment); boring machine operator (including Mole, Badger, and similar type); concrete mixer operator—paving type, and mobile mixer; concrete pump operator with boom attachment (truck mounted); crane operator—crawler and pneumatic type, under 100-ton capacity MRC; crawler-type tractor operator—with boom attachment; derrick operator; forklift operator for hoisting personnel; Gradall operator; helicopter hoist; highline cableway operator (less than 20 tons rated capacity); mass excavator operator (150 Bucyrus Erie and similar types); mechanical hoist operator (2 or more drums); motor grade operator—any type power blade; motor grader operator with elevating grader attachment; mucking machine operator; overhead crane operator; piledriver engineer (portable, stationary, or skid rig); pneumatic-tired scraper operator—all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock, and similar equipment over 45 cu. yd. MRC); power-driven ditch lining or ditch trimming machine operator; skip loader operator—all types with rated capacity 4 cu. yd. but less than 8 cu. yd.; slip form paving machine operator (including Gunnert, Zimmerman, and similar types); specialized power digger operator—attached to wheel-type tractor; tower crane (or similar type) operator; tractor operator (pusher, bulidozer, scraper) 400 net horsepower and over; tugger operator (2 or more); universal equipment operator—shovel, backhoe, dragline, clam-shell, etc., up to 8 cu. yd	8.10	.40	.50		.02	
Group VII: Crane operator—pneumatic or crawler (100-ton hoisting capacity and over MRC rating); helicopter pilot—FAA qualified when used in construction work; highline cableway operator, over 20-ton rated capacity and using traveling head and tail tower; remote control earth moving equipment operator; skip loader operator—all types with rated capacity of 8 cu. yd. or more; universal equipment—shovel, backhoe, dragline, clamshell, etc., 8 cu. yd. and over	8.60	.40	.50		.02	
Multiple-unit earth moving equipment:						
Tractor operator—pneumatic-tired or track type, 2 units—50 cents per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and $1 per hour for each additional unit.						
All operators, oiler, and motor crane drivers on equipment with booms of 80 and over, including jib shall receive 0.0075 (¾ of a cent) per foot per hour premium pay additional to the regular rate of pay.						
Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, Gradalls, etc.						
Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for 2 men.						

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Truckdrivers:						
Group I: Pickup; station wagon; teamsters	5.37	.30	.45		.02	
Group II: Buggymobile, 1 cu. yd. or less; bulk cement spreader (2- or 3-axle); bus driver; dump (2- or 3-axle); flatrack (2- or 3-axle); water (under 2,500 gal.)	5.48	.30	.45		.02	
Group III: Bulk cement spreader (4-axle); dump (4-axle); dumptor or dumpster, less than 7 cu. yd. flatrack (4-axle); water (2,500 gal. but less than 4,000 gal.)	5.64	.30	.45		.02	
Group IV: Bulk cement spreader (5-axle); dump (5-axle); dumptor or dumpster, 7 cu. yd. but less than 16 cu. yd.; Flaherty spreader or similar type equipment or leverman; flatrack (5-axle); slurry-type equipment or leverman; transit mix, 8 cu. yd. or less mixer capacity	5.93	.30	.45		.02	
Group V: Bulk cement spreader (6-axle); dump (6-axle); flatrack (6-axle); rock truck (Dart, Euclid, and other similar type end dumps, single unit) less than 16 cu. yd	6.06	.30	.45		.02	
Group V-A: Oil tanker or spreader truck driver and/or bootman, retortman or leverman	6.20	.30	.45		.02	
Group VI: Bulk cement spreader (7-axle); concrete pump truckdriver (when integral part of transit mix truck); dump (7-axle); flatrack (7-axle); Hydro Lift, Swedish Crane, Iowa 300, and similar types; Ross carrier forklift or lift truck; transit mix, over 10.5 cu. yd. but less than 14 cu. yd. mixer capacity	6.31	.30	.45		.02	
Group VII: Bulk cement spreader (8-axle); dump (8-axle); flatrack (8-axle)	6.65	.30	.45		.02	
Group VIII: Off-highway equipment driver (2- or 4-wheel power unit, i.e. Cat, DW, series, Euclid, International, and similar type equipment), transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters classifications; bulk cement spreader (9-axle); dump (9-axle); dumptor or dumpster, 16 cu. yd. and over; Eject-alls; flatrack (9-axle); rock truck (Dart, Euclid, or other similar end dump types) 16 cu. yd. and over	7.065	.30	.45		.02	
Heavy-duty mechanic/welder	7.94	.30	.45		.02	
Heavy-duty mechanic/welder helper	6.10	.30	.45		.02	
Field equipment serviceman or fuel truckdriver	7.68	.30	.45		.02	
Combination man—30 cents over the highest rated work.						
Multiple-unit equipment driver—2 units 50 cents per hour more than the base single unit rate established in Group 8 above; and $1 per hour for each additional unit.						

State: Idaho; County: Ada.
Decision No. AM-6711; date of decision Mar. 24, 1972.
Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including 4 stories.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
1-IDA-ADA-1-2-3:						
Asbestos workers	$7.71	$0.35	$0.42			
Boilermakers	6.70	.30	.70	$0.45	$0.02	
Boilermakers' helpers	6.40	.30	.70	.45	.02	
Bricklayers; stonemasons	6.25	.20	.15			
Carpenters:						
Carpenters; drywall applicators; floor layers; shinglers	5.73	.22	.20	.10	.10	
Piledrivermen	5.90	.22	.20	.10	.10	
Millwrights; piledrivermen's boom man	6.01	.22	.20	.10	.10	
Cementmasons:						
Cementmasons	5.57	.22	.10		.10	
Gunite and composition floor; power grinder operator; Power trowel operator	5.74	.22	.10		.10	
Electricians:						
Electricians	7.06	.22	1%		2/10%	
Cable splicers	7.77	.22	1%		2/10%	
Elevator constructors	5.23	.175	$0.20	2%+a		
Elevator constructors' helpers	70% JR	.175	.20	2%+a		
Elevator constructors' helpers (prob.)	50% JR					
Ironworkers (those parts of the counties of Adams, Valley and Washington north of the Weiser-Gibbonsville line):						
Reinforcing	$6.72	.43	.27		$0.01	
Fence erectors; structural	6.83	.43	.27		.01	
Ironworkers (remaining portions of Adams, Valley and Washington counties and remaining counties): Fence erectors; reinforcing; structural	6.79	.35	.50		.01	
Marble masons	5.15					
Painters (counties of Ada, Adams, Boise, Elmore, Gem—includes city of Ola; Owyhee—rest of county; Valley and Washington):						
Brush	5.70	.16	.10			
Steel	5.80	.16	.10			
Sign	5.82	.16	.10			
Spray	6.17	.16	.10			
Painters (Mountain Home AFB):						
Brush	6.90	.16	.10			
Sandblasting; spray gun	7.37	.16	.10			
Steel	7.00	.16	.10			
Plasterers	5.48	.22	.10			
Plumbers; steamfitters	6.58	.28	.30		.05	
Roofers:						
Kettlemen; roofers	5.85	.13	.15			
Roofers working with coal tar and pitch products	7.35	.13	.15			
Sheet metal workers	6.43	.22	.20	$0.40		
Soft-floor layers (Mountain Home AFB)	5.00					
Sprinkler fitters	7.95	.25	.40		.05	
Terrazzo workers	5.15					
Tile setters	5.45	.20	.15			
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.						
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a, Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to vacation plan. 6 paid holidays: A through F.						
Laborers:						
Drillers on drills with manufacturers rating 3 inches or over—powderman	4.93	.25	.20		.10	
Diamond drill; Gunite nozzleman—high scaler; wagon drill	4.68	.25	.20		.10	
Hod carrier; mason tender; mason tender (concrete); plasterer tender; terrazzo tender	4.63	.25	.20		.10	
Asphalt raker; electric ballast tamper; free air caisson—form setter, airport paving—form setter (highway, curb and gutter); gasoline powered tamper; gunman (Gunite); hand-guided machines, such as post-hole diggers, rotor tillers, trenchers, walking garden tractors, etc.; jackhammer, manhole setter, paving breaker; pipelayer (including sewer, drainage, sprinkler systems and water lines); powderman helper, sandblasting, vibrator (4 inches and over); timber faller and bucker	4.53	.25	.20		.10	
Air tampers; air and water nozzleman (green gutter, concrete); chuck tender; concrete sawyer; dumpman; grade checker; Gunite nozzleman tender, handling cement; pipe wrapper; pumpcrete and grout pump crew; signalman; steam nozzleman; tar pot tender, vibrator (less than 4 inches)	4.43	.25	.20		.10	

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Laborers—continued						
Asphalt labor, carpenter tender choker setter, clearing and grading, concrete crew, cribbing and shoring (in open ditches), crusher helper, fence erector and installer (includes the installation and erection of fences, guardrails, guideposts, median rails, reference posts and right-of-way markers); form stripper, general laborers, heater tender, hopper tender, leverman (manual or mechanical); machinery and parts cleaner, power wheelbarrow, rip-rap man (hand-placed), scouring concrete, sloper, spreader and weighman, stake jumper	4.33	.25	.20		.10	
Tunnel:						
Drill doctors, machinemen, miners, spaders and tuggers, spilling and/or caisson workers, steelmen, timbermen	4.93	.25	.20		.10	
Form setter and mover	4.63	.25	.20		.10	
Brakeman; bullgang, chucktender, dumpman, muckers, nipper, reboundman, vibrator	4.48	.25	.20		.10	
Power equipment operators:						
Brakeman; crusher plant feeder (mechanical), deckhand, drill helpers, grade checkers, heater tender, land plane, oilers, pumpman	5.24	.30	.25		.10	
Air compressor; bell boy, bit grinder operator-blower operator (cement), broom, cement hog, concrete mixer, concrete saw, multiple cut; discing, harrowing or mulching (regardless of motive power); distributor leverman, drill steel threader, machine operator, fireman, all heavy-duty mechanic helper or welder helper, hoist, single drum, hydraulic monitor operator, skid mounted, oiler on cranes and shovels, pugmixer, box or screen operator, spray curing machine, tractor, rubber-tired farm type using attachments	5.30	.30	.25		.10	
A-frame truck (Hydralift, Swedish cranes, Ross carrier, Hyster on construction jobs), battery tunnel locomotive, belt finishing machine, cable tenders (underground), chip spreader machine (self-propelled), front-end and overhead loaders and similar machines under 2 yd. (rubber-tired), hoist, 2 or more drums or tower hoist, Hydralift, forklift and similar (when hoisting), oilers (underground), power loader (bucket elevator, conveyors), road roller (regardless of motive power), service oiler	5.55	.30	.25		.10	
Asphalt spreaders, boring machines (earth or rock), quarrymaster, Joy, tractor mounted, drills; churn, core, calyx, or diamond, front-end and overhead loaders and similar machines, 2 yd. and including 4 yd. rubber-tired, grout pump, Hydrahammer, locomotive engineer, longitudinal float machine, mixermobile, spreader machine, tractor, rubber-tired, using backhoe, transverse finishing machine, trenching machine, compactor and similar	5.85	.30	.25		.10	
Concrete plant operator, concrete road paver (dual), elevating grader operator, Euclid elevating loader, generator plant operator, mechanic (diesel electric), power shovels and draglines, under 1 yd, pumpcrete, refrigeration plant operator, road roller (finishing high type pavement), subgrader	6.01	.30	.25		.10	
Blade operator (motor patrol), cranes up to and including 50 tons, concrete slip form paver, derrick operator, front-end and overhead loaders and similar machines, over 4 yd. to and including 6 yd., Koering scooper, heavy duty mechanic or welder, mucking machine (underground), piledriver engineer, power shovels and draglines, 1 yd. to and including 3½ yds., tractor, crawler type, including all attachments trimmer machine operator, Tournapulls, Euclid and similar, to and including 40 yd., asphalt plant operator	6.18	.30	.25		.10	
Cableway operator cranes, over 50 tons, dredges, power shovels and draglines, over 3½ yds., Quad type tractors with all attachments, Tournapull, Euclid and similar, over 40 yd	6.48	.30	.25		.10	
Tournapulls, Euclid and similar, over 50 yds. to and including 75 yd	6.70	.30	.25		.10	
Tournapulls, Euclid and similar, over 75 yds. to and including 100 yd	6.92	.30	.25		.10	
Tournapulls, Euclid and similar, over 100 yd	7.14	.30	.25		.10	
Truck drivers:						
Bottom dump truck, over 75 yd. including 100 yd., end dump truck, over 75 yd. including 100 yd., side dump truck, over 75 yd. through 100 yd	6.52	.35	.20		.10	
Bottom dump truck, over 100 yd. end dump truck, over 100 yd., side dump truck over 100 yd	6.74	.35	.20		.10	
Bottom dump truck, over 50 yd. through 75 yd., end dump truck, over 50 yd., through 75 yd., side dump truck, over 50 yd. through 75 yd	6.30	.35	.20		.10	
Bottom dump truck, over 40 yd. through 50 yd., end dump truck, over 40 yd. through 50 yd., side dump truck, over 40 yd. through 50 yd	6.07	.35	.20		.10	
Bottom dump truck, over 30 yd. through 40 yd. end dump truck, over 30 yd. through 40 yd., side dump truck, over 30 yd. through 40 yd	5.96	.35	.20		.10	
Bottom dump truck, over 20 yd. through 30 yd., end dump truck, over 20 yd. through 30 yd., side dump truck, over 20 yd. through 30 yd., turnarocker and similar equipment	5.85	.35	.20		.10	
Transit mix truck, over 10 yd	5.80	.35	.20		.10	
Bulk cement tanker, 96,000 lb. GVW and over, lowboy, 96,000 lb. GVW and over	5.74	.35	.20		.10	
Bottom dump truck, over 12 yd. through 20 yd., end dump truck, over 12 yd. through 20 yd., side dump truck, over 12 yd. through 20 yd., transit mix truck, over 8–10 yd	5.69	.35	.20		.10	
Dumptors, transit mix trucks, over 6–8 yd	5.58	.35	.20		.10	
Distributor or spreader truck, fuel truck over 1,000 gal., water tank truck over 4,000 gal	5.52	.35	.20		.10	
Bottom dump truck, over 6 yd. through 12 yd., end dump truck, over 6 yd. through 12 yd., side dump truck, over 6 yd. through 12 yd., transit mix truck, over 3–6 yd	5.47	.35	.20		.10	
A-frame truck (Swedish crane, Iowa 3,000, Hydro-lift), bulk cement, tanker, up to 96,000 lb. GVW, flatbed using power takeoff, forklift, over 3,000 lb. (Bull lift, Hydro lift), Ross, Hyster, and similar straddle equipment, semitrailer, lowboy, up to 96,000 lb. GVW, water tank truck, over 1,800–4,000 gal	5.41	.35	.20		.10	
Bottom dump truck, 6 yd. and under, end dump truck, 6 yd. and under, side dump truck, 6 yd. and under, slurry or concrete pumping truck, transit mix truck, 3 yd. and under, truck helpers, warehouseman	5.36	.35	.20		.10	
Buggymobile, flatbed, 3-axle fuel truck, 1,000 gal. and under, greaser, tireman, serviceman, man haul, shuttle truck or bus	5.30	.35	.20		.10	
Ambulance driver, flatbed, 2-axle and pickup hauling material, forklift, 3,000 and under, water tank truck, 1,800 gal. and under	5.25	.35	.20		.10	
Leverman loading at bunkers underground: 10% additional	5.19	.35	.20		.10	

MODIFICATION

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-2,505—36 F.R. 17163, Area I, Alaska (north of the 63d parallel), Modification No. 1						
CHANGE:						
Carpenters:						
Carpenters	$9.59	$0.45	$1.00		$0.05	
Millwrights	9.96	.45	1.00		.05	
Electricians (inside):						
Electricians; equipment operators	10.25	.35	1%&.50		.075	
Cable splicers	11.50	.35	1%&.50		.075	
Ironworkers: Bender operator; bridge; fence erectors; machinery mover; ornamental; reinforcing; riggers; sheeters; structural	9.54	.50	$1.00		.09	
Line construction (outside):						
Groundmen	8.25	.35	1%&.50		.075	
Equipment operators; linemen; technicians	10.25	.35	1%&.50		.075	
Cable splicers	11.50	.35	1%&.50		.075	
Plumbers; steamfitters	9.55	.60	$0.90		.05	
Tile setters	9.87	.35	.70		.05	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. Am-2,506—36 F.R. 17168, Area II, Alaska (south of the 63d Parallel and west of the 141st meridian), modification No. 1						
CHANGE:						
Electricians (inside):						
Electricians; equipment operator	10.25	.35	1%&.50		.075	
Cable splicers	11.50	.35	1%&.50		.075	
Ironworkers: Bender operator; bridge; fence erectors; machinery mover; ornamental; reinforcing; riggers; sheeters; structural	9.54	.50	$1.00		.09	
Line construction (outside):						
Groundmen	8.25	.35	1%&.50		.075	
Equipment operator; linemen; technicians	10.25	.35	1%&.50		.075	
Cable splicers	11.50	.35	1%&.50		.075	
Plumbers; steamfitters	9.85	.58	$0.75		.08	
Sheet metal workers	10.45	.26	.50		.07	
Soft floor layers	9.40	.35		$0.35	.05	
Tile setters	9.87	.35	.70		.05	
WD No. AM-2,507—36 F.R. 17173, Area III, Alaska (east of the 141st Meridian), Modification No. 1						
CHANGE:						
Electricians (inside):						
Electricians; equipment operator	10.25	.35	1%&.50		.075	
Cable splicers	11.50	.35	1%&.50		.075	
Ironworkers: Bender operator; bridge; fence erectors; machinery mover; ornamental; reinforcing; riggers; sheeters; structural	9.54	.50	$1.00		.09	
Line construction (outside):						
Groundmen	8.25	.35	1%&.50		.075	
Equipment operator; linemen; technicians	10.25	.35	1%&.50		.075	
Cable splicers	11.50	.35	1%&.50		.075	
Plumbers; steamfitters	10.30					
Soft floor layers	9.40	.35		.35	.05	
Tile setters	9.87	.35	$0.70		.05	
WD No. AM-0,242—36 F.R. 22095, Alameda and San Mateo Counties Calif., Modification No. 2						
ADD:						
Fresno County						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	7.35	.42	.38			
Bricklayers' hod carriers	5.75	.50	.60			
Carpenters:						
Carpenters	7.50	.60	.50	.50c	.02	
Hardwood floor layers; power saw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50c	.02	
Millwrights	7.90	.60	.50	.50c	.02	
Piledrivermen; bridge, wharf and dock builders	7.63	.60	.50	.50c	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition	6.19	.36	.75	.75		
Men working from swing or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Electricians	8.08	.28	1%+.25		.05	
Cable splicers	8.48	.28	1%+.25		.05	
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob)	50%JR					
Glaziers	$6.34	.30	.35	$0.38		
Ironworkers:						
Reinforcing	7.98	.43	.425	.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	5.90	.15				
Line construction:						
Groundmen	6.06	.28	1%+.25		.05	
Line equipment operators	7.48	.28	1%+.25		.05	
Linemen	7.48	.28	1%+.25		.05	
Cable splicers	7.88	.28	1%+.25		.05	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush; tapers; textures	6.27	.27	.20			
Highmen over 30 feet	6.52	.27	.20			
Paperhangers; spray including sprayed texture; pressure roller men; sandblaster and bazooka operator; brush (structural steel and pipe)	6.52	.27	.20			
Plasterers	7.12	.28	.25		.01	
Plasterers' tenders	6.60	.20	.60			
Plumbers; steamfitters	8.39	.77	.79		.03	
Roofers	6.80	.20	.10			
Sheet metal workers	7.00	.38	.69	.70	.05	
Soft floor layers	6.30	.20				
Sprinkler fitters	10.55	.25	.40		.05	
Terrazzo workers	6.02	.25				
Tile setters	6.02	.25				

Welders: Receive rate prescribed for craft performing operation to which welding is incidental.

Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as vacation pay credit. Six paid holidays: A through F.

b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to vacation in 1st year of employment; $0.20 per hour after 1 year but less than 5 years' service; $0.30 per hour after 5 years but less than 10 years' service; and $0.40 per hour after 10 years' service.

c. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to vacation fund.

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Napa County						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	8.20	.78	.58	.55		
Brick tenders	5.64	.50	.60	.60		
Carpenters:						
Carpenters	7.50	.60	.50	.50e	.02	
Hardwood floor layers; power saw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50e	.02	
Millwrights	7.90	.60	.50	.50e	.02	
Piledrivermen; bridge, wharf and dock builders	7.63	.60	.50	.50e	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Electricians	8.43	.35	1%+.25		.02	
Cable splicers	8.93	.35	1%+.25		.02	
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%J R	.185	.20	2%+a		
Elevator constructors' helpers (prob)	50%J R					
Glaziers	$8.225	.25	.25	6%	.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	5.20	.24	.20	.50	.01	
Line construction:						
Groundmen	6.32	.35	1%+.25		.02	
Line equipment operator	7.59	.35	1%+.25		.02	
Linemen	8.43	.35	1%+.25		.02	
Cable splicers	8.93	.35	1%+.25		.02	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush	6.57	.39	.40	.80		
Spray	6.82	.39	.40	.80		
Tapers	7.07	.39	.40	.80		
Parking lot striping work and/or highway markers	6.37	.35	.20	b		
Plasterers	7.45	.43	.25		.01	
Plasterers' tenders	6.65	.50				
Plumbers; Steamfitters	8.50	.35	.58		.07	
Roofers	6.45	.20	.40	.35		
Sheet metal workers	8.55	.36	.44		.15	
Soft floor layers	7.10	.36	.30	c+.28d	.05	
Sprinkler fitters	8.115	.11	.20		.02	
Terrazzo workers	6.69	.63	.58	.55		
Tile setters	7.56	.49	.60		.015	

Riggers-welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.

Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as vacation pay credit. 6 paid holidays: A through F.

b. Employer contributes $0.17 per hour to holiday fund plus $0.10 per hour to vacation in 1st year's service, $0.20 per hour after 1 year's service but less than 5 years' service, $0.30 per hour after 5 years' service but less than 10 years' service, and $0.40 per hour after 10 years' service.

c. 1st year of employment employer contributes $0.14 per hour to vacation; 2d through 5th year $0.30 per hour; 6th year and thereafter $0.46 per hour.

d. Employer contributes $0.28 per hour to holiday fund.

e. Employer contributes $0.35 per hour to holiday fund and $0.15 per hour to vacation fund.

WD No. AM-9,679—37 F.R. 5151, Statewide, Delaware, Modification No. 1

CHANGE:

Building and heavy construction:						
Asbestos workers	8.55	.20	.50			
Plumbers (New Castle and Kent Counties north of southern boundary of Dover City)	6.50	.27	.35	.0834+j		
Carpenters: Sussex County	6.80		.18			
Painters	6.43	.50	.15		.01	

WD No. AM-449—36 F.R. 16390, Alachua County, Fla., Modification No. 3

CHANGE:

Laborers—unskilled	3.00	.15				
Air tool operators	3.10	.15				
Mortar mixers	3.10	.15				
Pipelayers (concrete and clay)	3.10	.15				

WD No. AM-460—36 F.R. 16364, Bay County, Fla., Modification No. 1

CHANGE:

Electricians	7.20	1%				
Cable splicers	7.55	1%				

WD No. AM-459—36 F.R. 16394, Orange County, Fla., Modification No. 4

CHANGE:

LABORERS:						
Laborers	3.85	.15				
Air tool operators	4.00	.15				
Mason tenders	4.00	.15				
Mortar mixers	4.00	.15				
Pipelayers (concrete and clay)	4.00	.15				
Plasterers tenders	4.00	.15				

WD No. AM-460—36 F.R. 16397, Palm Beach County, Fla., Modification No. 4

CHANGE:

Electricians	8.10	3½%		6%	1½%	
Cable splicers	8.91	3½%		6%	1½%	
Sheet metal workers	8.60	$0.30	.25		$0.05	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments H & W	Pensions	ates	Vacr.ation	App. T	Othe
WD No. AM-469—36 F.R. 16418, Fulton, Cobb, De Kalb Counties, Ga., Modification No. 3							
CHANGE:							
Building construction:							
Carpenters:							
Carpenters and soft floor layers	7.15	.35	.30			0.015	
Millwrights	7.15	.35	.30			.015	
Piledrivermen	7.30	.35	.30			.015	
Ironworkers: Structural, ornamental and reinforcing	6.40	.35	.27			.05	
Lathers	6.60	.20	.10		$0.50	.04	
Painters:							
Brush	7.05	.15	.25			.03	
Spray	8.05	.15	.25			.03	
Roofers:							
Roofers and weatherproofers	5.35	.20	.15				
Slate, tile, asbestos shingles	5.60	.20	.15				
Helpers	4.07	.20	.15				
WD No. AM-470—36 F.R. 16416, Chatham County, Ga., modification No. 4							
CHANGE:							
Building construction:							
Bricklayers and stonemasons	6.00	.20	.20				
Carpenters and soft floor layers	5.70	.25	.05				
Piledrivermen	5.95	.25	.05				
Millwrights	6.20	.25	.05				
Electricians:							
Electricians	6.40	.30	1%			.2%	
Cable splicers	6.65	.30	1%			.2%	
Laborers:							
Unskilled laborers	3.25	.10					
Mason tenders	3.40	.10					
Mortar mixers	3.50	.10					
Air tool and vibrator operator	3.40	10					
Plasterers' tenders	3.40	.10					
Pipelayers	3.50	.10					
WD No. AM-2454—36 F.R. 16816, Polk County (Des Moines and abutting municipalities), Iowa—Modification No. 3							
CHANGE: The wording "Modification No. 1 to Modification No. 2 for Polk County (Des Moines and abutting municipalities), Iowa, published in 37 F.R. 640, Jan. 14, 1972." Also change:							
Heavy and highway construction:							
Carpenters; piledrivermen	5.95	.21					
Cementmasons	5.65						
Laborers:							
Sandblasters; powderman and blaster; pipelayer, sewer, water, telephone conduits, etc.; sewer utility man; Gunite nozzleman; diamond and core drills, powered by air, all work performed by laborers working from a bos'n chair, swinging stage, life belt, tag line, or block and tackle; drill operator of air tracs, wagon drills and similar drills	5.30	.15	$0.10				
Tree climber; form setters; rakers; Box-tenders; asphalt cur machines; potmen (not mechanical); bull float, hand operated; scalers; timbermen; underpinning and shoring; caissons (over 12 ft); grade checker and cutting torches on demolition work	5.05	.15	.10				
Power buggyman; concrete and paving sawman; form liner, expansion joint assembler; bottom man; caulker and jointer and painter; timber and chain-saw man; mechanical grouters; boring machine; automatic concrete power curbing machines; stresser or stretcherman on post-tension or prestressed concrete (on or off the job); powdermen helpers	4.80	.15	.10				
Form tamper; air, gas and electric tool operator, vibrator barco hammer, paving breaker, spader, tamper, electric drills; hammer and jackhammer; tree groundmen; chuck tender; drill helpers, tool room men and checkers; sandblaster helper; concrete processing material and monitors; cement finishers helpers	4.65	.15	.10				
Fence erectors; handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; dumpmen and spotters; carrying reinforcing rods; corrugated culvert pipe; concrete drainage pipe; stake chaser, seeding, mulching and planting of trees, shrubs and flowers; water boy; common laborer; rodmen; tending to carpenters; hot asphalt labor; stringman on paving work	4.55	.15	.10				
Power equipment operators:							
Power shovel and crane-type equipment (over ½ cu. yd.) central mix plant operator (concrete 5 cu. yd. and over); dredge operator and leverman concrete mixer-paver; hoisting engineer (steel erection); tractor operating scrapers in tandem; Motor patrol on finishing work; master mechanic (when 4 or more mechanics are employed); tow or push boat; piledriver machine	6.05	.30	.30			$0.01	
Asphalt plant; asphalt paver; asphalt pugmill; power shovel (crane type equipment, under ½ cu. yd.); front end loader (all types 40 hp. or over); mechanics and welders; Tournapull (DW 10 and all similar equipment, over 10 cu. yd. struck cap); all self-loading scrapers; tractor, bulldozer, push cats, pulling scraper or rooter and sideboom tractor; churn and rotary drill; trenching machine (Cleveland 80 or similar capacity); self-propelled sheepsfoot roller (100,000 lb. and over); central mix plant (concrete, under 5 cu. yd.)	5.90	.30	.30			0.1	
Motor Patrol (on other work); asphalt roller (high type surfacing); asphalt spreader (back end); concrete curb breaking machine; concrete widening machine; elevating grader and Athey loader; Tournapull (DW 10 and all similar equipment under 10 cu. yd. struck cap); paving breaker (drop or pneumatic); spreader box (self-propelled) or tractor-pushed); subgrade stabilizer (P&H and similar sizes); boiler (2 or 1 boiler and dryer); subgrading machine (CMI); slip form paver	5.65	.30	.30			.01	
Self-propelled roller (other than high type asphalt); distributor; screening and washing plant; spreader (concrete tank car heater, combination boiler and booster); self-propelled vibrating compactor; trenching machine; (other) pumps on well points and deep wells for dewatering mechanical broom; steel placing machine; boat operator; compressor, concrete mixer (side loader); conveyor; crusher feeder; finishing machine on concrete; flexplane; bull float; form grade; group equipment greaser; motor crane combination driver and oiler	5.45	.30	.30			.01	
Boiler (single); apprentice engineer or oiler or mechanic's helper; self-propelled tractor (pulling disc harrow or sheepsfoot roller); welding machine; pump operator (other than dredge); boom and winch truck; hydro seeder operator; mulcher blower operator	5.25	.30	.30			.01	
Batching plant (dry); front end loader, rubber-tired (with backhoe attachment, under ¾ cu. yd.); farm tractor pulling pneumatic roller; farm tractor with attachments	4.95	.30	.30			.01	
Truck drivers:							
Truck drivers (not otherwise specified); warehousemen; drivers on: 4-wheel service trucks, bus hauling men, carryall and winch trucks, dumpcretes and scoopmobiles	4.75	.15					
Truckdrivers for semi and tandem; ready mix; dumpster; drivers on: Korking and similar dumpsters, track trucks, Euclids, hug bottom drums, Tournapull or similar equipment used for transportation, pavement breakers, pole trailers, air compressors and welding machines, including those pulled by separate units	4.85	.15					

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-3, 621—36 F.R. 16889, Douglas, Jefferson and Shawnee Counties, Kans. Modification No. 2						
CHANGE:						
Truckdrivers (Shawnee County):						
Pickups, panel trucks, station wagons	4.37	.275	.25			
Flatbeds, dump and batch trucks, single-axle	4.52	.275	.25			
Tandem trucks	4.57	.275	.25			
Lowboys, semitrailers, all transit mixer trucks (single or tandem axle) A-frame and winch trucks when used as such	4.62	.275	.25			
Euclid, end and bottom dump, Tournarockers, Atheys, Dumptors and similar off-road equipment and mechanics on such equipment	4.65	.275	.25			
Watchmen or partsmen, mechanic helpers; servicemen	4.62	.275	.25			
Truck drivers (Douglas and Jefferson Counties):						
Pickups, panel trucks, station wagons	4.22	.275	.25			
Flatbeds, dump and batch trucks, single-axle	4.37	.275	.25			
Tandem trucks	4.42	.275	.25			
Lowboys, semitrailers, all transit mixer trucks (single or tandem axle) A-frame and winch trucks when used as such	4.47	.257	.25			
Euclid, end and bottom dump, Tournarockers, Atheys, Dumptors and similar off-road equipment and mechanics on such equipment	4.65	.275	.25			
Watchmen or partsmen, mechanic helpers; servicemen	4.47	.275	.25			
WD No. AM—3,623—36 F.R. 19283, Shawnee County, Kans., Modification No. 5						
CHANGE:						
Building construction: Electricians:						
Electricians	8.00	.25	1%+.30		2/10%	
Cable splicers	8.80	.25	1%+.30		2/10%	
Line construction:						
Lineman	6.40	.25	1%		1/2%	
Cable splicers	6.72	.25	1%		1/2%	
Groundman, over 1 year	4.04	.25	1%		1/2%	
Groundman, 1st year	3.19	.25	1%		1/2%	
Powderman	5.35	.25	1%		1/2%	
Line truck and equipment operator:						
1st year	4.14	.25	1%		1/2%	
2d year	4.92	.25	1%		1/2%	
Over 2 years experience	5.35	.25	1%		1/2%	
Truckdrivers (site preparation and grading):						
Pickups, panel trucks, station wagons	4.42	.275	$0.25			
Flatbeds, dump and batch trucks, single-axle	4.57	.275	.25			
Tandem trucks	4.62	.275	.25			
Lowboys, semitrailers, all transit mixer trucks (single or tandem axle) A-frame and winch trucks when used as such	4.67	.275	.25			
Euclid, end and bottom dump, Tournarockers, Atheys, Dumptors and similar off-road equipment and mechanics on such equipment	4.70	.275	.25			
Warehousemen or partsmen, mechanic helper	4.67	.275	.25			
Servicemen	4.67	.275	.25			
WD No. AM-3, 624—36 F.R. 16853, Leavenworth County, Kans. Modification No. 7						
CHANGE:						
Building construction: Painters:						
Brush	6.00					
Spray	6.50					
Swing stage	6.25					
Structural steel	6.25					
General painting over 40 ft. on ladders	6.25					
Line construction (southwest ⅔ of county):						
Lineman	6.40	.25	1%		1/2%	
Cable splicers	6.72	.25	1%		1/2%	
Groundman, over 1 year	4.04	.25	1%		1/2%	
Groundman, 1st year	3.19	.25	1%		1/2%	
Powderman	5.35	.25	1%		1/2%	
Line truck and equipment operators:						
1st year	4.14	.25	1%		1/2%	
2d year	4.92	.25	1%		1/2%	
Over 2 years experience	5.35	.25	1%		1/2%	
WD No. AM-3, 625—36 F.R. 16859, Sedgwick County, Kans. Modification No. 5						
CHANGE:						
Building construction:						
Asbestos workers	8.125	.275	$0.125		$0.02	
Sheet metal workers	8.28	.35	.30		0.01	
Line construction:						
Linemen	6.40	.25	1%		1/2%	
Cable splicers	6.72	.25	1%		1/2%	
Groundman, over 1 year	4.04	.25	1%		1/2%	
Groundman, 1st year	3.19	.25	1%		1/2%	
Powderman	5.35	.25	1%		1/2%	
Line truck and equipment operators:						
1st year	4.14	.25	1%		1/2%	
2d year	4.92	.25	1%		1/2%	
Over 2 years experience	5.35	.25	1%		1/2%	
Truck drivers (site preparation and grading):						
Pickups, panel trucks, station wagons	4.35	.275	$0.25			
Flatbeds, dump and batch trucks, single-axle	4.50	.275	.25			
Tandem trucks	4.55	.275	.25			
Lowboys, semitrailers, all transit mixer trucks (single or tandem axle) A-frame and winch trucks when used as such	4.60	.275	.25			
Euclid, end and bottom dump, tournarocks, Atheys, Dumptors and similar off-road equipment and mechanics on such equipment	4.70	.275	.25			
Watchmen or partsmen, mechanic helpers	4.60	.275	.25			
Servicemen	4.60	.275	.25			

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-7,718—36 F.R. 22101, Shawnee County, Kans. Modification No. 3						
CHANGE:						
Building construction: Electricians:						
Electricians	8.00	.25	1%+.30		2/10%	
Cable splicers	8.80	.25	1%+.30		2/10%	
Line construction:						
Lineman	6.40	.25	1%		1/2%	
Cable splicers	6.72	.25	1%		1/2%	
Groundman, over 1 year	4.04	.25	1%		1/2%	
Groundman, 1st year	3.19	.25	1%		1/2%	
Powderman	5.35	.25	1%		1/2%	
Line truck and equipment operator:						
1st year	4.14	.25	1%		1/2%	
2d year	4.92	.25	1%		1/2%	
Over 2 years experience	5.35	.25	1%		1/2%	
Truckdrivers (site preparation and grading):						
Pickups, panel trucks, station wagons	4.42	.275	$0.25			
Flatbeds, dump and batch trucks, single-axle	4.37	.275	.25			
Tandem trucks	4.62	.275	.25			
Lowboys, semitrailers, all transit mixer trucks (single or tandem axle, A-frame and winch trucks when used as such	4.67	.275	.25			
Euclid, end and bottom dump, tournarockers, Atheys, Dumptors and similar off-road equipment and mechanics on such equipment	4.70	.275	.25			
Warehousemen or partsmen, mechanic helper	4.67	.275	.25			
Servicemen	4.67	.275	.25			
WD No. AM-3,627—36 F.R. 16738, Caddo and Bossier Parishes, La. Modification No. 8						
CHANGE:						
Laborers:						
Laborers	3.60	.10	.10			
Mason tenders; plasterers' tenders; asphalt rakers and smoothers	3.70	.10	.10			
Mortar mixers	3.75	.10	.10			
Pipelayers (concrete and clay); air jack vibrator operator	3.80	.10	.10			
WD No. AM-3,629—36 F.R. 16742, Rapides Parish, La. Modification No. 4						
CHANGE:						
Ironworkers: Structural; ornamental; reinforcing; riggers	6.20	.20	.25		$0.04	
WD No. AM-1706—36 F.R. 14799, Atlantic and Cape May Counties, N.J. Modification No. 4						
CHANGE:						
N.J. 3-Lab.-2-3-A:						
Heavy and highway construction:						
Laborers:						
Blasters	6.30	.36	.49	a		
Finishers, rammer, paver, and Gunite nozzleman	6.00	.36	.49	a		
Timberman	5.95	.36	.49	a		
Form setters	6.00	.36	.49	a		
Grademan	6.00	.36	.49	a		
Sewer pipe, conduit and duct line layers	5.70	.36	.49	a		
Wagon drill operator, and Drillmasters	5.80	.36	.49	a		
Wagon drill operator, helper and Drillmaster helper, powder carrier, magazine tender	5.45	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	5.80	.36	.49	a		
Signalman	5.50	.36	.49	a		
Wrapping and coating of all pipe	5.40	.36	.49	a		
Common laborers, landscape laborers, railroad trackmen	5.30	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		

Paid holidays: A—New Years' Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; Presidential Election Day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).

WD No. AM-1707—36 F.R. 14805, Bergen County, N.J. Modification No. 4

CHANGE:
N.J. 2-Lab-2-3-B:
Heavy and highway construction:

Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver, and Gunite nozzle man	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20					
Wagon drill operator, and Drillmasters	6.30	.36	.49	a		
Wagon drill operator helper and Drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signal man	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers tampers on cold patch work, flagmen salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signal man in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		

Paid holidays: a—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.
Footnote: a. Holiday: A through F; Washington's Birthday; Armistice Day; Presidential Election Day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Heavy and highway construction—Continued						
N.J.-5-Lab-5-I:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34		a	
Rakers	5.50	.36	.34		a	
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys	5.25	.36	.34		a	
Plant:						
Scale mixer and burnermen	5.50	.36	.34		a	
Feeders and dustmen	5.25	.36	.34		a	
Paid Holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Armistice Day; Presidential Election Day; providing an employee works or is available for work 3 days in the workweek in which the holiday falls.						
WD No. AM-1,709—36 F.R. 14820, Camden and Gloucester Counties, N.J., Modification No. 5						
CHANGE:						
N.J. 3-Lab.-2-3-A:						
Heavy and highway construction:						
Laborers:						
Blasters	6.30	.36	.49		a	
Finishers, rammer, paver, and gunite nozzle man	6.00	.36	.49		a	
Timberman	5.95	.36	.49		a	
Form setters	6.00	.36	.49		a	
Grademan	6.00	.36	.49		a	
Sewer pipe, conduit and duct line layers	5.70	.36	.49		a	
Wagon drill operator, and Drillmasters	5.80	.36	.49		a	
Wagon drill operator, helper and Drillmaster helper, powder carrier, magazine tender	5.45	.36	.49		a	
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	5.80	.36	.49		a	
Signalman	5.50	.36	.49		a	
Wrapping and coating of all pipe	5.40	.36	.49		a	
Common laborers, landscape laborers, railroad trackmen	5.30	.36	.49		a	
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49		a	
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49		a	
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49		a	
Form erectors and form movers	7.41	.36	.49		a	
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49		a	
Top laborers	6.9025	.36	.49		a	
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
WD No. AM-1,710—36 F.R. 14827, Cumberland County, N.J., Modification No. 4						
CHANGE:						
N.J. 3-Lab.-2-3-A:						
Heavy and Highway construction:						
Laborers:						
Blasters	6.30	.36	.49		a	
Finishers, rammer, paver, and Gunite nozzle man	6.00	.36	.49		a	
Timberman	5.95	.36	.49		a	
Form setters	6.00	.36	.49		a	
Grademan	6.00	.36	.49		a	
Sewer pipe, conduit and duct line layers	5.70	.36	.49		a	
Wagon drill operator and Drillmasters	5.80	.36	.49		a	
Wagon drill operator helper and Drillmaster helper, power carrier, magazine tender	5.45	.36	.49		a	
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	5.80	.36	.49		a	
Signalman	5.50	.36	.49		a	
Wrapping and coating of all pipe	5.40	.36	.49		a	
Common laborers, landscape laborers, railroad trackmen	5.30	.36	.49		a	
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49		a	
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49		a	
Miners' helpers, chuck tenders, nippers and power carriers	7.41	.36	.49		a	
Form erectors and form movers	7.41	.36	.49		a	
Bellman or signal man in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49		a	
Top laborers	6.9025	.36	.49		a	
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a, Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-1,711—36 F.R. 14834, Essex County, N.J. Modification No. 3						
CHANGE:						
N.J.-2-LAB-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver, and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator, and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers tampers on cold patch work, flagmen salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J.-5-LAB-5-1:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34	a		
Rakers	5.50	.36	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys	5.25	.36	.34	a		
Plant:						
Scale mixer and burner men	5.50	.36	.34	a		
Feeders and dust men	5.25	.36	.34	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Arm stice Day; presidential election day (providing an employee works or s available for work 3 days in the workweek in which the holiday falls).						
WD No. AM-1,712—36 F.R. 14841, Hudson County, N.J., Modification No. 3						
CHANGE:						
N.J.-2-LAB-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator, and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers, tampers on cold patch work, flagmen, salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J.-5-LAB-5-1:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34	a		
Rakers	5.50	.36	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys	5.25	.36	.34	a		
Plant:						
Scale mixer and burner men	5.50	.36	.34	a		
Feeders and dust men	5.25	.36	.34	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Armistice Day; presidential election day (providing an employee works or is available for work 3 days in the workweek in which the holiday falls).						

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-1714—36 F.R. 14855, Middlesex County, N.J., Modification No. 4						
CHANGE:						
NJ.-2-LAB-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator, and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers, tampers on cold patch work, flagmen, salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
NJ.-5-LAB-5-I:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34	a		
Rakers	5.50	.36	.34	a		
Tampers and smoothers, kettlemen, painters, topshovelers, and roller boys	5.25	.36	.34	a		
Plant:						
Scale mixer and burner men	5.50	.36	.34	a		
Feeders and dust men	5.25	.36	.34	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Armistice Day; presidential election day (providing an employee works or is available for work 3 days in the workweek in which the holiday falls).						
WD No. AM-1,715—36 F.R. 14863, Monmouth County, N.J., Modification No. 5						
CHANGE:						
N.J.-2-Lab-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator, and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers, tampers on cold patch work, flagmen, salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J. 4-LAB-5-J:						
Laborers, asphalt:						
Street:						
Head raker	5.45	.26	.44	a		
Rakers and screed board man	5.30	.26	.44	a		
Tampers, smoothers, kettlemen, painters, top shovelers and roller boys	5.05	.26	.44	a		
Plant:						
Scale mixers and burner men	5.30	.26	.44	a		
Feeders and dust men	5.05	.26	.44	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnotes: a. Holidays: A through F, Washington's Birthday; Armistice Day and presidential election day (providing employee works on 3 days for the same employer within a period of 10 working days, consisting of 5 working days before and 5 working days after the day on which the holiday falls or is observed as such).						

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-1,716—36 F.R. 14870, Morris County N.J., Modification No. 5						
CHANGE:						
N.J.-2-LAB-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers, tampers on cold patch work, flagmen, salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Minners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day: D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote:						
a. Holidays: A through F; Washington's Birthday: Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J.-5-LAB-5-I:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34	a		
Rakers	5.50	.36	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys	5.25	.36	.34	a		
Plant:						
Scale mixer and burner men	5.50	.36	.34	a		
Feeders and dust men	5.25	.36	.34	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Armistice Day; presidential election day (providing an employee works or is available for work 3 days in the workweek in which the holiday falls).						
WD No. AM-1,717—36 F.R. 14878, Ocean County, N.J., Modification No. 5						
CHANGE:						
N.J.-1-LAB-2-3-Z:						
Heavy and highway construction:						
Laborers:						
Blasters	6.30	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman and stonecutter	6.00	.36	.49	a		
Timberman	5.95	.36	.49	a		
Formsetters	6.00	.36	.49	a		
Grademan	6.00	.36	.49	a		
Sewer pipe, laser men, conduit and duct line layers	5.70	.35	.49	a		
Wagon drill operator, and drill masters	5.80	.36	.49	a		
Wagon drill operator helper and drill master helper, powder carrier, magazine tender	5.45	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	5.80	.35	.49	a		
Signalman	5.50	.36	.49	a		
Wrapping and coating of all pipe	5.40	.36	.49	a		
Common laborers, landscape laborers, railroad track man, flagman, salamander tenders, pitmen and dumpmen	5.30	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nipper powder carriers and all other semiskilled men	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signal man in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday, Armistice Day; presidential election day, (providing employee works 3 days for same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J. 4-LAB-5-J:						
Laborers, asphalt:						
Street:						
Head raker	5.45	.26	.44	a		
Rakers and screed board man	5.30	.26	.44	a		
Tampers, smoothers, kettlemen, painters, top shovelers and roller boys	5.05	.26	.44	a		
Plant:						
Scale mixers and burner men	5.30	.26	.44	a		
Feeders and dust men	5.05	.26	.44	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christman Day,						
Footnotes: a, Holidays: A through F, Washington's Birthday; Armistice Day and presidential election day (providing employee works on 3 days for the same employer within a period of 10 working days, consisting of 5 working days before and 5 working days after the day on which the holiday falls or is observed as such).						

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments			
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-1,718—36 F.R. 14885, Passaic County, N.J. Modification No. 4						
CHANGE:						
N.J.-2-LAB-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator, and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers, tampers on cold patch work, flagmen, salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J.-5-LAB-5-1:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34	a		
Rakers	5.50	.36	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys	5.25	.36	.34	a		
Plant:						
Scale mixer and burner men	5.50	.36	.34	a		
Feeders and dust men	5.25	.36	.34	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Armistice Day; presidential election day (providing an employee works or is available for work 3 days in the workweek in which the holiday falls).						
WD No. AM-1,719—36 F.R. 14892, Somerset County, N.J. Modification No. 4						
CHANGE:						
N.J.-2-LAB-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator, and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers, tampers on cold patch work, flagmen, salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J.-5-LAB-5-1:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34	a		
Rakers	5.50	.36	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys	5.25	.36	.34	a		
Plant:						
Scale mixer and burner men	5.50	.36	.34	a		
Feeders and dust men	5.25	.36	.34	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Armistice Day; presidential election day (providing an employee works or is available for work 3 days in the workweek in which the holiday falls).						

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-1,720—36 F.R. 14900, Union County, N.J., Modification No. 5						
CHANGE:						
N.J.-2-LAB-2-3-B:						
Heavy and highway construction:						
Laborers:						
Blasters	6.85	.36	.49	a		
Finishers, rammer, paver and Gunite nozzleman	6.70	.36	.49	a		
Timberman	6.45	.36	.49	a		
Form setters	6.40	.36	.49	a		
Grademan	6.30	.36	.49	a		
Sewer pipe, conduit and duct line layers	6.20	.36	.49	a		
Wagon drill operator, and drill masters	6.30	.36	.49	a		
Wagon drill operator, helper and drill master helper	5.95	.36	.49	a		
Jackhammer, chipping hammer, pavement breaker, power buggy, concrete cutter, asphalt cutter, sheet hammer and tree cutter operator, and such other power tools used to perform work usually done manually by laborers	6.30	.36	.49	a		
Signalman	6.00	.36	.49	a		
Wrapping and coating of all pipe	5.80	.36	.49	a		
Common laborers, landscape laborers, railroad track laborers, rakers, tampers on cold patch work, flagmen salamander tenders, pitmen and dumpmen	5.75	.36	.49	a		
Rock shafts and tunnel work:						
Blasters	7.97	.36	.49	a		
Miners, drill runners, jacking pipe and other skilled workers	7.57	.36	.49	a		
Miners' helpers, chuck tenders, nippers and powder carriers	7.41	.36	.49	a		
Form erectors and form movers	7.41	.36	.49	a		
Bell man or signalman in shaft bottom, brakeman, trackman, shaft and tunnel laborers	7.41	.36	.49	a		
Top laborers	6.9025	.36	.49	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F; Washington's Birthday; Armistice Day; presidential election day (providing employee works 3 days for the same employer within a period of 10 working days consisting of 5 working days before and 5 working days after the day upon which the holiday falls).						
N.J.-5-LAB-5-I:						
Laborers, asphalt:						
Streets:						
Head rakers	5.65	.36	.34	a		
Rakers	5.50	.36	.34	a		
Tampers and smoothers, kettlemen, painters, top shovelers, and roller boys	5.25	.36	.34	a		
Plant:						
Scale mixer and burner men	5.50	.36	.34	a		
Feeders and dust men	5.25	.36	.34	a		
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnote: a. Holidays: A through F, Washington's Birthday; Armistice Day; presidential election day (providing an employee works or is available for work 3 days in the workweek in which the holiday falls).						
WD No. AM-409—36 F.R. 15920, Hamilton County, Ohio. Modification No. 8						
CHANGE:						
Pipefitters	8.51	.60	.775		$0.04	
Terrazzo workers	9.035	.25				
Tile setters	9.035	.25				
WD No. AM-1,852—36 F.R. 16226, Delaware County, Pa. Modification No. 6						
CHANGE:						
Carpenters, heavy and highway	8.52	1.05	.35	g	.07	
Electricians	9.475	2.4%	1%		1%	
Piledrivermen	8.62	$1.05	$0.35		$0.07	
WD No. AM-3,555—36 F.R. 16773, Bexar County, Tex. Modification No. 9						
CHANGE:						
Building construction:						
Bricklayers	6.60	.20	.20		.05	
Carpenters	5.875	.21	.30		.015	
Millwrights	6.175	.21	.30		.015	
Stonemasons	6.60	.20	.20		.015	
WD No. AM-7,489—36 F.R. 21737, Harris County, Tex., Modification No. 8						
CHANGE:						
Building construction:						
Soft floor layers	6.15		.10		.03	
WD No. AM-7,714—36 F.R. 22119, Travis County, Tex., Modification No. 5						
CHANGE:						
Building construction:						
Glaziers	5.35					
Soft floor layers	6.15		.10		.03	
WD No. AM-7,715—36 F.R. 22121, Galveston County, Tex., Modification No. 6						
CHANGE:						
Building construction:						
Bricklayers	7.30	.175	.30		.03	
Soft floor layers	6.15		.10		.03	
Stonemasons	7.30	.175	.30		.03	
WD No. AM-7,717—36 F.R. 22124, Jefferson and Orange Counties, Tex., Modification No. 5						
CHANGE: Electricians	7.625	.17	1%		1%	
WD No. AM-6,704—37 F.R. 5183, Clark, Cowlitz, Klickitat, Pacific, Skamania, and Wahkiakum Counties, Wash. Modification No. 1						
CHANGE:						
Plumbers; steamfitters (remaining counties)	7.15	.26	$0.45	.44	$0.06	
Plumbers; steamfitters (Clark County)	7.06	.50	.56		.07	
Soft-floor layers: Southern part of Pacific County and all other counties	6.40	.30	.30	0	.05	

SUPERSEDEAS DECISIONS

State: New Mexico; statewide.
Decision No. AM-11,406; date of decision: Mar. 24, 1972. Supersedes Decision No. AM-3,615, dated Aug. 25, 1971; in 36 F.R. 16753.
Description of work: Street, highway, utility, and light engineering construction.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Carpenters:						
Carpenters	$4.57	$0.10	$0.20	$0.10	$0.04	
Power saw operator-saw filer	4.72	.10	.20	.10	.04	
Millwright and piledriver	4.82	.10	.20	.10	.04	
Cementmasons	4.66	.24				
Ironworkers:						
Reinforcing	4.58	.25	.25			
Structural	5.90	.35	.50			
Painters:						
Brush	4.57					
Spray	4.33					
Laborers: Unskilled:						
Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers	2.56	.20	.15			
Wagon, air track, drill and diamond drillers' tender (outside)	2.71	.20	.15			
Air and power tool man; asphalt raker; batching plant scaleman; tenderers (to cementmason and plasterer); chain sawman; concrete power buggyman; concrete touchupman; concrete sawman; curbing machine; asphalt or cement; cutting torchman; metal form setter—road; grade setter; hod carrier; mortar mixer and mason tender; powderman or blaster helper; sandblaster; scaler; vibratorman (hand type); vibratory compactor (hand type)	2.86	.20	.15			
Gunite pumpereteman and nozzleman; multiplate setter	3.16	.20	.15			
Wagon, air track, drill and diamond driller (outside)	2.86	.20	.15			
Manhole builder	3.36	.20	.15			
Pipelayer	3.16	.20	.15			
Powderman—blaster—makeup	3.31	.20	.15			
Power equipment operators:						
Concrete paving curing machine	3.64	.15	.10		.01	
Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving subgrader	4.42	.15	.10		.01	
Belt type conveyors (material and concrete); broom (self-propelled); forklift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar hp. with attachments)	3.84	.15	.10		.01	
Tractor with backhoe attachment	4.39	.15	.10		.01	
Subgrade or base finisher	4.42	.15	.10		.01	
Concrete slip-form paving machine	4.64	.15	.10		.01	
Asphalt distributor; asphalt paving or lay down machine; asphalt retort heater; batch or continuous mix plant (concrete, soil-cement or asphalt); mixer, heavy duty, asphalt or soil cement; motor grader; tractor (50 drawbar h.p. or over); trenching machine; clam type shaft mucker	4.44	.15	.10		.01	
Concrete paving finishing machine; concrete paving longitudinal float; gunite machine; jumbo form or drilling stage sinsher	4.64	.15	.10		.01	
Concrete paver mixer; hoist (2 drums and over); side boom	4.59	.15	.10		.01	
Derrick cableway	5.02	.15	.10		.01	
Traveling crane, piledriver	4.59	.15	.10		.01	
Mine hoist	4.79	.15	.10		.01	
Mucking machine	4.79	.15	.10		.01	
Backhoe, clamshell, dragline, Gradall, shovel:						
Under ¾ cu. yd	4.44	.15	.10		.01	
¾ cu. yd to 3 cu. yd	4.59	.15	.10		.01	
Over 3 cu. yd	4.79	.15	.10		.01	
Bulldozer; elevating grader or belt loader; roller (steel wheel); scraper operator	4.44	.15	.10		.01	
Bulldozer (multiple units); scraper (multiple units)	4.79	.15	.10		.01	
Concrete paving spreader	4.64	.15	.10		.01	
Pumperete machine	4.64	.15	.10		.01	
Cranes (crawler or mobile):						
Under 20-ton	4.44	.15	.10		.01	
20-ton to 40-ton	4.59	.15	.10		.01	
Over 40-ton	4.79	.15	.10		.01	
Air compressor (300 CFM and over); crushing, screening and washing plants; drilling machine (cable, core or rotary); mixer, concrete (1 cu. yd. and less); pump (6-inch intake or over); winch truck; hoist (1 drum); industrial locomotive motorman; lumber stacker	4.44	.15	.10		.01	
Front end loader:						
1½ cu. yd. or less	3.84	.15	.10		.01	
Over 1½ cu. yd. to 6 cu. yd	4.44	.15	.10		.01	
Over 6 cu. yd	4.59	.15	.10		.01	
Industrial locomotive brakeman; tractor (under 50 drawbar h.p. without attachments); fireman; oiler; screedman	3.84	.15	.10		.01	
Mechanic and/or welder	4.47	.15	.10		.01	
Mixer, concrete (over 1 cu. yd.)	4.59	.15	.10		.01	
Grout pump operator	4.64	.15	.10		.01	
Powerplant (electrical generator or welding machine)	4.39	.15	.10		.01	
Roller (pull type)	3.94	.15	.10		.01	
Mulching machine; roller (self-propelled)	3.94	.15	.10		.01	
Mole operator	6.19	.15	.10		.01	
Truckdrivers:						
Distributor (asphalt)	3.21					
Dumpster or Dumptor	3.29					
Dump or batch truck:						
Under 8 cu. yd	3.00					
8 cu. yd. and under 16 cu. yd	3.10					
16 cu. yd. and under 20 cu. yd	3.24					
20 cu. yd. and over	3.29					
Diesel-powered transport (non-self-loading) 10 yd. and over	3.52					
Flatbed:						
1½ ton or under	3.00					
Over 1½ ton	3.15					
Lumber carrier	3.03					
Lowboy, heavy equipment	3.62					
Lowboy, light equipment	3.24					
Off-highway hauler	3.27					
Pickup truck ¾ ton or under	2.85					
Service station attendant	2.89					
Spreader box	2.94					
Spreader box (self-propelled)	3.18					
Swamper or rider helper	2.81					
Tank Truck:						
3,000 gal. or under	3.08					
3,001 gal. to 6,000 gal	3.18					
6,001 gal. and over	3.28					
Teamster, 2 or 4 or more	2.81					
Trailer or semitrailer dump	3.37					
Transit mix	3.24					
Warehouseman	2.99					

SUPERSEDEAS DECISIONS—Continued

State: West Virginia; statewide.
Decision No. AM-9,690; date of decision: Mar. 24, 1972. Supersedes Decision No. AM-1,876, dated Aug. 20, 1971, in 36 F.R. 16344.
Description of work: Heavy and highway construction.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
57-W. Va.-3-G:						
Highway construction:						
Power equipment operators:						
Class I:						
Equipment with booms of 150 ft. and/or capacity of 3 yd. and over, or 50 tons or over, front-end loader with capacity of 4 yd. and over, capacities to be based on manufacturer's specifications, transloader	$7.22	$0.20	$0.25		$0.04	
Tunneling and underground	7.47	.20	.25		.04	
Class II:						
Cableway, crane, derrick (2 drums or more), derrick boat, dragline, dredge, Gradall, hoist (2 drums or more) mechanic (heavy) mixer plant (2 or more mixers, including batch control), paver, (dual drums), piledriver, shovel, side boom tractor, cone drill operator, trencher (20 in. or over), truck crane, backhoe, hi-lift (1½ cu. yd. or over), dozer with ripper (when dozer is D-8 class or larger) double hitched equipment, bulldozer with roller, standard gauge locomotive, tugboat, concrete pump, controlled fine grade machine	6.51	.20	.25		.04	
Tunneling and underground	6.96	.20	.25		.04	
Class III:						
Bulldozer, derrick (single-drum), hi-lift (under 1½ cu. yd.), hoist (single-drum), single-drum paver, trencher (under 20 in.), motor grader, air tugger, rubber-tired scraper, self-loading tractor pan, Ross carrier, A-frame, multiple concrete saw, asphalt paver, hydraulic post driver, base paver, rotary drill and greaser and greaser truck, snake or push tractor	5.88	.20	.25		.04	
Tunneling and underground	6.13	.20	.25		.04	
Class IV:						
Concrete mixer (single-drum) 1 cu. yd. or over, forklift, asphalt batch plant, concrete batch plant, crushing plant, screening and washing plant, self-propelled power concrete spreader, subgrader, power form handling equipment, burlap and curing machine, concrete finishing machine, form grader, bull float, portable concrete saw, bar and joint installing machine and compactor	5.68	.20	.25		.04	
Tunneling and underground	5.93	.20	.25		.04	
Class V:						
Highway pressure fireman	5.40	.20	.25		.04	
Tunneling and underground	5.45	.20	.25		.04	
Class VI:						
Air compressor, concrete mixer (under 1 cu. yd.), conveyor belt or bucket, light plant, narrow gauge locomotive, welding machine, low pressure fireman, mechanic's helper, oiler, screedman, spreader boxman, farm tractor, joint sealer and pump	5.12	.20	.25		.04	
Tunneling and underground	5.37	.20	.25		.04	
When operating more than 1 piece of equipment	6.16	.20	.25		.04	
Tunneling and underground	6.41	.20	.25		.04	
"A" counties: Brooke, Cabell, Hancock, Harrison, Jackson, Kanawha, Lewis, Marion, Marshall, Mason, Monongalia, Ohio, Pleasants, Preston, Putman, Tyler, Wayne, Wetzel and Wood Counties, W. Va.						
Laborers—"A" counties:						
Blacksmith, tunnel miner, tunnel driller	6.19	.20	.20		.02	
Powderman, mucker-chucker	5.84	.20	.20		.02	
Caisson bottom man, pipelayer, form setter (road), drill operator, and inside laborer	5.57	.20	.20		.02	
Air tool operator, vibrator man, whacker chainsaw operator, mortarman, mason tender, blacksmith helper, cement finisher helper, waterproofer sheeter and shorer, pipelayers helpers, bullfloat man, pavement reinforcing placer, drill helper, handyman, signalman, asphalt raker, green cutter, georgia power buggies, burner, grade checker, cement blower man, powderman helper	5.30	.20	.20		.02	
Laborer, deckhand, mulcher and seeder (hand or machine), tree trimmer, flagman	5.09	.20	.20		.02	
Watchman	4.65	.20	.20		.02	
Truckdrivers—"A" counties:						
Warehouses, yardmen, truck helpers, pickups, station wagons, panel trucks, team 2 up	5.17	a	b			
Flatbody material trucks (straight jobs), dump trucks (up to 5 yds.), material checkers, material receiver team 4 up, greasers, tiremen and mechanic helpers (truck)	5.30	a	b			
Semidump trucks, semitrailers (flat, rack or pole), lowboy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yd.), dump trucks and dumpsters (5 yd. to 12 yd.)	5.50	a	b			
Rubber-tired tractors (towing or pushing)	5.81	a	b			
Dump truck, agitator or mixer trucks and other hauling equipment (12 yd. to 20 yd.), mucker trucker	5.86	a	b			
Dump truck, agitator or mixer trucks and hauling equipment (20 yd. and over)	6.02	a	b			
A-frame operator	6.08	a	b			
Mechanics (trucks)	6.22	a	b			
Footnotes:						
a. Employer contribution of $28.50 per month provided employee has been employed 30 days or more.						
b. Employer contribution of $26 per month provided employee has been employed 30 days or more.						
Carpenters—"A" counties	6.44	$0.20	$0.20		.04	
Piledrivers—"A" counties except Brooke, Hancock, Marshall, Monongalia, Ohio, and Wetzel Counties	6.71	.20	.25		.40	
Piledrivers—Brooke, Hancock, Marshall, Monongalia, Ohio, and Wetzel Counties	7.65	4%	5%			
Cementmasons—"A" counties	6.72					
"B" Counties: Barbour, Berkeley, Boone, Braxton, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Lincoln, Logan, McDowell, Mercer, Mineral, Mingo, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Raleigh, Randolph, Ritchie, Summers, Taylor, Tucker, Upshur, Webster, Wirt, Wyoming, and Roane Counties.						
Laborers—"B" counties:						
Blacksmith, tunnel miner, tunnel driller	5.84	$0.20	$0.20		.02	
Powderman, mucker-chucker	5.50	.20	.20		.02	
Caisson bottom man, pipe layer, form setter (road), drill operator, and inside laborer	5.21	.20	.20		.02	
Air tool operator, vibrator man, whacker chainsaw operator, mortarman, mason tender, blacksmith helper, cement finisher helper, waterproofer, sheeter and shorer, pipelayers helpers, bullfloat man, pavement reinforcing placer, drill helper handyman, signalman, asphalt man, asphalt raker, greencutter, georgia power buggie, burner, grade checker, cement blower man, powderman helper	4.95	.20	.20		.02	
Laborers, deckhand, mulcher and seeder (hand or machine), tree trimmer, flagman	4.65	.20	.20		.02	
Watchman	4.24	.20	.20		.02	
Truckdrivers—"B" counties:						
Warehouse, yardmen, truck helpers, pickups, station wagons, panel trucks, team 2-up	5.01	a	b			
Flatbody material trucks (straight jobs), dump trucks (up to 5 yd.), material checkers, material receivers, team 4-up, greasers, tiremen and mechanic helpers (truck)	5.16	a	b			
Semidump trucks, semitrailers (flat, rack or pole), low boy trucks, distributor trucks, agitators or miners trucks (up to and including 5 yd.), dump trucks and dumpsters (5 yd. to 12 yd.)	5.36	a	b			
Rubber-tired tractors (towing or pushing)	5.65	a	b			

SUPERSEDEAS DECISIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Footnotes—Continued						
Dump truck, agitator or mixer trucks and other hauling equipment (12 yd. to 20 yd.), mucker truck	5.72	a	b			
Dump truck agitator or mixer trucks and other hauling equipment (20 yd. and over)	5.85	a	b			
A-frame operator	6.06	a	b			
Mechanics (trucks)	6.06	a	b			
a. Employer contribution of $28.50 per month provided employee has been employed 30 days or more						
b. Employer contribution of $26 per month provided employee has been employed 30 days or more.						
Carpenters—"B" counties	5.79	$0.20	$0.25		.04	
Piledrivers—"B" counties	6.08	.20	.25		.04	
Cementmasons—"B" counties	6.20					
56-W. Va.-2-F:						
Heavy construction:						
Power equipment operators:						
Equipment with booms of 150 ft. and/or capacity of 3 yd. and over, or 50 tons and over, front-end loader with capacity of 4 yards and over, capacity to be based on manufacturer's specifications	7.34	.20	.25		.04	
Tunneling and underground	7.59	.20	.25		.04	
Cableway, crane derrick (2 or more drums), derrick boat, dragline, dredge, Gradall, hoist (2 or more drums), mechanic—heavy, mixer plant (2 or more mixers, including batch control), paver—dual drum, piledriver, shovel, sideboom tractor, trencher, 20 in. or over, truck crane, backhoe, hi-lift (1½ cu. yd. or over), dozer with ripper (when dozer is D-8 class or larger), double hitched equipment, bulldozer with roller, standard gauge locomotive, tugboat, concrete pump, controlled fine grade machine	6.66	.20	.25		.04	
Tunneling and underground	6.91	.20	.25		.04	
Bulldozer, derrick (single drum), hi-lift (under 1½ cu. yd.), hoist (single drum), single drum paver, trencher (under 20 in.), motor grader, air tugger, rubber-tired scraper, self-loading tractor pan, Ross carrier A-frame, multiple concrete saw, asphalt paver, hydraulic post driver, base paver, rotary drill and greaser and greaser truck, snake or push tractor	6.03	.20	.25		.04	
Tunneling and underground	6.28	.20	.25		.04	
Concrete mixer (single drum), 1 cu. yd. or over, forklift, asphalt batch plant, concrete batch plant, crushing plant, screening and washing plant, roller, and compactor, subgrader, concrete finishing machine, self-propelled power concrete spreader, bull float, portable concrete saw, bar and joint installing machine, form grader	5.82	.20	.25		.04	
Tunneling and underground	6.07	.20	.25		.04	
High pressure firemen	5.54	.20	.25		.04	
Tunneling and underground	5.79	.20	.25		.04	
Air compressor, concrete mixer (under 1 cu. yd.), conveyor belt or bucket, light plant, narrow gauge locomotive, welding machine, low pressure fireman, mechanic's helper, oiler, screed man, spreader box man, farm tractor and joint sealer, pump	5.26	.20	.25		.04	
Tunneling and underground	5.61	.20	.25		.04	
When operating more than 1 piece of equipment	6.30	.20	.25		.04	
Tunneling and underground	6.55	.20	.25		.04	
"A" Counties only: Brooke, Cabell, Hancock, Harrison, Jackson, Kanawha, Marion, Marshall, Mason, Monongalia, Ohio, Pleasants, Putnam, Tyler, Wayne, Wetzel, Wood, Preston, and Lewis.						
Laborers—"A" counties only:						
Blacksmith, tunnel driller, tunnel miner	6.33	.20	.20		.02	
Powdermen, mucker-chucker	5.98	.20	.20		.02	
Caisson bottom man, pipelayer, form setter (road), drill operator, inside laborer	5.71	.20	.20		.02	
Air tool operator, vibrator man, whacker, chainsaw operator, mortarman, mason tender, blacksmith helper, cement finisher helper, waterproofer, sheeter and shorer, pipelayers helpers, bullfloat man, pavement reinforcing placer, drill helper, handyman, signalman, asphalt raker, greencutter, georgia power buggies, burner, grade-checker, cement blower man, and powderman helpers	5.45	.20	.20		.02	
Laborer, deckhand, mulcher and seeder (hand or machine), tree trimmer, flagman	5.23	.20	.20		.02	
Watchman	4.81	.20	.20		.02	
Truckdrivers—"A" counties only:						
Warehouse, yardman, truck helpers, pickups, station wagons, panel trucks, team 2-up	5.37	a	b			
Flatbody material trucks (straight jobs), dump trucks (up to 5 yd.), material checkers, material receivers, team 4-up, greasers, fireman and mechanic helpers (truck)	5.50	a	b			
Semidump trucks, semitrailers (flat, rack or pole), lowboy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yd.), dump trucks and dumpsters (5 yd. to 12 yd.)	5.72	a	b			
Rubber-tired tractors (towing or pushing)	6.02	a	b			
Dump truck, agitator or mixer trucks and other hauling equipment (12 yd. to 20 yd.), mucker-trucker	6.08	a	b			
Dump truck, agitator or mixer trucks and other hauling equipment (20 yd. and over)	6.22	a	b			
A-frame operator	6.37	a	b			
Mechanics (truck)	6.42	a	b			
Footnotes:						
a. Employer contribution of $28.50 per month provided the employee has been employed for 30 days or more.						
b. Employer contribution of $26 per month provided the employee has been employed for 30 days or more.						
Carpenters—"A" counties only	6.58	$0.25	$0.25		.04	
Piledrivers—"A" counties except for Brooke, Hancock, Marshall, Monongalia, Ohio, and Wetzel Counties	6.86	.20	.25		.04	
Cementmasons—"A" counties only	7.65	4%	5%			
Piledrivers: Brooke, Hancock, Marshall, Monongalia, Ohio, and Wetzel Counties						
"B" counties only: Berkeley, Fayette, Logan, McDowell, Mercer, Mingo, Raleigh, Taylor, Wyoming, Barbour, Boone, Braxton, Calhoun, Clay, Doddridge, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Lincoln, Mineral, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Randolph, Ritchie, Roane, Summers, Tucker, Upsher, Webster, and Wirt.						
Laborers—"B" counties only:						
Blacksmith, tunnel driller, tunnel miner	5.98	$0.20	$0.20		.02	
Powderman, mucker-chucker	5.63	.20	.20		.02	
Caisson bottom man, pipelayer, form setter (road), drill operator, inside laborer	5.36	.20	.20		.02	
Air tool operator, vibrator man, whacker, chainsaw operator, mortarman, mason tender, blacksmith helper, cement finisher (helper), waterproofer, sheeter and shorer, pipelayer (helpers), bullfloats man, pavement reinforcing placer, drill helper, handyman, signalman, asphalt raker, greencutter, georgia power buggie, burner, grade-checker, cement blower man and powderman helper	5.09	.20	.20		.02	
Laborer, deckhand, mulcher and seeder (hand or machine), tree trimmer, flagman	4.88	.20	.20		.02	
Watchman	4.45	.20	.20		.02	

SUPERSEDEAS DECISIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Footnotes—Continued						
Truckdrivers—"B" counties only:						
Warehouse, yardman, truck helpers, pickups, station wagons, panel trucks, team 2-up	5.16	a	b			
Flatbody material trucks (straight jobs), dump trucks (up to 5 yd.), material checkers, material receivers, team 4-up, greasers, tiremen and mechnaic helpers (truck)	5.30	a	b			
Semidump trucks, semitrailers (flat, rack or pole), lowboy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yd.), dump trucks and dumpsters (5 yd. to 12 yd.)	5.50	a	b			
Rubber-tired tractors (towing or pushing)	5.79	a	b			
Dump trucks, agitator or mixer trucks and other hauling equipment (12 yd. to 20 yd.), mucker-trucker	5.85	a	b			
Dump truck, agitator or mixer trucks and other hauling equipment (20 yds. and over)	6.02	a	b			
A-frame operator	6.22	a	b			
Mechanics (truck)		a	b			
a. Employer contribution of $28.50 per month provided the employee has been employed for 30 days or more.						
b. Employer contribution of $26 per month provided the employee has been employed for 30 days or more.						
Carpenters—"B" counties only	5.94	$0.20	$0.25		.04	
Cementmasons—"B" counties only	6.36					
Piledrivers—"B" counties only	6.22	.20	.25		.04	
56-W. Va.-2-3-J:						
Heavy and highway construction:						
Ironworkers:						
Mineral, Pendleton, and Tucker Counties:						
Structural and ornamental	7.15	.30	.20			
Reinforcing	7.15	.30	.20			
Barbour, Brooke, Harrison, Marion, Marshall, Monongalia, Preston, Randolph, Taylor, Tyler, Wetzel, and Ohio Counties: Ironworkers	8.10	.40	.40	4%	.03	
Cabell, Mingo, and Wayne Counties: Ironworkers	8.10	.40	.55		.01	
Wood, Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, and Wirt Counties: Ironworkers	8.05	.40	.65		.01	
Kanawha, Putnam, Lincoln, Logan, Wyoming, McDowell, Raleigh, Fayette, Nicholas, Webster, Braxton, Clay, and Boone Counties: Ironworkers	8.10	.40	.65		.05	
Greenbrier, Mercer, Monroe, Pocahontas, and Summers Counties:						
Structural and ornamental	6.80	.35	.25		.03	
Reinforcing	6.80	.35	.25		.03	

[FR Doc.72-4331 Filed 3-23-72;8:45 am]

DEPARTMENT OF JUSTICE

Office of Alien Property

VESTED PROPERTY

Notice of Intention To Return

Pursuant to section 32(f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses, and also subject to Executive Order 8389, as amended, 5 F.R. 1400, 6 F.R. 2897, and General License 101, 31 CFR 520.101:

Claimant, Property, and Location

Juraj Farkas, Kremlickova No. 977, Prague 4-Pankrac, Czechoslovakia, $1,207.01 in the Treasury of the United States.

Katarina Gucklerova, Sokolovska No. 97, Prague 8, Czechoslovakia, $1,207.01 in the Treasury of the United States.

Edit Vozari, Krisztina krt. 83-85, Budapest, I, Hungary, $2,414.03 in the Treasury of the United States.

Claim No. 37564.
Vesting Orders Nos. 111 and 725.

Executed at Washington, D.C., on March 21, 1972.

For the Attorney General.

L. PATRICK GRAY III,
Assistant Attorney General, Civil Division, Director, Office of Alien Property.

[FR Doc.72-4542 Filed 3-23-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-254, 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Supplementary Notice of Consideration of Issuance of Facility Operating Licenses

In the matter of Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co. (Quad-Cities Nuclear Power Station, Units 1 and 2), Dockets Nos. 50-254 and 50-265.

On March 16, 1971, a Notice of AEC Consideration of Issuance of Facility Operating Licenses was published by the Atomic Energy Commission (the Commission) in the FEDERAL REGISTER (36 F.R. 5008) in the captioned proceeding. That notice indicated that the Commission was considering the issuance of facility operating licenses to the Commonwealth Edison Co. (Commonwealth Edison) and Iowa-Illinois Gas and Electric Co. (Iowa-Illinois) which would authorize Commonwealth Edison, acting for itself and as agent for Iowa-Illinois, to possess, use, and operate the Quad-Cities Nuclear Power Station, Units 1 and 2, which are single-cycle boiling water reactors, in Rock Island County, Ill. The licenses would also authorize Commonwealth Edison and Iowa-Illinois to acquire and possess title to the facilities as their interests appear in the applications. The notice provided the applicants with an opportunity to request a hearing and also provided an opportunity for any person whose interest might be affected by the proceeding to file a petition for leave to interevene. No request for a hearing or petition for leave to intervene was filed.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, "Implementation of the National Environmental Policy Act of 1969" (36 F.R. 18071) to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969 (NEPA).[1] The revised regulations require the consideration of additional matters in applicants' Environmental Reports and in Detailed Statements of environmental considerations and provide for determination in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, rules of practice, and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the captioned proceeding, the Commission is providing an opportunity for hearing with respect to those matters covered by Appendix D of 10 CFR Part 50. This notice does not provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and

[1] The Commission has since adopted certain amendments to revised Appendix D which were published in the FEDERAL REGISTER on September 30, 1971 (36 F.R. 19158), November 11, 1971 (36 F.R. 21579), and January 20, 1972 (37 F.R. 864).

security, for which opportunity to intervene was provided in the Notice of AEC Consideration of Issuance of Facility Operating Licenses, published in the FEDERAL REGISTER on March 16, 1971.

Accordingly, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicants 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 for leave 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 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. In accordance with 10 CFR 2.714, a petition for leave to intervene which is not timely filed will be dismissed unless the petitioner shows good cause for failure to file on time.

For further details with respect to the matters under consideration, see the applicants' supplemental Environmental Report and the Commission's draft Detailed Statement of environmental considerations which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington DC, and at the Moline Public Library, 504 17th Street, Moline, IL. As it becomes available, the Commission's final Detailed Statement of environmental considerations will also be placed in the Commission's Public Document Room and the Moline Public Library for inspection by members of the public. Copies of the Commission's draft and final Detailed Statements and, to the extent of supply, a copy of the applicants' supplemental Environmental Report may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 21st day of March, 1972.

For the Atomic Energy Commission.

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

[FR Doc.72-4589 Filed 3-23-72;8:51 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THAILAND

Entry or Withdrawal From Warehouse for Consumption

MARCH 20, 1972.

On July 3, 1971, there was published in the FEDERAL REGISTER (36 F.R. 12714) a letter of June 25, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs directing that the amounts of cotton textile products in Category 60, produced or manufactured in Thailand, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning April 30, 1971, and extending through April 29, 1972, be limited to a designated level.

There is published below a letter of March 20, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs cancelling the letter of June 25, 1971. This action is taken pursuant to the bilateral agreement on cotton textiles entered into between the Governments of the United States and Thailand on March 16, 1972, effective April 1, 1972.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

MARCH 20, 1972.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, and in accordance with Executive Order 11651 of March 3, 1972, the directive issued to you on June 25, 1971, as amended, by the Chairman, President's Cabinet Textile Advisory Committee, regarding imports of cotton textile products in Category 60, produced or manufactured in Thailand, is cancelled, effective as soon as possible.

The actions taken with respect to the Government of Thailand, and with respect to imports of cotton textiles and cotton textile products from Thailand, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-4544 Filed 3-23-72;8:51 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the list (37 F.R. 2795) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock is hereby amended as indicated in the following table listing species at additional establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Elliott Food Products, Inc	5608	(*)		(*)		(*)	
Adams Locker	5621	(*)		(*)		(*)	
King's Frozen Food Center	5629	(*)		(*)		(*)	
Brammeier's Locker	5639	(*)		(*)		(*)	
F & S Sausage Co., Inc	5640	(*)		(*)		(*)	
Filley Locker Service	5646	(*)		(*)		(*)	
Belinde's Locker Plant	5654	(*)		(*)		(*)	
Epler Mercantile Co	5655	(*)		(*)		(*)	
Trautman's Meat Center	5657	(*)					
Univeristy of Nebraska—Loeffel Meat Laboratory.	5658	(*)		(*)		(*)	
Cardel & Son Freezer Meats	5670	(*)		(*)		(*)	
Kreimer's Store	5681	(*)		(*)		(*)	
Nebraska Penal and Correctional Complex	5691	(*)					
Oakdale Meat Co	6017	(*)					
Columbia Packing Co., Inc	6853	(*)					

New Establishments Reported: 15.

Done at Washington, D.C., on March 17, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-4423 Filed 3-23-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 588]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

MARCH 20, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

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[1] All applications listed in the appendix below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE:

6118-C2-P-72—Delaware Mobile Telephone Co. (New), for a new two-way station to be located at 0.5 mile north of Curtis Mill Road on Limestone Road near Newark, Del., to operate on 454.350 MHz.

6119-C2-P-72—Anserfone, Inc. (KIA955), for additional facilities to operate on 454.075 and 454.150 MHz at location No. 1: 417 Gardenia Street, West Palm Beach, FL.

6125-C2-P-(3)-72—Albert E. Armour, Jr. (KOF912), for additional facilities to operate on 454.275, 454.300, and 454.325 MHz located atop Sacaton Peak, 10 miles north-northeast of Casa Grande, Ariz.

6126-C2-P-72—Atlas Radiophone (KMJ224), change the base frequency to 72.86 MHz, replace transmitter and change the antenna system at location No. 2: 508 Second Street, Antioch, CA.

6127-C2-P-72—Auto Phone Service (KIB384), replace transmitter operating on 152.03 MHz, change the antenna system and relocate facilities to the Citizens Bank Building, at 250 North Orange Avenue, Orlando, FL.

6128-C2-P-72—The Lincoln Telephone & Telegraph Co. (KAI933), replace transmitter operating on 152.63 MHz and change the antenna system located at 321 North St. Joseph Avenue, Hastings, NE.

6129-C2-P-72—Paging, Inc. (New), for a new one-way station to be located at Commonwealth Avenue and North City Limits, Bristol, VA, to operate on 158.70 MHz.

6136-C2-P-72—WABY, Inc. (New), for a new two-way station to be located at 80 Braintree Street, Albany, NY, to operate on 152.06 MHz.

6137-C2-P-72—The Mountain States Telephone & Telegraph Co. (KOF 905), change the antenna system and relocate facilities operating on 152.69 and 152.75 MHz to 6.5 miles southeast of Billings, Mont.

6138-C2-P-72—Mobilfone Communications (New), for a new one-way station to be located at 6 miles southwest of Hot Springs, Ark., to operate on 152.24 MHz.

6139-C2-P-72—Mobilfone Communications (New), for a new one-way station to be located at 1 mile southwest of Sulpher Springs, Ark., to operate on 152.24 MHz.

6140-C2-P-72—Mobilfone Communications (New), for a new one-way station to be located at 3 miles southeast of Texarkana, Ark., to operate on 152.24 MHz.

6141-C2-P-72—Southwestern Bell Telephone Co. (KKB395), to establish auxiliary test facilities to operate on 157.77, 157.83, 157.89, 157.98, and 158.07 MHz to be located at 202 West Second Street, Odessa, TX.

6142-C2-MP-72—Orange County Radiotelephone Service, Inc. (KSV-980), replace transmitter operating on 152.24 MHz located at 2.5 miles west of Newport Beach, Calif.

6169-C2-P-72—Mount Vernon Telephone Co. (New), for a new one-way station to be located at 2.8 miles southeast of Verona, Wis., to operate on 158.10 MHz.

6170-C2-P-72—Radio Relay Corp. (New), for a new one-way station to be located at 917 West Galbraith Road, Cincinnati, OH, to operate on 158.70 MHz.

6171-C2-P-72—RadioCall Corp. (KLF515), replace transmitter operating on 454.025 MHz and relocate facilities to San Pedro Hill, San Pedro, Calif.

6192-C2-P-72—Professional Answering Service, Inc. (New), for a new one-way station to be located at 3000 Cherry Street, Springfield, MO, to operate on 158.70 MHz.

6193-C2-P-72—RCC of Virginia, Inc. (KIY595), replace transmitter operating on 152.15 MHz and relocate facilities to 3004 North Main Street, Danville, VA.

6194-C2-P-(4)-72—Industrial Communications Systems, Inc. (KMD990), change the antenna system operating on 454.150, 454.175, 454.200, and 454.300 MHz at location No. 1: End of Silverado Canyon Road, Santiago Peak, Calif., and at location No. 3: Verdugo Peak, Calif., operating on 454.150, 454.200, and 454.300 MHz.

4465-C2-R-72—Radio Telephone Co. of Gainesville (KJU814), renewal of license expiring Apr. 1, 1972. Term: Apr. 1, 1972, to Apr. 1, 1974.

Major Amendment

2448-C2-MP-(4)-72—Capital Telephone Co. (KEC937), change control frequencies to 454.20 and 454.275 MHz and change repeater frequencies to 459.20 and 459.275 MHz. See public notice dated Nov. 8, 1971, Report No. 569.

3824-C2-P-(2)-72—Loftin's Transfer & Storage Co. (New), change base frequency to 158.70 MHz. See public notice dated Jan. 3, 1972, Report No. 577.

4686-C2-P-(3)-72—Two-Way Radio of Carolina, Inc. (KUA277), change control frequency to 454.30 MHz. See public notice dated Feb. 7, 1972, Report No. 582.

4687-C2-P-(5)-72—Two-Way Radio of Carolina, Inc. (KIY754), change control frequency at location No. 2, to 454.05 MHz. See public notice dated Feb. 7, 1972, Report No. 582.

Correction

5245-C2-MP-72—Advanced Electronics (KSV927), correct file number to read: 2948/5245-C2-MP-72. See public notice dated Feb. 22, 1972, Report No. 584.

5956-C2-P-72—Radio Call Co. (KFJ902), correct to read: For a new two-way station. See public notice dated Mar. 13, 1972, Report No. 587.

5313-C2-P-(4)-72—Delta Valley Radiotelephone Co., Inc. (KMA743), correct file number to read: 5315-C2-P-(4)-72. Rest same as public notice dated Mar. 6, 1972, Report No. 586.

6143-C1-P-72—The Mountain States Telephone & Telegraph Co. (KSV89), change the antenna system operating on 152.54 MHz located at 6.5 miles southeast of Billings, Mont.

6190-C1-ML-72—RCA Alaska Communications, Inc. (WHB52), to add frequencies 157.83, 157.92, 158.01, 158.07, 459.375, 459.650, and 459.575 MHz to operate with (15 units) within the territory of the grantee.

6191-C1-ML-72—RCA Alaska Communications, Inc. (WHB53), to add frequencies 152.57, 152.66, 152.75, 152.81, 454.375, 454.650, and 454.575 MHz.

6103–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPZ64), 12.3 miles southeast of Boise, Idaho. Latitude 43°29'20" N., longitude 116°01'36" W. C.P. to add 10,875H and 11,115V MHz toward Sweet, Idaho, on azimuth 332°49'.

6104–C1–P–72—The Mountain States Telephone & Telegraph Co. (KGG29), 5.2 miles northwest of Sweet, Idaho. Latitude 44°01'88" N., longitude 116°24'15" W. C.P. to add 11,565V and 11,325H MHz toward Boise Junction, Idaho, and 11,365H and 11,605V MHz toward Mesa, Idaho.

6105–C1–P–72—The Mountain States Telephone & Telegraph Co. (New), approximately 1 mile north of Mesa, Idaho. Latitude 44°38'23" N., longitude 116°26'56" W. C.P. for a new station to add 10,915H, and 11,155V MHz toward Squaw Butte, Idaho, on azimuth 177°01' and 10,875V and 11,115H MHz toward Council, Idaho, on azimuth 4°55'.

6106–C1–P–72—The Mountain States Telephone & Telegraph Co. (New), near the corner of Main and Mosher Streets, Council, Idaho. Latitude 44°43'46" N., longitude 116°26'-17" W. C.P. for a new station to add 11,325V and 11,565H MHz toward Mesa, Idaho, on azimuth 184°56'.

6107–C1–AL–(5)–72—Frank K. Spain, doing business as Microwave Service Co., consent to assignment of license from Frank K. Spain, doing business as Microwave Service Co., assignor to Grayson Enterprises, Inc., assignee. Stations: KLV73 Amarillo, Tex.; KLV74 Canyon, Tex.; KLV75 Nazareth, Tex.; KLV76 Hart Camp, Tex.; and KLV77 Whitharral, Tex.

6108–C1–MP–72—General Telephone Co. of Florida (KIL88), corner of Zack and Morgan Street, Tampa, FL. Latitude 27°57'01" N., longitude 82°27'24" W. Modification of C.P. for a new station to add 5945.2H MHz toward Plant City, Fla., on azimuth 73°32'.

6109–C1–MP–72—General Telephone Co. of Florida (KGP52), 1.73 miles from Plant City Post Office bearing 15°40' north of West Plant City, Fla. Latitude 28°01'33" N., longitude 82°09'57" W. Modification of C.P. to add 6197.2H MHz toward Tampa, Fla.

6110–C1–P–72—The Pacific Telephone & Telegraph Co. (KNL75), 1.2 miles west-northwest of Lodi, Calif. C.P. to add 5974.8H and 6093.5H MHz toward Farmington, Calif.

6111–C1–P–72—The Pacific Telephone & Telegraph Co. (New), 3.6 miles north-northeast of Farmington, Calif. Latitude 37°58'27" N., longitude 120°58'08" W. C.P. for a new station to add 6226.9V and 6345.5V MHz toward Lodi, Calif., and 6226.9H and 6345.5H MHz toward Patterson, Calif.

6112–C1–P–72—The Pacific Telephone & Telegraph Co. (New), 4.6 miles west-southwest of Patterson, Calif. Latitude 37°26'48" N., longitude 121°12'54" W. C.P. for a new station to add 5974.8V and 6093.5V MHz toward Farmington, Calif., and 5974.8H and 6093.5H MHz toward Pacheco Pass, Calif.

6113–C1–P–72—The Pacific Telephone & Telegraph Co. (New), 8.8 miles northeast of Bell Station, Pacheco Pass, Calif. Latitude 37°07'29" N., longitude 121°11'40" W. C.P. to add 6226.9V and 6345.5V MHz toward Patterson, Calif., and 11,625H, 11,305H, and 11,465H MHz toward Hogsback, Calif.

6114–C1–P–72—The Pacific Telephone & Telegraph Co. (New), Hogsback, 6.8 miles northeast of Morgan Hill, Hogsback, Calif. Latitude 37°11'05" N., longitude 121°33'13" W. C.P. for a new station to add 10,775H, 10,935H, and 11,095H MHz toward San Jose, Calif., and 10,735V, 10,895V, and 11,135V MHz toward Pacheco Pass, Calif.

6115–C1–P–72—The Pacific Telephone & Telegraph Co. (KMN91), 95 Almaden Avenue, San Jose, CA. Latitude 37°19'58" N., longitude 121°53'31" W. C.P. to add 11,265V, 11,425V, and 11,665V MHz toward Hogsback, Calif.

6116–C1–P–72—Illinois Bell Telephone Co. (WAD89), 211 North Oak Street, Centralia, IL. Latitude 38°31'48" N., longitude 89°08'04" W. C.P. to add 5960.0V, 6019.3V, and 6137.9V MHz toward Waltonville, Ill., and replace transmitters.

6117–C1–P–72—Illinois Bell Telephone Co. (KXR46), 3 miles south of Waltonville, Ill. Latitude 38°09'55" N., longitude 89°02'06" W. C.P. to add 6212.1V MHz toward Centralia, Ill., and 6212.1H MHz toward Marion, Ill.

6121–C1–P–72—The Pacific Telephone & Telegraph Co. (KMO89), 516 Third Street, Santa Rosa, CA. Latitude 38°26'21" N., longitude 122°42'48" W. C.P. to add 4010V MHz toward Red Mountain, Calif.

6122–C1–P–72—The Pacific Telephone & Telegraph Co. (KNB53), 99 Moultrie Street, San Francisco, CA. Latitude 37°44'36" N., longitude 122°24'51" W. C.P. to add 3970H MHz toward San Rafael Hill, Calif.

6123–C1–P–72—The Pacific Telephone & Telegraph Co. (WBO59), Red Mountain, 3.3 miles northeast of Kenwood, Calif. Latitude 38°27'09" N., longitude 122°30'32" W. C.P. to add 3970V toward Santa Rosa, Calif., and 3970V MHz toward San Rafael Hill, Calif.

6124–C1–P–72—The Pacific Telephone & Telegraph Co. (WBO61), San Rafael Hill, 1.5 miles northeast of San Rafael, Calif. Latitude 37°59'19" N., longitude 122°30'06" W. C.P. to add 4010H MHz toward San Francisco, Calif., and 4010V MHz toward Red Mountain, Calif.

6130–C1–P–72—Indiana Bell Telephone Co. (KSP82), 118 East Eighth Street, Michigan City, IN. Latitude 41°42'52" N., longitude 86°53'59" W. C.P. to add 11,155V MHz toward Westville, Ind.

6131–C1–P–72—RCA Alaska Communications, Inc. (New), Kushneahin Creek, Alaska. Latitude 56°31'14" N., longitude 133°33'55" W. C.P. for a new station to add 2128V MHz toward Duncan Canal, Alaska.

6131–C1–P–72—RCA Alaska Communications, Inc. (New), Duncan Canal (WACS) Duncan Canal, Alaska. Latitude 56°45'14" N., longitude 133°10'11" W. C.P. for a new station to add 2178V MHz toward Kushneahin Creek, Alaska.

6134–C1–P–ML–72—American Telephone & Telegraph Co. (KOB24), Cedar Mountain, 5 miles northeast of Low, Utah. Modification of license to change polarization from H to V on frequency 4030V toward Stansbury Island, and Barro, Utah.

6135–C1–ML–72—American Telephone & Telegraph Co. (KCB25), Stansbury Island, 7 miles east of Timpe, Utah. Modification of license to change polarization from H to V on frequency 4070V MHz toward Cedar Mountain, Utah.

6167–C1–P–72—American Television & Communications Corp. (New), C.P. for a new station 4 miles north of Tohopkee, Fla., at latitude 28°16'37" N., longitude 81°04'51" W. Frequencies 6226.9H and 6286.2H MHz on azimuth 272°24'.

6168–C1–P–72—American Television & Communications Corp. (New), C.P. for a new station 4 miles west of Kissimmee, Fla., at latitude 28°17'27" N., longitude 81°28'05" W. Frequencies 5974.9H and 6034.2H MHz on azimuth 222°30'. Applicant requests waiver of section 21.701(i) of the Commission's rules. Applicant proposes to provide the television signals of WCIX–TV and WLTV–TV to itself in Kissimmee, Fla., and to Universal Cable Vision, Inc., in Winter Haven, Fla.

(INFORMATIVE: Applicant, MCI Pacific-Mountain States, Inc., is modifying its original proposal for Specialized Common Carrier Radio Service between Denver, Colo., and Salt Lake City, Utah, and points in between, by filing the five new applications listed below.

6173–C1–P–72—MCI Pacific-Mountain States, Inc. (New), Site 2, East Lake, Colo. C.P. for a new station 6.3 miles south of Barr Lake, Colo., at latitude 39°52'30" N., longitude 104°46'00" W. Frequencies 6286.2V MHz on azimuth 233°12' toward Denver, Colo., and and 6197.2V MHz on azimuth 275°48' toward Marshall, Colo.

6174–C1–P–72—MCI Pacific-Mountain States, Inc. (New), Site 6, Seaman Reservoir, Colo. C.P. for a new station 3.5 miles southwest of Owl Canyon, Colo., at latitude 40°43'17" N., longitude 105°12'50" W. Frequencies 5974.8H MHz on azimuth 140°08' toward Kelm, Colo., 5945.2V MHz on azimuth 07°28' toward Granite, Wyo., and 1135.0V and 10,895.0V MHz on azimuth 142°50' toward Fort Collins, Colo.

6175–C1–P–72—MCI Pacific-Mountain States, Inc. (New), Site 14, Rock Bluffs, Wyo. C.P. for a new station 16.4 miles south of Tipton, Wyo., at latitude 41°23'33" N., longitude 108°17'14" W. Frequencies 6197.2H MHz on azimuth 69°37' toward Seperation Peak, Wyo., and 6197.2H MHz on azimuth 273°32' toward Quely, Wyo.

6176–C1–P–72—MCI Pacific-Mountain States, Inc. (New), Site 16, Blue Rim, Wyo. C.P. for a new station 4.9 miles northeast of Westvaco, Wyo., at latitude 41°44'36" N., longitude 109°34'47" W. Frequencies 6197.2V MHz on azimuth 132°23' toward Quely, Wyo., and 6197.2V MHz on azimuth 283°23' toward Round Mountain, Wyo.

6177–C1–P–72—MCI Pacific-Mountain States, Inc. (New), Site 21, Mount Ogden, Utah. C.P. for a new station 3.1 miles south of Hermitage, Utah, at latitude 41°12'15" N., longitude 111°53'01" W. Frequencies 6226.9H MHz on azimuth 13°41' toward Providence, Utah, 6226.9H MHz on azimuth 203°56' toward Magna, Utah, and 6226.9H MHz on azimuth 286°03' toward Ogden, Utah.

6196–C1–ML–72—American Telephone & Telegraph Co. (KSQ43), 2.7 miles west-southwest of Casselton, N. Dak. Latitude 46°52'42" N., longitude 97°15'26" W. Modification of license to change polarization from V to H on frequencies 3770H, 3850H, 3930H, 4010H, 4090H, and 4170H MHz toward Valley City, N. Dak.

6197–C1–ML–72—American Telephone & Telegraph Co. (KAQ86), 3.2 miles east-northeast of Valley City, N. Dak. Latitude 46°56'15" N., longitude 97°55'25" W. Modification of license to change polarization from V to H on frequencies 3730H, 3810H, 3890H, 3970H, 4050H, and 4130H MHz toward Casselton, N. Dak.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

6198–C1–ML–72—American Telephone & Telegraph Co. (KAQ91), Bismarck Junction, 1.25 miles north-northeast of Bismarck, N. Dak. Latitude 46°49'32" N., longitude 100°46'00" W. Modification of license to change polarization from V to H on frequencies 3770H, 3850H, 3990H, 4010H, 4090H, 4170H, MHz toward New Salem, N. Dak.

6199–C1–ML–72—American Telephone & Telegraph Co. (KAR53), 4 miles south of New Salem, N. Dak. Latitude 46°47'00" N., longitude 101°24'10" W. Modification of license to change polarization from V to H on frequencies 3730H, 3810H, 3890H, 3970H, 4050H, 4130H, MHz toward Bismarck Junction, N. Dak. and 3730H, 3610H, 3890H, 3970H, 4050H, 4130H, MHz toward Antelope, N. Dak.

6200–C1–ML–72—American Telephone & Telegraph Co. (KAR54), 9.5 miles south-southeast of Antelope, N. Dak. Latitude 46°44'09" N., longitude 102°06'27" W. Modification of license to change polarization from V to H on frequencies 3770H, 3850H, 3930H, 4010H, 4090H, 4170H, MHz toward New Salem, N. Dak. and Dickinson, N. Dak.

6201–C1–ML–72—American Telephone & Telegraph Co. (KAR56), 1.5 miles northwest of Fryburg, N. Dak. Latitude 46°53'19" N., longitude 103°19'37" W. Modification of license to change polarization from V to H on frequencies 3770H, 3850H, 3930H, 4010H, 4090H, 4170H, MHz toward Dickinson and Sentinel Butte, N. Dak.

6202–C1–ML–72—American Telephone & Telegraph Co. (KAR57), 3.5 miles south of Sentinel Butte, N. Dak. Latitude 46°52'11" N., longitude 103°49'25" W. Modification of license to change polarization from V to H on frequencies 3730H, 3810H, 3890H, 3970H, 4050H, 4130H, MHz toward Fryburg, N. Dak.

6203–C1–ML–72—American Telephone & Telegraph Co. (KAR55), 6 miles east of Dickinson, N. Dak. Latitude 46°53'22" N., longitude 102°39'56" W. Modification of license to change polarization from V to H on frequencies 3730H, 3810H, 3890H, 3970H, 4050H, 4130 H MHz toward Antelope, N. Dak., and from V to H on frequencies 3730H, 3810H, 3890H, 3970H, 4050H, 4130H MHz toward Fryburg, N. Dak.

6204–C1–P–72—RCA Alaska Communications, Inc. (WGF57), 200 Bluff Drive, Anchorage, AK. Latitude 61°13'56" N., longitude 149°52'17" W. C.P. to add frequency 6026.8H MHz toward Elmendorf AFB, Alaska.

6205–C1–P–72—RCA Alaska Communications, Inc. (New), White Alice Site, R1–North, Elmendorf AFB, Alaska. Latitude 61°15'40" N., longitude 149°49'45" W. C.P. for a new station to add frequencies 6367.7V MHz toward Neklasson Lake, Alaska, and 6278.8H MHz toward Anchorage, Alaska.

6206–C1–P–72—RCA Alaska Communications, Inc. (New), Neklasson Lake Road, 2 miles north of Four Corners, 5 miles west by north of Palmer, Alaska. C.P. for a new station to add frequencies 6115.7V MHz toward Elmendorf AFB, Alaska. Latitude 61°37'15" N., longitude 149°15'12" W.

6207–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJA90), 6.5 miles east-southeast of Maiden, N.C. Latitude 35°33'57" N., longitude 81°05'26" W. C.P. to add 3970H MHz toward Cajah Mountain, N.C.

6208–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJA91), 5 miles south of Lenoir, N.C. Latitude 35°43'38" N., longitude 81°32'14" W. C.P. to add 4010H MHz toward Anderson Mountain, N.C., and 4010V MHz toward Marion, N.C.

6209–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJA92), end of Milford Avenue, Marion, N.C. Latitude 35°41'18" N., longitude 82°01'39" W. C.P. to add 3970V MHz toward Cajah Mountain and Black Mountain, N.C.

6210–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJA93), 2 miles southeast of Black Mountain, N.C. Latitude 35°35'26" N., longitude 82°17'28" W. C.P. to add 4010V MHz toward Marion, N.C., and 3970V MHz toward Mount Olive Church, N.C.

6211–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJA94), 3 miles northeast of Asheville, N.C. Latitude 35°37'10" N., longitude 82°30'54" W. C.P. to add 4010V MHz toward Black Mountain and Asheville, N.C.

6212–C1–P–72—Southern Bell Telephone & Telegraph Co. (KJA95), 24 O'Henry Avenue, Asherville, N.C. Latitude 35°35'45" N., longitude 82°33'29" W. C.P. to add 3970V MHz toward Mount Olive Church, N.C.

6213–C1–P–72—West Texas Microwave Co. (New), C.P. for a new station at the KMOM–TV transmitting tower in Goldsmith, Tex., at latitude 31°59'17" N., longitude 102°51'59" W. Frequencies 11,525V and 11,685V MHz on azimuth 36°49'. Applicant proposes to provide the television signals of stations KTVT–TV and KERA–TV of Fort Worth-Dallas area to Mustang Cable T.V., Inc., in Andrews, Tex.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

6214–C1–P–72—The Bell Telephone Co. of Pennsylvania (KYJ36), 210 Pine Street, Harrisburg, PA. Latitude 40°15'44" N., longitude 76°53'07" W. C.P. to add 11,605H MHz toward Peters Mountain, Pa.

6215–C1–P–72—The Bell Telephone Co. of Pennsylvania (New), Peters Mountain 2.8 miles north-northwest of Dauphin, Pa. Latitude 40°24'28" N., longitude 76°56'39" W. C.P. for a new station to add 11,155H MHz toward Harrisburg, Pa., and 6034.2V MHz toward Thick Mountain, Pa.

6216–C1–P–72—The Bell Telephone Co. of Pennsylvania (New), Thick Mountain, 5.2 miles east-northeast of Naginey, Pa. Latitude 40°44'30" N., longitude 77°28'02" W. C.P. for a new station to add 6286.2H MHz toward Peters Mountain, Pa., and 11,685H MHz to Lewistown Passive Repeater; azimuth 206°08'; from Passive Repeater to Lewistown, Pa., azimuth 341°09'.

6217–C1–P–72—The Bell Telephone Co. of Pennsylvania (New), 200 North Grand Street, Lewistown, PA. Latitude 40°35'41" N., longitude 77°34'49" W. C.P. for a new station to add 10,755H MHz toward Lewistown on azimuth 161°09'; from Passive Repeater to Thick Mountain, Pa., on azimuth 26°04'.

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

6099–C1–P–72—Microwave Relay Services, Inc. (New), corner Datura Street and Olive Avenue, West Palm Beach, FL. Latitude 26°42'42" N., longitude 80°03'07" W. C.P. for a new station to add 2152.325 (visual), 2150.20 (aural) toward various receiving points of system and 2158.50 (visual), 2154.00 (aural) toward various receiving points of system.

6100–C1–P–72—Microwave Relay Services, Inc. (New), corner of North Tampa Street and East Kennedy Street, Tampa, FL. Latitude 27°56'50" N., longitude 82°27'34" W. C.P. for a new station to add 2152.325 (visual), 2150.20 (aural) toward various receiving points of system and 2158.50 (visual), 2154.00 (aural) toward various receiving points of system.

6101–C1–P–72—Microwave Relay Services, Inc. (New), corner Jackson and Orange Streets, Orlando, FL. Latitude 28°32'26" N., longitude 81°22'44" W. C.P. for a new station to add 2152.325 (visual), 2150.20 (aural) toward various receiving points of system and 2158.50 (visual), 2154.00 (aural) toward various receiving points of system.

6102–C1–P–72—Microwave Relay Services, Inc. (New), Gulf Life Drive, Jacksonville, Fla. Latitude 30°19'09" N., longitude 81°39'29" W. C.P. for a new station to add 2152.325 (visual), 2150.20 (aural) toward various receiving points of system and 2158.50 (visual), 2154.00 (aural) toward various receiving points of system.

6133–C1–P–72—Athena Cablevision Corp. (New), 100 North Main Street, Memphis, TN. Latitude 35°09'12" N., longitude 90°03'06" W. C.P. for a new station to add 2152.325 (visual), 2150.20 (aural) toward various receiving points of system and 2158.50 (visual), 2154.00 (aural) toward various receiving points of system.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

Florida—Tampa

Microwave Relay Services, Inc. (New), File No. 6100–C1–P–72.
Howard S. Klotz/William Corbus (New), File No. 5578 and 5592–C1–P–72.

Florida—Orlando

Microwave Relay Services, Inc. (New), File No. 6101–C1–P–72.
Howard S. Klotz/William Corbus (New), File No. 5579–C1–P–72.

Florida—Jacksonville

Microwave Relay Services, Inc. (New), File No. 6102–C1–P–72.
Howard S. Klotz/William Corbus (New), File No. 5582–C1–P–72.

Tennessee—Memphis

Athena Cablevision Corp. (New), File No. 6133–C1–P–72.
Microband Corp. of America (New), File No. 4013–C1–P–72.

Major Amendments

INFORMATIVE: Nebraska Consolidated Communications Corp. is amending 12 of its previously filed applications proposing specialized common carrier service in mid-United States

serving Minneapolis, Chicago, Omaha, Lincoln, Kansas City, St. Louis, Dallas, Austin, Houston, and San Antonio. The applications were filed April 14, 1970, and appeared on public notice April 20, 1970, FCC Report No. 488. Subsequent amendments appeared on public notice August 30, 1971, Report No. 559 and February 7, 1972, Report No. 582.

890–C1–P–72—Nebraska Consolidated Communications Corp. (New), relocate station to 1.5 miles northwest of Glendale, Ill. Latitude 41°54′24″ N., longitude 88°06′39″ W. Change frequency 6226.9H to 6197.2V toward Elgin, Ill., azimuth 317°54′. Correct azimuth towards Chicago to 93°48′.

6222–C1–P–70—Nebraska Consolidated Communications Corp. (New), relocate station to 20 North Wacker Drive, Chicago, Ill. Latitude 41°52′56″ N., longitude 87°38′15″ W. Correct azimuth towards Glendale, Ill., to 274°06′.

6224–C1–P–70—Nebraska Consolidated Communications Corp. (New), 0.5 mile east of Seward, Nebr. Latitude 40°54′56″ N., longitude 97°04′36″ W. Correct azimuth toward York, Nebr., to 257°30′.

6225–C1–P–70—Nebraska Consolidated Communications Corp. (New), relocate station to 2 miles south-southeast of York, Nebr. Latitude 40°50′02″ N., longitude 97°33′20″ W. Correct azimuth toward Seward, Nebr., to 77°11′ and Amora, Nebr., to 273°59′.

6226–C1–P–70—Nebraska Consolidated Communications Corp. (New), 0.5 mile southwest of Aurora, Nebr. Latitude 40°51′26″ N., longitude 98°00′51″ W. Correct azimuth toward York, Nebr., to 93°41′.

6227–C1–P–70—Nebraska Consolidated Communications Corp. (New), Hastings, Nebr. Latitude 40°35′19″ N., longitude 98°21′41″ W. Change frequency 5945.2H to 5945.8H toward Minden, Nebr., azimuth 270°42′.

6228–C1–P–70—Nebraska Consolidated Communications Corp. (New), relocate station to 7 miles north-northeast of Minden; Nebr. Latitude 40°35′32″ N., longitude 98°52′28″ W. Correct azimuths toward Holdrege, Nebr., to 270°17′ and Hastings, Nebr., to 90°22′.

6229–C1–P–70—Nebraska Consolidated Communications Corp. (New), relocate station to Holdrege, Nebr., 9.5 miles south of Elm Creek, Nebr. Latitude 40°35′35″ N., longitude 99°-21′42″ W. Correct azimuths toward Johnson Lake, Nebr., to 284°19′ and Minden, Nebr., to 89°58′.

6230–C1–P–70—Nebraska Consolidated Communication Corp. (New), Johnson Lake, 6.5 miles north-northeast of Elwood, Nebr. Latitude 40°40′53″ N., longitude 99°49′15″ W. Correct azimuth toward Holdrege, Nebr., to 104°01′.

6233–C1–P–70—Nebraska Consolidated Communication Corp. (New), 12 miles north-northwest of Wellfleet, Nebr. Latitude 40°56′04″ N., longitude 100°47′36″ W. Correct azimuth toward Paxton, Nebr., to 308°40′.

6234–C1–P–70—Nebraska Consolidated Communication Corp. (New), relocate station to 2 miles east-northeast of Paxton, Nebr. Latitude 41°07′59″ N., longitude 101°09′00″ W. Correct azimuths toward Ogallala, Nebr., to 255°55′ and Wellfleet, Nebr., to 128°26′.

6235–C1–P–70—Nebraska Consolidated Communication Corp. (New), 6 miles south of Ogallala, Nebr. Latitude 41°01′18″ N., longitude 101°43′42″ W. Correct azimuth toward Paxton, Nebr., to 75°32′.

1406–C1–P–72—Hildreth Broadcasting Co. (New), change station location to 1.2 miles northwest of Merrimac, Mass. Latitude 42°51′10″ N., longitude 71°01′51″ W. Change frequency and azimuth from 6256.5H MHz and 22°54′ to 6197.2H MHz and 26°46′, respectively, toward South Berwick, Maine.

1407–C1–P–72—Hildreth Broadcasting Co. (New), South Berwick, Maine. Change frequency path azimuth to 206°58′ toward Merrimac, Mass., a new point of communication and change frequency 10,935V MHz to 11,155V MHz on azimuth 43°02′ toward Biddeford, Maine.

1405–C1–P–72—Hildreth Broadcasting Co. (New), Prudential Center, Boston, Mass. Change point of communication for frequencies 5945.2V, 6063.8V, and 10,815V MHz to Merrimac, Mass.

All other particulars same as reported on public notice dated Sept. 20, 1971.

4269–C1–P–70—Western Tele-Communications, Inc. (New), Saddle Peak, 3.5 miles northnortheast of Malibu Beach, Calif. Change frequency 4050V MHz to 3770V MHz toward Los Angeles, azimuth 117°17′. Change authorized power output to 1.8 watts.

4270–C1–P–70—Western Tele-Communications, Inc. (New), 8801 Bellanca Avenue, Los Angeles, CA. Change frequency 3750H MHz to 3730V MHz toward Saddle Peak, azimuth 297°26′.

5309–C1–P–72—Western Tele-Communications, Inc. (New), Telegraph Pass, 16.5 miles east-southeast of Yuma, Ariz. Latitude 32°40′22″ N., longitude 114°20′14″ W. Change point of communication for frequency 2115.2V to Mohawk, Ariz., on azimuth 86°03′.

5310–C1–P–72—Western Tele-Communications, Inc. (New), relocate station to Mohawk, 10.5 miles east of Tacna, Ariz. Latitude 32°42′07″ N., longitude 113°45′51″ W. Change azimuth to Telegraph Pass, Ariz., to 266°43′.

All other particulars are the same as those appearing on public notice Feb. 28, 1972, FCC Report No. 585.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

Major Amendments

INFORMATIVE: Applicant, MIC Pacific-Mountain States, Inc., is amending 20 of its previously filed applications for authority to construct new specialized common carrier systems in a three-State area from Denver, Colo., through Wyoming into Salt Lake City, Utah. The applications now being amended were originally filed on Oct. 16, 1970. They appeared on public notice, Oct. 26, 1970. Each application now amended is referenced to the date originally filed. In addition five new sites are now proposed. The amendments and new applications are necessitated to insure compliance with the new engineering standards set forth in the Commission's first report and order in Docket No. 18920, effective July 15, 1971, and informative guidelines published regarding Frequency Coordination Report No. 562 Common Carrier Services Information released Sept. 20, 1971.

2149–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 1, Denver, Colo. C.P. for a new station at First National Bank of Denver, Walton and 17th Streets, Denver, CO, at latitude 39°44′46″, longitude 104°59′22″. Correct frequencies and azimuths to 6093.5H MHz on azimuth 53°03′ toward East Lake, Colo. Delete Marshall, Colo., as a point of communication. Delete frequencies 11,505 and 11,265 MHz on azimuth 310°53′.

2150–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 3, Marshall, Colo. C.P. for a new station 4 miles south of Marshall, Colo., at latitude 39°54′39″, longitude 105°14′13″. Correct frequencies and azimuths to 5945.2H MHz on azimuth 95°30′ toward East Lake, Colo., and 5974.8V MHz on azimuth 29°30′ toward Kelm, Colo. Delete Denver, Colo., as a point of communication. Delete frequencies 10,755 and 11,015 MHz on azimuth 130°43′ and 6093.5 MHz on azimuth 29°30′.

2151–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 4, Kelm, Colo. C.P. for a new station 4.2 miles east of Kelm, Colo., at latitude 40°24′22″, longitude 104°52′12″. Correct frequencies and azimuths to 6226.9H MHz on azimuth 209°44′ toward Marshall, Colo., 6226.9V MHz on azimuth 320°21′ toward Seaman Reservoir, Colo., and 11,665.0H MHz and 11,425.0H MHz on azimuth 82°44′ toward Greeley, Colo. Delete Fort Collins, Colo., and Granite, Wyo., as points of communication. Delete frequencies 6226.9 and 6345.5 MHz on azimuth 342°18′, 6345.5 MHz on azimuth 209°44′, 10,775 and 11,175 MHz on azimuth 318°26′ and 10,975 and 10,735 MHz on azimuth 82°44′.

2153–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 5, Greeley, Colo. C.P. for a new station at 310 Eighth Street, Greeley, Colo., at latitude 40°25′28″, longitude 104°-40′49″. Correct frequencies to 10,975.0V and 10,735.0V MHz on azimuth 262°51′ toward Kelm, Colo. Delete frequencies 11,625 and 11,305 MHz on azimuth 262°51′.

2152–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 7, Fort Collins, Colo. C.P. for a new station at 205 West Oak Street, Fort Collins, Colo., at latitude 40°35′07″, longitude 105°04′43″. Correct frequencies and azimuths to 11,625.0H and 11,305.0H MHz on azimuth 322°55′ toward Seaman Reservoir, Colo. Delete frequencies 11,245 and 11,485 MHz on azimuth 138°18′.

2154–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 8, Granite Wyo. C.P. for a new station 1.6 miles south of Granite Canyon, Wyo., at latitude 41°04′32″, longitude 105°09′09″. Correct frequencies and azimuth to 6197.2H MHz on azimuth 187°31′ toward Seaman Reservoir, Colo., 6197.2V MHz on azimuth 76°51′ toward Cheyenne, Wyo., and 6197.2H MHz on azimuth 326°35′ toward Wyoming, Wyo. Delete Kelm, Colo., as a point of communication. Delete frequencies 5974.8 and 6093.5 MHz on azimuth 162°07′, 11,665 and 11,425 MHz on azimuth 76°51′ and 6034.2 and 6152.8 MHz on azimuth 326°35′.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

2155–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 9, Cheyenne, Wyo. C.P. for a new station at 18th and Caray Streets, Cheyenne, WY, at latitude 41°08′03″, longitude 104°49′04″. Correct frequency to 5974.8H MHz on azimuth 257°05′ toward Granite, Wyo. Delete frequencies 11,175 and 10,935 MHz on azimuth 257°05′.

2156–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 10, Wyoming, Wyo. C.P. for a new station 9.7 miles southeast of Wyoming, Wyo., at latitude 41°25′32″, longitude 105°27′35″. Correct frequencies to 5945.2V MHz on azimuth 146°23′ toward Granite, Wyo., 5945.2H MHz on azimuth 286°20′ toward Elk Mountain, Wyo., and 5974.8H on azimuth 228°36′ toward Laramie, Wyo. Delete frequencies 6197.2 and 6315.9 MHz on azimuth 146°23′, 6256.5 and 6375.2 MHz on azimuth 286°20′ and 11,665 and 11,425 MHz on azimuth 228°36′.

2157–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 11, Laramie, Wyo. C.P. for a new station 0.6 mile west of Laramie, Wyo., at latitude 41°19′26″, longitude 105°36′45″. Correct frequency to 6226.9H MHz on azimuth 48°29′ toward Wyoming, Wyo. Delete frequencies 10,775 and 11,015 MHz on azimuth 48°29′ toward Wyoming, Wyo.

2158–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 12, Elk Mountain, Wyo. C.P. for a new station 6.1 miles southwest of Elk Mountain, Wyo., at latitude 41°39′19″, longitude 106°31′40″. Correct frequencies and azimuth to 6197.2V MHz on azimuth 105°37′ toward Wyoming, Wyo., and 6197.2V on azimuth 268°45′ toward Seperation Peak, Wyo. Delete Bairoil, Wyo., as a point of communication. Delete frequencies 5945.2 and 6063.8 MHz on azimuth 105°37′ and 6004.5 and 6123.1 MHz on azimuth 307°49′.

2159–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 13, Seperation Peak, Wyo. Change proposed station location to 6.5 miles west-southwest of Hatfield Camp, Wyo., at latitude 41°38′16″, longitude 107°23′42″. Correct frequencies and azimuths to 5945.2V MHz on azimuth 88°10′ toward Elk Mountain, Wyo., and 5945.2H MHz on azimuth 250°12′ toward Rock Bluffs, Wyo. Delete Quely, Wyo., as a point of communciation. Delete frequencies 6226.9 and 6345.5 MHz on azimuth 229°12′ and 6286.2 and 6404.8 MHz on azimuth 127°00′.

2160–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 15, Quely, Wyo. C.P. for a new station 9 miles southeast of Quely, Wyo., at latitude 41°25′42″, longitude 109°07′21″. Correct frequencies and azimuths to 5945.2H on azimuth 92°59′ toward Rock Bluffs, Wyo., and 5945.2H MHz on azimuth 312°42′ toward Blue Rim, Wyo. Delete Bairoil, Wyo., and Opal, Wyo., as points of communication. Delete frequencies 5945.2 and 6063.8 MHz on azimuth 304°17′ and 5974.8 and 6093.5 MHz on azimuth 48°16′.

2161–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 17, Round Mountain, Wyo. Change proposed station location to 8.9 miles northwest of Opal, Wyo., at latitude 41°53′12″, longitude 110°24′08″. Correct frequencies and azimuths to 5945.2V MHz on azimuth 102°50′ toward Blue Rim, Wyo., and 5974.8H MHz on azimuth 267°09′ toward Sage, Wyo. Delete Quely, Wyo., as a point of communication. Delete frequencies 6197.2 and 6315.9 MHz on azimuth 270°43′ and 6241.7 and 6360.3 MHz on azimuth 123°42′.

2162–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 18, Sage, Wyo. C.P. for a new station 8 miles northeast of Sage, Wyo., at latitude 41°52′13″, longitude 110°49′23″. Correct frequencies and azimuth to 6226.9H MHz on azimuth 86°53′ toward Round Mountain, Wyo., and 5974.8H MHz on azimuth 257°03′ toward Providence, Utah. Delete Opal, Wyo., as a point of communication. Delete frequencies 6945.2 and 6063.8 MHz on azimuth 257°03′ and 6034.2 and 6152.8 MHz on azimuth 90°09′.

2163–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 19, Providence, Utah. C.P. for a new station 4.6 miles east of Providence, Utah., at latitude 41°42′45″, longitude 111°43′06″. Correct frequencies and azimuth to 5974.8H MHz on azimuth 76°27′ toward Sage, Wyo., 5974.8H MHz on azimuth 193°48′ toward Mount Ogden, Utah, and 10,975.0V and 10,735.0V on azimuth 282°05′ toward Logan, Utah. Delete Magna, Utah, as a point of communication. Delete frequencies 6286.2 and 6404.8 MHz on azimuth 76°27′, 6226.9 and 6345.5 MHz on azimuth 199°15′ and 10,775 and 11,015 MHz on azimuth 282°05′.

2164–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 20, Logan, Utah. C.P. for a new station on corner of Center and Main Streets, Logan, Utah, at latitude 41°43′52″, longitude 111°50′05″. Correct frequencies to 11,625.0H and 11,305.0H MHz on azimuth 102°01′ toward Providence, Utah. Delete frequencies 11,345 and 11,505 MHz on azimuth 102°01′.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

2166–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 22, Ogden, Utah. C.P. for a new station at 385 24th Street, Ogden, UT, at latitude 41°13′22″, longitude 111°58′10″. Correct frequency and azimuth to 5974.8V MHz on azimuth 106°00′ toward Mount Ogden, Utah. Delete Magna, Utah, as a point of communication. Delete frequencies 6197.2 and 6315.9 MHz on azimuth 197°23′.

2165–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 23, Magna, Utah. C.P. for a new station 4.5 miles south of Magna, Utah, at latitude 40°39′34″, longitude 112°12′03″. Correct frequencies and azimuth to 5974.8H MHz on azimuth 23°44′ toward Mount Ogden, Utah, 5974.8H MHz on azimuth 135°35′ toward Provo, Utah, and 10,975.0V and 10,735.0V MHz on azimuth 66°50′ toward Salt Lake City, Utah. Delete Ogden, Utah, and Providence, Utah, as points of communication. Delete frequencies 6034.2 and 6152.8 MHz on azimuth 18°56′, 5945.2 and 6063.8 MHz on azimuth 17°14′, 10,775 and 11,015 MHz on azimuth 66°50′, and 6093.5 MHz on azimuth 135°35′.

2168–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 24, Salt Lake City, Utah. C.P. for a new station at 4000 Main Street, Salt Lake City, UT, at latitude 40°45′37″, longitude 111°53′23″. Correct frequencies to 11,625.0H and 11,305.0H MHz on azimuth 247°02′ toward Magna, Utah. Delete frequencies 11,225 and 11,465 MHz on azimuth 247°02′.

2167–C1–P–71—MCI Pacific-Mountain States, Inc. (New), Site 25, Provo, Utah. C.P. for a new station at 307 South 1600 West, Provo, UT, at latitude 40°13′45″, longitude 111°39′09″. Correct frequency to 6226.9H MHz on azimuth 315°57′ toward Magna, Utah. Delete frequency 6404.8 MHz on azimuth 315°57′.

6953–C1–P–72—American Television & Communications Corp. (New), add frequencies 5974.8V and 6093.5V MHz on azimuth 291°18′ 7 miles northwest of Melbourne, Fla., at latitude 28°08′53″ N., longitude 80°42′12″ W. Amendment was filed with applications for two new stations to provide service to CATV systems in Winter Haven and Kissimmee, Fla.

All other particulars same as reported in public notice dated June 21, 1971.

Corrections

MCI St. Louis-Texas applications for ten (10) new stations which appeared on public notice March 13, 1972, FCC Report No. 587, were incorrectly numbered and on eleventh (11) application for a new station at Burlington, Kans., was omitted.

INFORMATIVE: Applicant, MCI St. Louis—Texas, Inc., is proposing 11 new point-to-point microwave sites for specialized common carrier service in the State of Kansas. These applications are in compliance with the new engineering standards set forth in the Commission's first report and order in Docket No. 18920, effective July 15, 1971, and Informative Guidelines published regarding frequency coordination report No. 562 FCC Common Carrier Services Information released September 20, 1971.

5818–C1–P–72—MCI St. Louis—Texas, Inc. (New), a new station 3.6 miles northwest of Edna, Kans. Frequency 6226.9V MHz on azimuth 100°24′. Latitude 37°06′00″ N., longitude 95°23′48″ W.

5819–C1–P–72—MCI St. Louis—Texas, Inc. (New), a new station 1 mile north-northwest of Sycamore, Kans., at latitude 37°20′12″ N., longitude 95°43′24″ W. Frequency 5974.8V MHz on azimuth 132°4′. Frequency 5945.2V MHz on azimuth 3°52′. Frequency 6123.1H MHz on azimuth 294°34′.

5820–C1–P–72—MCI St. Louis—Texas, Inc. (New), a new station 2.3 miles west of Busby, Kans., at latitude 37°28′06″ N., longitude 96°05′10″ W. Frequency 6404.8H MHz on azimuth 114°21′. Frequency 6375.2H MHz on azimuth 270°57′.

5821–C1–P–72—MCI St. Louis—Texas, Inc. (New), a new station 3 miles east of Benedict, Kans., at latitude 37°37′52″ N., longitude 95°41′54″ W. Frequency 6226.9V MHz on azimuth 183°53′. Frequency 6197.2H MHz on azimuth 338°7′.

5822–C1–P–72—MCI St. Louis—Texas, Inc. (New), a new station 5.1 miles west of Yates Center, Kans., at latitude 37°54′00″ N., longitude 95°50′05″ W. Frequency 5974.8H MHz on azimuth 158°1′. Frequency 5945.2H MHz on azimuth 25°11′.

5823–C1–P–72—MCI St. Louis—Texas, Inc. (New), a new station 4.7 miles east of Burlington, Kans., at latitude 38°12′02″ N., longitude 95°39′20″ W. Frequency 6226.9H MHz on azimuth 205°18′. Frequency 6197.2V MHz on azimuth 325°25′.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

Corrections—continued

5824-C1-P-72—MCI St. Louis—Texas, Inc. (New), a new station 2.3 miles southeast of Lebo, Kans., at latitude 38°23'55" N., longitude 95°49'45" W. Frequency 5974.8V MHz on azimuth 145°19'. Frequency 5945.2H MHz on azimuth 344°23'.

5825-C1-P-72—MCI St. Louis—Texas, Inc. (New), a new station 6.6 miles northwest of Osage City, Kans., at latitude 38°42'00" N., longitude 95°56'12" W. Frequency 6226.9H MHz on azimuth 164°19'. Frequency 6197.2H MHz on azimuth 31°57'.

5826-C1-P-72—MCI St. Louis—Texas, Inc. (New), a new station 2.7 miles southwest of Pauline, Kans., at latitude 38°57'02" N., longitude 95°44'11" W. Frequency 5974.8H MHz on azimuth 212°5'. Frequency 5945.2V MHz on azimuth 87°43'. Frequency 6152.8V MHz on azimuth 26°10'.

5827-C1-P-72—MCI St. Louis—Texas, Inc. (New), a new station 4.7 miles north-northwest of Clinton, Kans., at latitude 38°57'37" N., longitude 95°24'38" W. Frequency 6226.9V MHz on azimuth 267°55'. Frequency 6197.2V MHz on azimuth 52°22'.

5828-C1-P-72—MCI St. Louis—Texas, Inc. (New), a new station 4.1 miles northwest of Midland, Kans., at latitude 39°04'55" N., longitude 95°12'28" W. Frequency 5974.8V MHz on azimuth 232°30'. Frequency 5945.2H MHz on azimuth 76°33'.

5572-C1-P-72—The Ohio Bell Telephone Co. (KQH44), 121 Huron Street, Toledo, OH. C.P. to add 6367.7H MHz toward Near Bowling Green, Ohio, and delete 11,685H, 11,365V MHz toward Near Bowling Green, Ohio.

[FR Doc.72-4440 Filed 3-23-72;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte 280]

WAGE AND PRICE STABILIZATION PROGRAM

Special Procedures for Tariff Filings

Present: George M. Stafford, Chairman, to whom the above matter, which is the subject of this order, has been assigned for action thereon.

It appearing, that pursuant to the provisions of Executive Order 11627, 36 F.R. 20139, the Price Commission, by its orders of February 10, 1972, and March 8, 1972, has deferred all rate increases proposed to be made effective by or for privately-owned public utilities on or after February 10, 1972, and that the period of the deferral by the Price Commission extends until March 25, 1972, or until such time as the Price Commission's revised regulations on the subject are published;

And it further appearing, that the Interstate Commerce Commission, by Robert C. Gresham, Acting Chairman, by its order of February 11, 1972, directed all carriers subject to the tariff and schedule filing requirements of this Commission to file supplements containing notice deferring indefinitely the effective dates of all increased rates, fares, charges, rules, regulations, and practices which were subject to said Price Commission orders;

And it further appearing, that revised regulations of the Price Commission issued March 17, 1972, have been published in the FEDERAL REGISTER on March 18, 1972, at 37 F.R. 5701-3, amending Part 300 of Title 6 CFR; and good cause appearing therefor:

It is ordered, That such carriers, and their tariff-publishing agents, subject to the tariff and schedule filing requirements of this Commission, as have, in compliance with the order of this Commission of February 11, 1972, published and filed supplements or other amendments deferring indefinitely the application of increases, be, and they are hereby, authorized to cancel the indefinite postponement and to make such increases effective by tariff or schedule amendment effective upon not less than 1 day's notice to this Commission and the public, identifying with particularity the specific tariff or schedule provisions affected.

And it is further ordered, That carriers, and their tariff-publishing agents, that have failed to publish the deferment of published increases as ordered, are required to forthwith publish such a notice by supplements to their tariffs and schedules, following which action they may avail themselves of the authority of this order; failing which they are hereby ordered to cancel such increases effective on or before 30 days from the date of this order, upon not less than 1 day's notice.

And it is further ordered, That copies of this order be posted in the Office of the Secretary and in the section of tariffs of the Interstate Commerce Commission, and that a copy be delivered to the Director, Office of Federal Register, for publication in the FEDERAL REGISTER, as notice to all parties made respondents by the Commission's order of February 11, 1972.

Dated this 21st day of March, 1972.

By the Commission, Chairman Stafford.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-4576 Filed 3-23-72;8:51 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI72-188, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes to Become Effective Subject to Refund [1]

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

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

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

The Commission orders:

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

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

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

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

MARCH 13, 1972.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf *		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI72-188	Atlantic Richfield Co	590	2	El Paso Natural Gas Co. (Mickelson Creek Field, Sublette County, Wyo.).	$67	2-14-72		4-20-72	14.21	15.225	RI70-829.
RI72-189	Murphy Oil Corp	24	[1] 13	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin).	65,059	2-14-72		4-16-72	[2] 15.0	[3] 21.33	
RI72-190	Texas Oil & Gas Corp	96	3	El Paso Natural Gas Co. (Yucca Butte Field, Pecos County, Tex.) (Permian Basin).	52,546	2-15-72		8-17-72	17.8019	25.00	RI69-851.
	Phillips Petroleum Co	18	[4] 64	Northern Natural Gas Co. (Puckett Devonian Field, Pecos County, Tex.) (Permian Basin).	610,350	2-14-72		Rejected	18.2403	[5] 27.35	RI70-403.
	do	18	[4] 65	do	4,430,560	2-14-72		Rejected	13.1736	[5] 24.25	RI70-110.

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Not applicable to acreage added by Supplements Nos. 6 and 7.
[2] Includes 1-cent minimum guarantee for liquids.
[3] 29-cent base rate adjusted for quality.
[4] Includes letter from buyer dated Feb. 4, 1972, showing price adjustments needed for treating to bring gas to comparable quality of gas sold under Dalco Oil Co. contract dated Oct. 19, 1971, which triggered the favored nations provision.
[5] The pressure base is 15.025 p.s.i.a.

The proposed increase of Atlantic Richfield Co. includes a double amount of the contractually due reimbursement for taxes applicable to future production as well as reimbursement for taxes applicable to past production, back to January 1, 1968. After tax reimbursement applicable to past production has been recovered, Atlantic shall file a rate decrease reducing the proposed rate so as to provide for tax reimbursement for future production only. Consistent with prior Commission action on increases reflecting reimbursement of the Wyoming severance tax, Atlantic's proposed increase is suspended for 1 day from the proposed effective date.

The proposed increase of Murphy Oil Corp. for a sale to El Paso in San Juan Basin is based on a favored-nation clause which was allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23¢ which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. El Paso Natural Gas Co. is expected to protest the favored nation increase, as they have previous filings, on the basis that it is not contractually authorized. In view of the contractual problem presented, the hearing herein shall concern itself with the contractual basis for this favored-nation filing as well as the justness and reasonableness of the proposed increased rate. The proposed increase to 21.33¢ per Mcf does not exceed the corresponding rate filing limitation imposed in Southern Louisiana and is suspended for 1 day since Murphy Oil Corp. has waived its right to file for additional increases for a period of 1 year from the date such increase was filed except in the event that the Commission determines higher rates to be acceptable or the buyer and seller agree by negotiation to higher rates.

The proposed increase by Texas Oil & Gas Corp. exceeds the corresponding rate filing limitation imposed in Southern Louisiana and is therefore suspended for 5 months.

All of the producers' proposed rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

Phillips Petroleum Co. has filed proposed favored nations increases for sales of gas in Pecos County, Texas, in the Permian Basin. The Commission in Opinion No. 468 (34 FPC 159, at 237, 243) concluded that favored nation clauses in contracts already accepted for filing at the time of its order outlawing such clauses for the future should be permitted to authorize increases up to the applicable area prices prescribed therein but would not be permitted to authorize rate filings above the applicable area rates subsequent to the expiration on January 1, 1968, of the moratorium period. Accordingly, Phillips' filings are rejected.

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1 day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1 day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435). In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-4407 Filed 3-23-72;8:45 am]

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FRIDAY, MARCH 24, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 58

PART II

COMPTROLLER GENERAL

■

Campaign Communications and Disclosure of Federal Campaign Funds

Title 11—FEDERAL ELECTIONS

Chapter I—Comptroller General

CAMPAIGN COMMUNICATIONS AND DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

There is hereby established a new Title 11, entitled Federal Elections, in the Code of Federal Regulations.

The Federal Election Campaign Act of 1971 (Public Law 92–225, approved February 7, 1972) was enacted to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes. The Act directs the Comptroller General of the United States to prescribe rules and regulations for several sections of Title I, entitled the "Campaign Communications Reform Act," and under Title III, entitled "Disclosure of Federal Campaign Funds."

This chapter is entirely new and is issued by the Comptroller General to carry out the statutory mandate. Subchapter A of this chapter contains regulations issued by the Comptroller General under Title I of the Act, and Subchapter B of this chapter contains regulations issued by the Comptroller General as a supervisory officer under Title III of the Act. Both subchapters will be amended from time to time in the light of experience under the Act. Any such amendments will be published in the FEDERAL REGISTER and codified in the Code of Federal Regulations, Title 11.

Effective date: This chapter is effective on April 7, 1972.

SUBCHAPTER A—CAMPAIGN COMMUNICATIONS

PART 1—SCOPE OF SUBCHAPTER

§ 1.1 Scope of this subchapter.

(a) This subchapter applies to all legally qualified candidates, as defined in § 2.8 of Part 2 of this subchapter, for nomination or election to the office of President or Vice President of the United States, or the office of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States. It relates to expenditures for communications media, as defined in § 2.1 of Part 2 of this subchapter, by such candidates in connection with their campaigns for nomination or election.

(b) This subchapter is to be read together with the regulations and guidelines issued by the Federal Communications Commission under section 103(a) and section 104(c) of the Campaign Communications Reform Act, and with the regulations issued under Title III of the Federal Election Campaign Act of 1971 by the supervisory officers thereunder, namely, the Secretary of the Senate, the Clerk of the House of Representatives, and the Comptroller General (see Subchapter B of this chapter).

(Sec. 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102, 103(b), 104(a), and 104(b), 86 Stat. 3, 4, 6, — U.S.C. —)

PART 2—MEANING OF TERMS USED IN THIS SUBCHAPTER

Sec.
2.1 Communications media.
2.2 Broadcasting station.
2.3 Outdoor advertising facilities.
2.4 Newspaper.
2.5 Magazine.
2.6 Expenditure and spend.
2.7 Federal elective office.
2.8 Legally qualified candidate.
2.9 Federal candidate.
2.10 Voting age population.
2.11 State.
2.12 Election.
2.13 Act.
2.14 Comptroller General.
2.15 Person.
2.16 Supervisory officer.

AUTHORITY: The provisions of this Part 2 issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply section 102, 86 Stat. 3, — U.S.C. —.

§ 2.1 Communications media.

"Communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment used by a candidate for Federal elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him). See Part 4 of this subchapter for regulations concerning particular communications media.

§ 2.2 Broadcasting station.

"Broadcasting station" means a radio or television station providing a broadcasting service intended for direct reception by the general public, and under section 315(f) of the Communications Act of 1934, a community antenna television system.

§ 2.3 Outdoor advertising facilities.

"Outdoor advertising facilities" means billboards and any display space in any public place of a type customarily leased to commercial advertisers.

§ 2.4 Newspaper.

"Newspaper" means a publication, having a known address of publication and an established frequency of distribution, ordinarily not less frequently than once a week, which contains news, articles of opinion, features, advertising, or other matter regarded as of interest or currency. The term includes shopping newspapers that primarily contain advertising and local newspapers that contain legal notices or other matters pertaining to court proceedings. Any such publication is included whether it is designed primarily for paid circulation or is designed primarily for free circulation. The term does not include handbills, circulars, flyers, or the like, unless printed and distributed as a part of a publication which constitutes a newspaper within the meaning of this section.

§ 2.5 Magazine.

"Magazine" means a publication in bound pamphlet form or otherwise:

(a) Intended for circulation to either the reading public in general or a segment thereof identified on the basis of a common specialized interest or interests; and

(b) Published and distributed regularly and periodically, ordinarily not more frequently than weekly, nor less frequently than semiannually; and

(c) Containing, in written, pictorial, or graphic form, news, information, articles of opinion, poems, features, advertising or other matters regarded as of interest or currency. Any such publication is included whether it is designed primarily for paid circulation or is designed primarily for free circulation.

§ 2.6 Expenditure and spend.

"Expenditure" and "spend" mean the purchase, promise to purchase, or payment for, any use of the communications media on behalf of any legally qualified candidate's candidacy for nomination or election to Federal elective office.

§ 2.7 Federal elective office.

"Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and, for purposes of Part 3 of this subchapter, the term includes the office of Vice President).

§ 2.8 Legally qualified candidate.

"Legally qualified candidate" means any person who (a) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate, and (b) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

§ 2.9 Federal candidate.

"Federal candidate" means any legally qualified candidate for Federal elective office.

§ 2.10 Voting age population.

"Voting age population" means resident population, 18 years of age and older.

§ 2.11 State.

"State" means each State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 2.12 Election.

"Election" means a general, special, primary, or runoff election for a Federal elective office.

§ 2.13 Act.

"Act" means the Campaign Communications Reform Act, enacted as title I of the Federal Election Campaign Act of 1971 (Public Law 92–225).

§ 2.14 Comptroller General.

"Comptroller General" means the Comptroller General of the United States.

§ 2.15 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

§ 2.16 Supervisory officer.

"Supervisory officer" means the Secretary of the Senate with respect to candidates for U.S. Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case.

PART 3—NEWSPAPER AND MAGAZINE CHARGES FOR CAMPAIGN USE

Sec.

3.1 Scope of part.
3.2 Comparable use charges.
3.3 Rate cards.
3.4 Complaints of violations.

AUTHORITY: The provisions of this Part 3 issued under section 105, 86 Stat. 7, —— U.S.C. ——. Interpret or apply section 103(b), 86 Stat. 4, —— U.S.C. ——.

§ 3.1 Scope of part.

This part applies to the sale by any person of any space in a newspaper or magazine to—

(a) A legally qualified candidate for nomination or election to Federal elective office; or

(b) A political committee or other person for use in connection with such a candidate's campaign.

However, this part applies only to the extent that any person sells space in a newspaper or magazine to such candidate, committee, or other person, and there is no requirement under this part that any newspaper or magazine must sell space to any such candidate, committee or other person.

§ 3.2 Comparable use charges.

(a) The charges made for the use of space in any newspaper or magazine in connection with a campaign for nomination or election to Federal elective office shall not exceed the charges made for comparable use of such space for other purposes. Such charges may not be higher than the rate the newspaper or magazine would charge if the Federal candidate were a general rate advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. The rate shall take into account the amount of space used, the number of times used, the frequency of use, and the kind of space used, as well as the type of advertising copy submitted by or on behalf of the candidate. All discount privileges otherwise offered by a newspaper or magazine to general rate advertisers shall be available upon equal terms to all Federal candidates.

(b) A newspaper or magazine may, if it chooses, require payment in advance or the posting of security for the use of space in connection with a campaign (see § 4.11 of this subchapter for the requirement of certification by a Federal candidate or his specially authorized agent in order for any charge to be made).

§ 3.3 Rate cards.

Every newspaper and magazine which sells space to or for any Federal candidate shall maintain an advertising rate schedule or card showing its general advertising rates and discounts. Such schedule or card shall be made available for inspection by such candidates, or their authorized representatives, and by the supervisory officers, or their authorized representatives, upon request.

§ 3.4 Complaints of violations.

(a) Any legally qualified candidate for Federal elective office or nomination thereto who believes that a newspaper or magazine, or any person acting on their behalf, has violated any provision of this part may file a complaint with the Comptroller General, after making reasonable good faith efforts to resolve the difference with the newspaper or magazine.

(b) The complaint shall give details of the alleged violation and shall be as specific as possible. The complainant shall simultaneously send a copy of the complaint to the newspaper or magazine. The latter shall furnish to the Comptroller General as promptly as possible a full explanation of its position. Both parties shall furnish each other with a copy of all correspondence and documents sent to the Comptroller General.

(c) The Comptroller General shall promptly review any complaint filed under this part, and if he determines that there has been an apparent violation of this part, he shall refer the matter to the Attorney General of the United States for appropriate action.

PART 4—EXPENDITURE LIMITATIONS FOR USE OF COMMUNICATIONS MEDIA

Subpart A—Amount of Limitation

Sec.

4.1 Calculation by Comptroller General.
4.2 Separate limitation for each election.
4.3 "Expenditure" and "spend"; when deemed to take place; election contributed to.
4.4 Expenditures on behalf of a Federal candidate.
4.5 Amounts spent urging opponent's defeat or derogating his stand.
4.6 Allocation of expenditure among candidates.
4.7 Records of communications media expenditures.

Subpart B—Certification Requirements For Use of Newspapers, Magazines and Outdoor Advertising Facilities

4.11 Prohibition of charges without certification.
4.12 Form of certification and authorization.

Subpart C—Outdoor Advertising Facilities

4.21 Apportionment when used in more than one election.

Subpart D—Telephone Use to Communicate with Potential Voters

Sec.

4.31 Applicability.

Subpart E—Broadcasting Stations

4.41 Charges by broadcasting stations to Federal candidates.

AUTHORITY: The provisions of this Part 4 issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply section 104(a) of the Act, 86 Stat. 5, — U.S.C. —.

Subpart A—Amount of Limitation

§ 4.1 Calculation by Comptroller General.

(a) Expenditure limitations for the use of communications media are set forth in paragraphs (1), (2), and (3) of section 104(a) of the Act and are applicable to Federal candidates in accordance with the provisions of such paragraphs. The general limitation is that such expenditures may not exceed a total amount arrived at by multiplying 10 cents by the voting age population of the geographical area in which the election is held, or $50,000, whichever is greater, and that spending for the use of broadcasting stations may not exceed 60 percent of such total allowable amount.

(b) The total allowable amount shall be increased for each calendar year by the percentage, if any, by which the Consumer Price Index (all items—U.S. city average) for the preceding 12 months increased over the index for calendar year 1970. The Secretary of Labor shall determine this percentage increase at the beginning of each calendar year, certify it to the Comptroller General, and publish it in the FEDERAL REGISTER.

(c) The Secretary of Commerce, on or before April 7, 1972, and during the first week of January 1973 and every subsequent year, shall certify to the Comptroller General and publish in the FEDERAL REGISTER an estimate of the voting age population of each State, including Puerto Rico and the District of Columbia, and each congressional district for the last calendar year ending before the date of certification.

(d) The Comptroller General, as soon as practicable after he has received such certifications from the Secretary of Labor and the Secretary of Commerce, shall calculate, on the basis of the certifications received, the amount of the expenditure limitation for each State, congressional district, and the Nation, publish the amounts in the FEDERAL REGISTER, and otherwise make them available to all candidates, political committees, and other interested persons. The amounts shall apply throughout the calendar year in which the calculations are made and thereafter to any special election which may be held before new calculations have been made.

§ 4.2 Separate limitation for each election.

Each primary, general, special, or runoff election is a separate election, and a new expenditure limitation is applicable thereto. The limitation in each election

is the amount calculated under § 4.1 for the applicable geographical area and calendar year. No amount shall be carried over from one election to another.

§ 4.3 "Expenditure" and "spend"; when deemed to take place; election attributed to.

(a) Any expenditure or spending for the use of communications media subject to this subchapter shall be charged against the amount of the expenditure limitation applicable to the election in connection with which the particular communications medium is actually used, regardless of when payment therefor is made and regardless of the date of any contract or promise.

(b) Any expenditure or spending for the use of communications media, when the use occurs in whole or in part on or after April 7, 1972, the effective date of the Act, shall be reported to the appropriate supervisory officer and charged against the expenditure limitation applicable to the election in connection with which the particular communications medium is used, regardless of whether or not the use is paid for or contracted for prior to that date. However, no charge against the limitation shall be made when such use occurs entirely before the effective date of the Act, regardless of whether or not the use is paid for on or after the effective date.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, such expenditures shall be reported to the appropriate supervisory officer when made in the same manner as for other expenditures and on the reporting form prescribed by such supervisory officer under Title III of the Federal Election Campaign Act of 1971.

§ 4.4 Expenditures for or on behalf of a Federal candidate.

(a) Any expenditure by a candidate, a political committee, or any other person, whether or not the person making the expenditure is authorized by the candidate to do so, for the use of communications media on behalf of the candidacy of any legally qualified candidate for nomination or election to Federal elective office is deemed, for the purposes of section 104 of the Act and this part, to be made by the Federal candidate. A use of communications media is deemed to be "on behalf of the candidacy" of any such candidate if the use (1) involves his participation by voice or image or advocates his candidacy; or (2) identifies the candidate, directly or by implication, or advocates his candidacy. Such expenditures by or on behalf of any legally qualified candidate for the office of Vice President are deemed, for the purposes of section 104 of the Act and this part, to be spent by the candidate for the office of President with whom he is running.

(b) The amount of any such expenditure under paragraph (a) of this section shall be charged against the applicable expenditure limitation of the candidate under section 104(a) of the Act and this part. Under section 104(b) of the Act and § 4.11 of this subchapter, no person may make a charge for such use of any newspaper, magazine, or outdoor advertising facility unless the candidate (or his specially authorized agent) certifies in writing that payment of the charge will not violate the candidate's applicable expenditure limitation under section 104(a) and this part. The same prohibition on charges for the use of broadcasting stations is contained in section 104(c) of the Act, subject to regulations or guidelines by the Federal Communications Commission.

§ 4.5 Amounts spent urging candidate's defeat or derogating his stand.

(a) An expenditure for the use of communications media opposing or urging the defeat of a Federal candidate, or derogating his stand on campaign issues, shall not be deemed to be an expenditure for the use of communications media on behalf of any other Federal candidate and shall not be charged against any other Federal candidate's applicable expenditure limitation under section 104(a) of the Act and this part, unless such other Federal candidate has directly or indirectly authorized such use or unless the circumstances of such use taken as a whole are such that consent may reasonably be imputed to such other candidate.

(b) In the case of any expenditure under paragraph (a) of this section, the person selling the space or time for the use of the particular communications medium shall determine the identity and organizational affiliation, if any, of the person making the expenditure and shall require such person to state in writing whether or not he is authorized by any Federal candidate to make such expenditure, or whether any Federal candidate has given his consent to it.

(c) If the person making the expenditure states in writing that any such candidate has authorized or consented to the expenditure then no person may make any charge for such use, unless the candidate (or his specially authorized agent) certifies in writing, in accordance with § 4.11, that payment of such charge will not violate his applicable expenditure limitation.

(d) If the person making the expenditure states in writing that no Federal candidate has authorized or consented to the expenditure, then a change may be made for such use, provided that the person selling the space or time has taken reasonable precautions under the particular circumstances to vertify the identity and affiliation of such person and the accuracy of the written statement. Any reasonable doubt as to whether authorization or consent to the expenditure may be imputed to a Federal candidate should be resolved by the person selling the space or time in favor of requiring a certification from a Federal candidate or his authorized agent, as required under § 4.11, before making the charge.

(e) Any advertisement or use under paragraph (d) of this section shall contain, conspicuously displayed, the name and address of the person making the expenditure, and, in the case of an organization, the name of the individual authorizing the expenditure. Such advertisement or use shall also contain, conspicuously displayed, a statement that the use is not authorized, directly or indirectly, by any Federal candidate and that no Federal candidate is responsible for any activities of the person making the expenditure.

(f) The person selling the space or time shall keep complete records of the transaction, including a copy of the advertisement and the original written statement, for a period of 2 years after the date thereof, and, on request from the appropriate supervisory officer, shall make such records and statement available for audit and inspection by the supervisory officer or his authorized representative.

(g) Any willfully false or fraudulent statements or representations in such a statement will subject the person making the same to the criminal penalties provided by section 1001 of title 18, United States Code.

§ 4.6 Allocation of expenditures among candidates.

(a) Whenever a use of a particular communications medium is by or on behalf of two or more candidates for Federal elective offices, the amount attributable to the expenditure limitation of each candidate shall be the amount agreed upon by the candidates involved in advance of the use and shown on the certification required under sections 104(b) and 104(c) of the Act and § 4.11. Such allocation must be based on reasonable standards. Any allocation under this paragraph shall be reported by each candidate or committee to the appropriate supervisory officer as an expenditure on the prescribed form under Title III of the Federal Election Campaign Act of 1971, and each candidate or committee shall retain for audit all documents supporting the allocation for the period of time required by the supervisory officer.

(b) Whenever a use of a particular communications medium is by or on behalf of one or more candidates for Federal elective office and also one or more candidates for State or local office, allocation must be made of a portion of the costs to the limitation prescribed in section 104(a) of the Act for each such Federal candidate. In so allocating, the same considerations set forth in paragraph (a) of this section shall apply. If the amount so allocated to the Federal candidate's limitation exceeds the cost to him or his organization for such use, the difference must be treated as a contribution in kind to the candidate by the individual or organization bearing that cost.

(c) The person selling space or time for use of the particular communications medium involved shall require a certification, as prescribed in § 4.11, from each Federal candidate (or his specially authorized agent) to the effect that payment of such portion of the charge as is allocated to such candidate will not violate his spending limitation.

§ 4.7 Records of communications media expenditures.

It is the responsibility of each Federal candidate, by whom or on whose behalf there is spent any amount for the use of communications media included under this subchapter, to maintain clearly identifiable, accurate, and complete current records of such expenditures.

Subpart B—Certification Requirements for Use of Newspaper, Magazines, and Outdoor Advertising Facilities

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply section 104(b), 86 Stat. 6, — U.S.C. —.

§ 4.11 Prohibition of charges without certification.

(a) No person may make any charge for the use of any newspaper, magazine, or outdoor advertising facility by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless the candidate, or an individual specifically authorized by the candidate in writing to do so, certifies in writing that the payment of such charge, including any agent's commission allowed the agent by the media, will not violate the expenditure limitation applicable to the candidate for the election in connection with which the newspaper, magazine, or outdoor advertising facility is used. Such a certification, which may be for a single use or for a series of uses, must be obtained from each candidate by, for whom, or on whose behalf such use is made. A joint certification, or individual certifications, showing the allocation of the total cost among the candidates as prescribed in § 4.6, must be obtained from joint users.

(b) A newspaper, magazine, or outdoor advertising facility will not be in violation of the Act or this subchapter by charging for the use of its facility if it receives (1) a certification from a Federal candidate or his specially authorized agent in accordance with § 4.12, or (2) a written statement from a person making an expenditure under § 4.5, provided that all of the requirements of § 4.5 are complied with.

§ 4.12 Form of certification and authorization.

(a) Each certification required under § 4.11 shall state the name and address of the newspaper, magazine, or outdoor advertising business or operator, the date or dates proposed to be used, a brief description of the advertisement or use, the name and political affiliation of the candidate, the office sought and the election involved, the rate and total amount of the charge, the signature of the candidate (or of the individual specifically authorized by the candidate in writing to do so), and the date of the signature. In addition, the certification shall state that payment of the total charge will not violate the candidate's applicable expenditure limitation under paragraphs (1), (2), or (3) of section 104(a) of the Act. The certification need not be in any special form.

(b) The original certification shall be given to the person making the charge before the order or agreement for the particular use is accepted. One copy of the certification shall be retained by the candidate or such authorized person. If there is a change in the amount of the charge an amended certification shall be required.

(c) Each authorization by a candidate to another person or persons to make certifications on behalf of the candidate shall state the name, address, and organizational affiliation of each authorized individual, the name of the candidate, the office sought, and the election involved, and any restrictions or limitation imposed, and it shall be signed and dated by the candidate. The authorized individual shall provide a copy of the authorization to the person making the charge together with the original certification.

(d) Every newspaper, magazine, or outdoor advertising business or operator shall keep all certifications and copies of authorizations made by or for each legally qualified candidate for Federal elective office, together with an appropriate notation showing the use actually made by each such candidate, the date or dates used, and the charges made, if any. Such records shall be retained for a period of 2 years.

(e) Any person who willfully makes a false or fraudulent certification or authorization under this subpart will be subject to the criminal penalties provided by section 1001 of title 18, United States Code.

Subpart C—Outdoor Advertising Facilities

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102(1) and 104(a), 86 Stat. 3, 5, — U.S.C. —.

§ 4.21 Apportionment when used in more than one election.

When an outdoor advertising facility is used by or on behalf of a Federal candidate in connection with more than one election (e.g., in both a primary and a general election) the expenditure for the facility shall be apportioned between such elections on the basis of the number of days such facility is used for each such election.

Subpart D—Telephone Use to Communicate with Potential Voters

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102(1) and 104(a), 86 Stat. 3, 5, — U.S.C. —.

§ 4.31 Applicability.

(a) An expenditure by or on behalf of a Federal candidate for telephones is deemed to be for the use of communications media and is to be charged against the candidate's applicable spending limitation under section 104(a) of the Act and this part, but only if it is for either the costs of telephones, paid telephonists, or automatic telephone equipment obtained for the specific purpose of communicating by general canvass methods with potential voters, excluding opinion polls which are conducted without identification of sponsorship by or on behalf of a Federal candidate. Other telephone costs of a candidate, his staff, and his authorized committees for campaign purposes are excluded.

(b) Any telephone costs paid for by an individual volunteer for use of a telephone by him shall not be charged to the candidate. For the purposes of this subpart, any individual, other than a candidate or a member of his paid staff or the paid staff of an authorized committee, who incurs telephone costs for the use of a telephone by such individual, is considered to be a volunteer, and his costs are excluded from the candidate's spending limitation.

Subpart E—Broadcasting Stations

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102(2) and 104(a), 86 Stat. 4, 5, — U.S.C. —.

§ 4.41 Charges by broadcasting stations to Federal candidates.

(a) Expenditures for the use of broadcasting stations by or on behalf of the candidacy of a Federal candidate, for the purposes of section 104(a) of the Act and this subchapter, include not only the direct charges of such broadcasting station, but also agent's commissions allowed the agent by the station.

(b) Such expenditures, for the purposes of section 104(a) of the Act and this subchapter, are limited to time charges for the use of broadcasting stations and do not include production costs or incidental costs whether charged by the station or by any other person. See also the regulations or guidelines of the Federal Communications Commission issued under the Act.

PART 5—ADMINISTRATION AND PENALTIES

Sec.
5.1 Administration by supervisory officers.
5.2 Reporting communications media expenditures.
5.3 Retained copies and records.
5.4 Referrals to Attorney General.
5.5 Penalties.

AUTHORITY: The provisions of this Part 5 issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102, 103(b), 104(a), 104(b), 105, and 106, 86 Stat. 3, 4, 5, 6, 7, and 8, — U.S.C. —.

§ 5.1 Administration by supervisory officers.

It shall be the responsibility of each supervisory officer to administer the regulations contained in this subchapter with respect to candidates under his jurisdiction, namely: (a) The Clerk of the House of Representatives with respect to candidates for the office of Representative in, or Resident Commissioner or Delegate to, the Congress of the United States; (b) the Secretary of the Senate with respect to candidates for the office of Senator in the Congress of the United States; and (c) the Comptroller General with respect to candidates for nomination or election to the office of President or Vice President of the United States and in any other case.

§ 5.2 Reporting communications media expenditures.

All expenditures made for the use of communications media on behalf of the candidacy of any Federal candidate in each election shall be reported to the appropriate supervisory officer by the candidate, or by the person or the political committee making the expenditure on behalf of the candidate, as a part of the reports of receipts and expenditures required under section 304 or section 305 of Title III of the Federal Election Campaign Act of 1971. See Subchapter B of this chapter concerning reports required to be filed with the Comptroller General.

§ 5.3 Retained copies and records.

(a) Each Federal candidate, each treasurer of a political committee, and any other person, who is required to report communication media expenditures to the appropriate supervisory officer under § 5.2, shall preserve a copy of each such report for the period of time prescribed by the appropriate supervisory officer. Each such person shall maintain records on the matters required to be reported, including vouchers, worksheets, and receipts, which will provide in sufficient detail the necessary information and data from which the reports and statements may be verified, explained or clarified, and checked for accuracy and completeness, and shall keep such records available for audit, inspection, and examination by the supervisory officer, or his authorized representatives, for the same period of time after the filing of the reports or statements, or any amendments thereto, based on the information which they contain.

§ 5.4 Referrals to Attorney General.

The appropriate supervisory officer, if he determines that there has been an apparent violation of law, shall refer the matter to the Attorney General of the United States for appropriate action.

§ 5.5 Penalties.

Any person who willfully and knowingly violates any provision of sections 103(b), 104(a), or 104(b) of the Act or any regulation of this subchapter shall be punished by a fine of not more than $5,000 or by imprisonment of not more than 5 years, or both.

PART 6—EXPENDITURE LIMITATIONS FOR CANDIDATES FOR PRESIDENT AND VICE PRESIDENT

Subpart A—General

Sec.
6.1 Purpose and scope.

Subpart B—Prenomination Expenditures

6.11 Determination of who is a candidate.
6.12 Period of candidacy.
6.13 Expenditure limitations in each State.
6.14 Apportioning amounts for the use of communications media in two or more States.

Subpart C—Postnomination Expenditures

6.21 Expenditure limitation in presidential general election.

AUTHORITY: This part issued under sections 104(a)(3)(c) and 105, 86 Stat. 5, 7, — U.S.C. —. Interpret or apply section 104(a), 86 Stat. 5, — U.S.C. —.

Subpart A—General

§ 6.1 Purpose and scope.

(a) This part is issued by the Comptroller General with respect to candidates for nomination or election to the office of President or Vice President of the United States.

(b) Subpart B applies to candidates for presidential nomination and to expenditures incurred on behalf of their candidacies for such nomination. Subpart C applies to candidates for President and Vice President after nomination and with respect to the general election.

Subpart B—Prenomination Expenditures

§ 6.11 Determination of who is a candidate.

For the purposes of section 104(a)(3) of the Act and this subpart, an individual is considered to be a candidate for presidential nomination if he (or any other person on his behalf) makes an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination for election to the office of President. The foregoing sentence applies regardless of whether the individual has made a public announcement of his candidacy. For the purposes of the Act, section 315 of the Communications Act of 1934, and this subchapter, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

§ 6.12 Period of candidacy.

(a) For the purpose of section 104(a)(3) of the Act and this subpart, an individual is considered to be a candidate for presidential nomination during the period—

(1) Beginning on the date on which he (or any other person on his behalf) first makes an expenditure under § 6.11, or beginning on the first day of January of the year in which the presidential election is to be held, whichever is later; and

(2) Ending on the date on which the particular political party nominates a candidate for the office of President.

(b) Any individual who is seeking the presidential nomination of more than one political party is considered to be a candidate for presidential nomination until he is nominated by one of those parties. Thereafter, he is considered to be a candidate for such office in the general election under section 104(a)(1) of the Act and under Subpart C.

(c) During 1972, no individual is considered to be a candidate for presidential nomination prior to April 7, 1972, the effective date of the Act. Nonetheless, any expenditure for the use of communications media, when such use occurs on or after April 7, 1972, shall be reported and charged against the expenditure limitation applicable to the election in which used, regardless of whether or not the use is paid for or contracted for prior to April 7, 1972.

§ 6.13 Expenditure limitations in each State.

(a) No candidate for presidential nomination may spend, for the use of communications media (or broadcasting stations) in a State, a total amount in excess of the amounts which are allowable for such purposes to a candidate for the U.S. Senate from the State (or for Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(b) The foregoing expenditure limitation applies in a State holding a convention or caucus, as well as in a State holding a primary election, for the selection of delegates to a national nominating convention. In the case of an expenditure for nationwide or regional use of a communications medium, see § 6.14. The limitation in any State shall continue to apply during the period after the selection of delegates until the conclusion of the particular party's national nominating convention.

§ 6.14 Apportioning amounts for the use of communications media in two or more States.

This section applies only to expenditures by or on behalf of candidates for presidential nomination for the use of a communications medium reaching two or more States.

(a) If a particular use of a communications medium is intended by the candidate to reach persons in only one State in which the candidate is actively seeking to influence the results of a primary election or the selection of delegates by State convention or caucus, then the total expenditure shall be charged against the candidate's limitation in that State, and no apportionment shall be made.

(b) If, at the time the medium is used, the selection of all delegates to the national nominating convention of a political party has not been completed, the total amount of an expenditure for the use of a communications medium which is intended by the candidate to reach persons in two or more States shall be apportioned only among those States reached by the medium in which the candidate is actively seeking to influence the results of a primary election or the selection of delegates by State convention or caucus.

(c) If, at the time the medium is used, the selection of all delegates to the national nominating convention of a political party has been completed, the total amount of an expenditure for the use of a communications medium in two or more States shall be apportioned among all the States reached by the medium and attributed to the candidate's expenditure limitation in each such State.

(d) The total amount of the expenditure in every case under paragraph (b) or (c) of this section must be apportioned. For purposes of calculating the amounts to be apportioned to the candidate's expenditure limitation in each State which is included under paragraph (b) or (c) of this section, each such State's portion of the total expendi-

ture shall be in the same ratio as the number of persons who can reasonably be expected to be reached by the medium in that State bears to the total number of persons who can reasonably be expected to be reached by the medium in all of such States. The apportionment shall be calculated for each communications medium as follows—

(1) When it enters into an agreement for a time purchase by or on behalf of a candidate for presidential nomination, the broadcasting station or network shall inform the purchaser of the percentage of the total amount attributed to each State which is included under paragraph (b) or (c) of this section, based on the percentage of its total coverage in each State receiving "primary service" (as defined by FCC standards) from each station or network. For TV stations, the Grade B contour shall be used. For FM stations, the 1 mv/m contour shall be used. For AM stations, the percentage shall be related to daytime and nighttime coverage. During 1972, the foregoing percentages may be estimated by the station or network on the basis of the best information available.

(2) When it enters into an agreement for the purchase of space in a newspaper or magazine by or on behalf of such a candidate, the publication shall inform the purchaser of the percentage of the total amount attributed to each State which is included under paragraphs (b) or (c) of this section, based on the percentage of its total soverage in each State according to its most recent circulation figures.

(3) If telephone costs are included within the spending limitation of a candidate for presidential nomination, pursuant to the provisions of Subpart D, Part 4, of this subchapter, and if such telephones are used to communicate with potential voters in two or more States, such costs shall be apportioned among such States on the basis of the number of persons in each such State who are reached by such telephone use.

(4) When it enters into an agreement for the use of outdoor advertising facilities, the seller or lessor of the space shall inform the purchaser of the percentage of the total amount attributable to each State which is included under paragraphs (b) or (c) of this section, based on its total coverage in each State.

(e) Any apportionment under this section shall be made and reported by each candidate for presidential nomination, or by the political committee or other person making the expenditure, to the Comptroller General as a part of the reports of receipts and expenditures required under title III of the Federal Election Campaign Act of 1971 and under Subchapter B of this chapter. All documents supporting the apportionment shall be retained for a period of 4 years by the person filing such a report.

(Sec. 104(a)(3)(C), 86 Stat. 5. — U.S.C. —)

Subpart C—Postnomination Expenditures

§ 6.21 Expenditure limitation in presidential general election.

(a) Under section 104(a)(1) of the Act and this subpart, no legally qualified candidate for the office of President of the United States may—

(1) Spend for the use of communications media on behalf of his candidacy in the general election for such office a total amount in excess of the expenditure limitation for the Nation as a whole, as calculated by the Comptroller General under Part 4 of this subchapter, or

(2) Spend for the use of broadcasting stations on behalf of his candidacy in such election a total amount in excess of 60 percent of the amount calculated under subparagraph (1) of this paragraph with respect to such election.

(b) Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purpose of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

SUBCHAPTER B—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

PART 11—SCOPE AND DEFINITIONS

SUBPART A—SCOPE

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11.23 Director.
11.24 Office.

AUTHORITY: The provisions of this Part 11 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 301, 86 Stat. 11, — U.S.C. —.

Subpart A—Scope

§ 11.1 Scope.

This subchapter is issued by the Comptroller General of the United States in his capacity as a supervisory officer under title III of the Federal Election Campaign Act of 1971 (Public Law 92-225) and is applicable to campaigns for nomination or election to the offices of President and Vice President of the United States. It is to be read together with the regulations issued by the Comptroller General as Subchapter A of this chapter and with the guidelines and regulations issued by the Federal Communications Commission under title I of the Act, as well as with the regulations issued by the other supervisory officers under title III of the Act, namely, the Secretary of the Senate with respect to senatorial campaigns and the Clerk of the House of Representatives with respect to congressional campaigns.

Subpart B—Meaning of Terms Used in This Subchapter

§ 11.11 Election.

"Election" means (a) a general, special, primary, or runoff election, (b) a convention or caucus of a political party held to nominate a candidate, (c) a primary election held for the selection of delegates to a national nominating convention of a political party, (d) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (e) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States.

§ 11.12 Federal office.

"Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 11.13 Candidate or Federal candidate.

"Candidate" or "Federal candidate" means an individual who seeks nomination for election, or election, to Federal office (except where the reference is specifically to a candidate for State or local office), whether or not such individual is elected, and, for purposes of this subchapter, an individual shall be deemed to seek nomination for election, or election, if he has (a) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (b) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

§ 11.14 Political committee.

"Political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000.

§ 11.15 Contribution.

(a) "Contribution" means—

(1) A gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomina-

tion of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) A transfer of funds between political committees;

(4) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation, by individuals volunteering a portion or all of their time on behalf of a candidate or political committee.

§ 11.16 File, filed or filing.

(a) "File," "filed," and "filing" mean with respect to reports and statements required to be filed with the Comptroller General under this subchapter: (1) Delivery to the Office of Federal Elections, General Accounting Office, 441 G Street NW., Washington, DC 20548, by the close of business of the prescribed filing date, or (2) deposit as certified airmail in an established U.S. Post Office no later than midnight of the second day next preceding the filing date. The certified mail receipt shall be retained as evidence of mailing. Documents deposited within 500 miles from Washington, D.C. need not be sent by airmail, but shall be certified. In the event the mailing deadline falls on a day on which no mail is certified, the next preceding day on which mail is certified shall be deemed the mailing date.

(b) All reports may be deposited in preprinted return envelopes supplied by the Comptroller General, bearing a declaration of contents and requesting priority handling. In the event a report is too large to be inserted in the preprinted envelope, it should be packaged separately but the whole face of the preprinted envelope may be used as a mailing label.

(c) With respect to filing of complaints pursuant to section 308(d)(1) of the Act, see Subpart B of Part 20 of this subchapter.

§ 11.17 Expenditure.

(a) "Expenditure" means—

(1) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) A contract, promise, or agreement, whether or not legally enforceable, to make an expenditure; and

(3) A transfer of funds between political committees.

§ 11.18 Supervisory officer.

"Supervisory officer" means the Secretary of the Senate with respect to candidates for Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case.

§ 11.19 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

§ 11.20 State.

"State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 11.21 Act.

"Act" means the Federal Election Campaign Act of 1971, Public Law 92-225, enacted February 7, 1972, and effective April 7, 1972.

§ 11.22 Comptroller General.

"Comptroller General" means the Comptroller General of the United States.

§ 11.23 Director.

"Director" means the Director of the Office of Federal Elections in the U.S. General Accounting Office.

§ 11.24 Office.

"Office" means the Office of Federal Elections in the U.S. General Accounting Office.

PART 12—ORGANIZATION OF POLITICAL COMMITTEES

Sec.

12.1 Organization.
12.2 Duty of person receiving contribution for a political committee.
12.3 Committee funds to be segregated.
12.4 Account of contributions and expenditures.
12.5 Receipted bills for expenditures exceeding $100.
12.6 Notice of committee's lack of authority from candidate.
12.7 Notice of availability of committee reports from Government Printing Office.
12.8 Publication of annual report for each political committee.

AUTHORITY: The provisions of this Part 12 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 302, 86 Stat. 12, — U.S.C. —.

§ 12.1 Organization.

(a) Every political committee (as defined in § 11.14 of this subchapter) shall have a chairman and a treasurer, who shall be separate individuals.

(b) No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of either the chairman or the treasurer thereof.

(c) No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

§ 12.2 Duty of person receiving contribution for a political committee.

Every person who receives a contribution in excess of $10 for a political committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address, occupation, and the principal place of business, if any, of the person making such contribution, and the date on which received.

§ 12.3 Committee funds to be segregated.

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

§ 12.4 Account of contributions and expenditures.

(a) *Contributions.* (1) The treasurer of a political committee shall keep a detailed and exact account of all contributions made to or for such committee, including the full name, residential mailing address, occupation, and the principal place of business, if any, of every person making a contribution in excess of $10, and the date and amount thereof. The term "full name" means the identification of the person usually given for business and legal purposes. The term "occupation" means title, if any, or type of work. The term "principal place of business if any" means the full name of employer, or organization if self-employed, and city of employment or self-employment.

(2) The treasurer shall use his best efforts to obtain the required information, and he shall keep a complete record of his efforts to do so. It is the responsibility of the treasurer to make full and complete reports as prescribed by the Act and this subchapter.

(b) *Expenditures.* The treasurer of a political committee shall keep a detailed and exact account of all expenditures made by or on behalf of such committee, including the full name, business mailing address, occupation, and principal place of business, if any, of every person to whom any expenditure is made, the date and amount thereof, and the name, address, and office sought by, each Federal candidate on whose behalf such expenditure was made.

§ 12.5 Receipted bills for expenditures exceeding $100.

The treasurer shall obtain and keep a receipted bill, stating the particulars, for

every expenditure made by or on behalf of a political committee in excess of $100, and for expenditures in lesser amounts if the aggregate amount to the same person during the calendar year exceeds $100. In lieu of a bill receipted by the person to whom the expenditure is made, the treasurer may keep the canceled check or checks showing payment of the bill, together with the bill, invoice, or a contemporaneous memorandum of the transaction, stating the particulars of the expenditure.

§ 12.6 Notice of committee's lack of authority from candidate.

Any political committee which solicits or receives contributions or makes expenditures on behalf of any Federal candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

§ 12.7 Notice of availability of committee reports from Government Printing Office.

Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

A copy of our report filed with the appropriate supervisory officer is (or will be) available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 12.8 Publication of annual report for each political committee.

(a) The Comptroller General shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this subchapter during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(1) A copy of the statement of organization of the political committee required under section 303 of the Act and Part 13 of this subchapter, together with any amendments thereto; and

(2) A copy of each report filed by such committee under section 304 of the Act and Part 14 of this subchapter from March 10 of the preceding year through January 31 of the year in which the annual report is so furnished to the Public Printer.

(b) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the Comptroller General.

(c) Each volume of such annual reports shall have conspicuously displayed on the front thereof a notice that any information copied from the report shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.

PART 13—REGISTRATION OF POLITICAL COMMITTEES

Sec.

13.1 Registration of political committees with Comptroller General.
13.2 Forms and filing.
13.3 Changes in information.
13.4 Discontinuance of registration.
13.5 Identification number.

AUTHORITY: The provisions of this Part 13 issued under section 308(a)(13), 86 Stat. [illegible], — U.S.C. —. Interpret or apply section 303, 86 Stat. 14, — U.S.C. —.

§ 13.1 Registration of political committees with Comptroller General.

(a) Each political committee which anticipates receiving contributions or making expenditures during a calendar year in an aggregate amount exceeding $1,000, any portion of which will be expended for the purpose of influencing the nomination or election of any candidate or candidates to the office of President or Vice President of the United States, shall file a statement of organization with the Comptroller General within 10 days after the effective date of this subchapter, within 10 days after the date of its organization, or within 10 days after the date on which the committee has information which causes it to anticipate receiving such contributions or making such expenditures exceeding $1,000, whichever is later.

(b) Any political committee which supports candidates who are under the jurisdiction of more than one supervisory officer is required to register with each such supervisory officer. Such a committee should consult also the regulations issued by the Secretary of the Senate and by the Clerk of the House of Representatives. No political committee which is included within paragraph (a) of this section shall be excused from filing a statement of organization with the Comptroller General by reason of being required to file also with another supervisory officer.

(c) During 1972, the first year during which the Act is effective, the term "calendar year," as used in section 303 of the Act and in this part, shall be considered to mean only the period beginning on April 7, 1972, and ending on December 31, 1972. No statement of organization is required from any political committee which does not anticipate receiving contributions or making expenditures exceeding $1,000 on or after April 7, 1972.

§ 13.2 Forms and filing.

(a) The statement of organization shall be filed on C.G. Election Form 1, which may be obtained from the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548. The statement shall include the following:

(1) The name and address of the committee.

(2) The names, addresses, and relationships of affiliated or connected organizations (see paragraph (b) of this section).

(3) The area, scope, or jurisdiction of the committee.

(4) The name, address, and position of the custodian of books and accounts.

(5) The name, address, and position of other principal officers, including officers and members of the finance committee, if any.

(6) The name, address, office sought, and party affiliation of (i) each candidate for the office of President or Vice President of the United States whom the committee is supporting and (ii) each candidate whom the committee is supporting for nomination or election to any other Federal office or to any public office whatever; and, additionally, if the committee is supporting the entire ticket of any party, the name of the party.

(7) A statement whether the committee is a continuing one.

(8) The disposition of residual funds which will be made in the event of dissolution.

(9) A listing of all banks, safety deposit boxes, or other repositories used.

(10) A statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) Such other information as shall be required by the Comptroller General from time to time.

(b) "Affiliated or connected organizations" includes but is not limited to (1) an organization which organized the reporting committee primarily for the purpose of influencing the nomination or election of candidates for Federal office; or (2) an organization whose primary purpose is to support the reporting committee; or (3) an organization whose membership is generally similar to that of the reporting committee.

(c) The statement of organization required by the Comptroller General under this part shall be filed with the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548. See definition of "filed" in Part 11 of this subchapter.

§ 13.3 Changes in information.

Any change in information previously submitted in a statement of organization, especially when any change occurs with regard to the candidates for the office of President or Vice President supported by the committee, shall be reported to the Comptroller General within 10 days following the date of the change, and shall be signed and verified by oath or affirmation in the same manner as the original statement.

§ 13.4 Discontinuance of registration.

Any committee which, after having filed one or more statements of organization with the Comptroller General, disbands or determines that it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000, shall so notify the Comptroller General. Such notification shall include a statement as to the disposition of residual funds if the committee is disbanding.

§ 13.5 Identification number.

Upon receipt of a statement of organization under this part, the Office of Federal Elections shall assign an identification number to the statement, acknowledge receipt thereof, and notify the political committee of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed with the Comptroller General under the Act, as well as on all communications concerning such reports or statements.

PART 14—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES TO THE COMPTROLLER GENERAL

Sec.
14.1 Filing requirements.
14.2 Form and contents.
14.3 Uniform identity of contributors.
14.4 Preservation of records of proceeds of events.
14.5 Disclosure of receipt and consumption of contributions in kind.
14.6 Filing dates and periods covered.
14.7 Time and manner of filing.
14.8 Exemptions from preelection and prenational convention reporting.
14.9 Waiver of duplicate filings.
14.10 Cumulative reports.
14.11 Allocation of expenditures between candidates.

AUTHORITY: The provisions of this Part 14 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 304, 86 Stat. 14, — U.S.C. —.

§ 14.1 Filing requirements.

(a) Reports of receipts and expenditures under section 304(a) of the Act are required to be filed with the Comptroller General by—

(1) Every candidate for nomination or election to the office of President or Vice President of the United States.

(2) Every political committee (by its treasurer) which is required to file a statement of organization with the Comptroller General under Part 13 of this subchapter, unless such committee is relieved of this reporting obligation under the provisions of § 16.3 of this subchapter.

(b) Each political committee which has filed one or more reports under this part shall continue to file such reports with the Comptroller General until such committee notifies the Comptroller General that it has disbanded or has determined that it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding $1,000, as required under § 13.4 of this subchapter.

§ 14.2 Form and contents.

(a) Reports of receipts and expenditures required under this part shall be filed by such candidates on C.G. Election Form 2, and by such committees on C.G. Election Form 3. Such forms may be obtained from the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548.

(b) Each report by such committee or candidate under this part (except subparagraph (12) of this paragraph) shall disclose—

(1) The amount of cash on hand at the beginning of the reporting period, including, but not limited to, money, balances on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit of cash, and cash funds in other repositories;

(2) The full name, residence mailing address, occupation, and principal place of business, if any (as defined in § 12.4 of this subchapter), of each person who has made one or more contributions to or for such committee or candidate (including a separate itemized account for the purchase of tickets for fundraising events, such as dinners, luncheons, rallies, and similar events held to raise funds for the committee or candidate) during the reporting period in an amount or value in excess of $100, or within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions;

(3) The total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under subparagraph (2) of this paragraph;

(4) The name and mailing address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers;

(5) Each loan to or from any person during the reporting period in an amount or value in excess of $100, or within the calendar year in an aggregate amount or value in excess of $100, together with the full names and mailing addresses, occupations, and the principal places of business, if any, of the lenders and the endorsers, if any, and the date and amount of such loans;

(6) The total amount of proceeds from (i) the sale of tickets to each dinner, luncheon, rally, and other fund raising event; (ii) mass collections made at such events; and (iii) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) Each contribution, rebate, refund, or other receipt in excess of $100 received during the reporting period and not otherwise listed under subparagraphs (2) through (6) of this paragraph;

(8) The total sum of all receipts by or for such committee or candidate during the reporting period and the calendar year;

(9) The full name and business mailing address, occupation, and the principal place of business, if any, of each person to whom expenditures have been made by or on behalf of such committee or candidate within the reporting period in an amount or value in excess of $100, together with the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditures was made, and a separate itemized account of communications media expenditures (see Subchapter A) in any amount during the reporting period;

(10) The full name and mailing address, occupation, and the principal place of business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of $100 has been made within the reporting period, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) The total sum of expenditures made by or on behalf of such committee or candidate during the reporting period and the calendar year;

(12) The amount and nature of debts and obligations owed by or to the committee (not required on a candidate's report), and a continuous reporting of its debts and obligations after the election on separate schedules in accordance with the terms prescribed in Part 16 of this subchapter until such debts and obligations are extinguished;

(13) Such other information as shall be required by the Comptroller General from time to time.

§ 14.3 Uniform identity of contributors.

(a) Each contributor of an amount in excess of $100 shall be identified by full name, residence mailing address, occupation, and principal place of business, if any. See Part 12 of this subchapter regarding the meaning of the foregoing terms and the requirements imposed on the committee or candidate to obtain such information if it is missing from the contribution. If a contributor's name or address is known to have changed since an earlier contribution during the calendar year, the exact name or address previously used shall be noted with each subsequent entry.

(b) In each case when a contribution received from a person in a reporting period is added to the previously reported unitemized contributions from the same contributor and the aggregate exceeds $100 within the calendar year, the name, address, occupation, and principal place of business, if any, of that contributor shall then be listed on the prescribed reporting forms.

(c) In determining the aggregate of a person's contributions, all such contributions from the same donor shall be listed under the same name, if possible.

§ 14.4 Preservation of records of proceeds of events.

The treasurer of each political committee and each candidate shall keep full and complete records of proceeds from the sale of tickets and mass collections at each dinner, luncheon, rally, and other fund-raising events, and such records shall include the date, location, and nature of each event. He shall also keep full and complete records of the proceeds from the sale of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature and similar materials, and such records shall reflect the cost of the items to the com-

mittee, the sale price, and the total volume sold of each general category of item. Such records shall be preserved for a period of 4 years.

§ 14.5 Disclosure of receipt and consumption of contributions in kind.

Each contribution in kind shall be declared at fair market value and reported on the appropriate schedule of receipts, identified as to its nature and listed as a "contribution in kind." The total amount of goods and services contributed in kind shall be deemed to have been consumed in the reporting period. Each such contribution shall be declared as an expenditure at the same fair market value and reported on the appropriate expenditure schedule, identified as to its nature and listed as a "contribution in kind."

§ 14.6 Filing dates and periods covered.

(a) Reports of receipts and expenditures required under this part shall be filed on March 10, June 10, September 10, and January 31, for each calendar year and on the 15th and fifth days next preceding each presidential primary and general election and national nominating convention. The reports shall be cumulative and each report will cover the period from the closing date of the previous report filed. For example, the periodic reports filed on March 10, June 10, September 10, and January 31 will normally be complete as of the close of the last day of the preceding month, except when a preelection report falls between. In that case, the next periodic report would cover only the period after the intervening report closing date.

(b) Reports of receipts and expenditures due on 15th day next preceding such an election or convention shall be complete as of midnight of the 22d day next preceding the election or convention, and such reports due on the fifth day next preceding such an election or convention shall be complete as of midnight of the 12th day next preceding the election or convention. Any contribution of $5,000 or more (including a transfer of funds from another candidate or committee), which is received after the closing date for the last report before an election or convention, shall be separately reported so as to reach the Comptroller General within 48 hours after receipt of such contribution. Such contribution shall be reported to the Comptroller General by hand delivery or by telegram (most expeditious class of service), and such contribution shall also be reported in the next report filed under this part.

(c) No report is required to be filed under this part before the effective date of the Act (April 7, 1972), and no preelection report is required if the closing date for such report precedes the effective date of the Act.

(d) During 1972, the first year during which the Act is effective, the term "calendar year," as used in section 304 of the Act and in this part, shall be considered to mean only the period beginning on April 7, 1972, and ending on December 31, 1972. No report is required to show any expenditure or contribution which occurred before April 7, 1972, the effective date of the Act, except that any use of communications media (as defined in Title I of the Act and Subchapter A of this chapter), when such use occurs on or after April 7, 1972, shall be reported under this part as if it were an expenditure on the date such communications media is used. The amount paid therefor shall be charged against the candidate's expenditure limitation applicable to the election in which used, regardless of whether or not the use is paid for or contracted for prior to April 7, 1972. For further information concerning communications media spending, see Subchapter A of this chapter.

§ 14.7 Time and manner of filing.

Each report required to be filed with the Comptroller General under this part shall be filed with the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548, in accordance with the definition contained in § 11.16 of this subchapter.

§ 14.8 Exemptions from pre-election and prenational convention reporting.

(a) In a presidential preference or delegate selection primary election held in any State, the following political committees shall not be required to file the reports otherwise due on the 15th and fifth days preceding such election—

(1) Any political committee which, although it supports a candidate who is entered in such primary election, has not made any contributions or expenditures, including any transfers of funds to a candidate or a political committee, for the purpose of influencing the result of such election;

(2) The national committee of any political party, unless such national committee has endorsed or financially supported a candidate in such primary election; or

(3) Any other political committee, not located in the State where such primary election is held, which has not made any contributions or expenditures, including any transfers of funds to a candidate or a political committee, for the purpose of influencing the result of such election.

(b) In a national nominating convention of a political party held to nominate candidates for the offices of President and Vice President, the following political committees shall not be required to file the reports due on the 15th and fifth days preceding such convention—

(1) The national committee of such political party, unless it has endorsed or financially supported a candidate in such convention; or

(2) Any other political committee which has not made any contributions or expenditures, including any transfer of funds to a candidate or a political committee, for the purpose of influencing the result of such convention.

§ 14.9 Waiver of duplicate filings.

If a preelection or prenational convention report required under this part is due on or within 10 days of the specified filing date for a regular periodic report required under this part, the filing of the preelection report may, at the option of the reporting committee or candidate, fulfill both requirements and, if so, shall be so indicated on the report form.

§ 14.10 Cumulative reports.

The reports required to be filed under this part shall be cumulative during the calendar year to which they relate, as required on the prescribed reporting forms. However, where there has been no change in an item reported in a previous report during such year, only the previous amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the candidate or the treasurer of the political committee shall file a statement to that effect.

§ 14.11 Allocation of expenditures between candidates.

(a) A political committee making an expenditure for or on behalf of more than one candidate for Federal, State, or local office shall allocate the expenditures among such candidates on a reasonable basis and report the allocation for each Federal candidate on the prescribed form to each appropriate supervisory officer. The treasurer shall retain for audit all documents supporting the allocation for a period of 4 years after such allocation is made.

(b) Allocations of expenditures for the use of communications media shall comply with the provisions of Subchapter A of this chapter.

PART 15—REPORTS BY OTHER PERSONS

Sec.
15.1 Filing requirement.
15.2 Time and manner of filing.

AUTHORITY: The provisions of this Part 15 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 305, 86 Stat. 16, — U.S.C. —.

§ 15.1 Filing requirement.

(a) Any person (other than a political committee or candidate), who makes contributions or expenditures, other than by contribution to a political committee or candidate, for or on behalf of a candidate or candidates for nomination or election to the office of President or Vice President of the United States in an aggregate amount in excess of $100 during a calendar year, shall file a report with the Comptroller General.

(b) During 1972, the term "calendar year" in paragraph (a) of this section shall mean only the period beginning on April 7, 1972, the effective date of the Act, and ending on December 31, 1972.

(c) The term "other than by contribution to a political committee or candidate" in paragraph (a) of this section shall be deemed to exclude from the filing requirement therein only contributions made directly to a candidate or directly to a political committee. In those cases, the candidate or the committee is required to report aggregate contributions exceeding $100 by any person. The term shall not be deemed to exclude from such filing requirement

contributions exceeding an aggregate amount of $100 made to any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount of $1,000 or less, nor shall it be deemed to exclude such contributions aggregating more than $100 made to any individual other than a candidate. In those cases, the person making the contribution aggregating more than $100 is required to report the same to the Comptroller General under paragraph (a) of this section.

§ 15.2 Time and manner of filing.

(a) Reports required by this part shall contain the information with respect to contributions or expenditures required in Part 14 of this subchapter pertaining to committees. Persons complying with this part may use the reporting forms prescribed under Part 14, substituting the person's name wherever the identification of the reporting committee is required by the form.

(b) Reports filed in compliance with this part need not be cumulative. They shall be due on the same dates as are reports from committees under Part 14 of this subchapter except that persons complying with this part need file reports only for those reporting periods within which such independent contributions or expenditures have been made.

PART 16—FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

Sec.
16.1 Verification.
16.2 Retained copies and records.
16.3 Waiver of reporting requirements.
16.4 Manner of reporting debts, obligations, contracts, agreements and promises to make contributions or expenditures.
16.5 Effect of acknowledgement and filing by the Office.
16.6 Personal responsibility of person signing statement.

AUTHORITY: The provisions of this Part 16 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 306, 86 Stat. 16, — U.S.C. —.

§ 16.1 Verification.

Each report or statement required to be filed with the Comptroller General under this subchapter by a treasurer of a political committee, a candidate, or by any other person, shall be signed and verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

§ 16.2 Retained copies and records.

(a) Every person filing a report or statement with the Comptroller General under this subchapter shall preserve a copy thereof for 4 years from the date of filing.

(b) Every candidate, political committee, or other person required to file any report or statement with the Comptroller General under this subchapter shall maintain records on the matters required to be reported, including vouchers, worksheets and papers relating to receipt, which will provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained or clarified, and checked for accuracy and completness, and shall keep such records available for audit, inspection, or examination by the Comptroller General, or his authorized representatives, for a period of not less than 4 years from the date of filing of the reports or statements or any amendments thereto based on the information which they contain.

§ 16.3 Waiver of reporting requirements.

(a) Any political committee required to file reports with the Comptroller General under Part 14 of this subchapter may be relieved of the duty to comply with such requirement if all of the following conditions are satisfied—

(1) The committee is a local, city, or county committee and does not conduct its activities throughout the State or in any other State; and

(2) The committee primarily supports persons seeking State or local office; and

(3) The committee does not make contributions or expenditures, including transfers of funds to any other political committee, in support of a candidate for nomination or election to the office of President or Vice President of the United States in an aggregate amount exceeding $1,000 in a calendar year. For purposes of this section, a contribution or expenditure in support of a candidate for Vice President is considered to be made on behalf of the candidate for President with whom he is running.

(b) Upon receipt of a statement of organization from such a committee that meets all of the above conditions, the Comptroller General will grant an individual waiver and so advise the committee. Such waiver shall continue only for such time as all the above conditions are satisfied.

§ 16.4 Manner of reporting debts, obligations, contracts, agreements, and promises to make contributions or expenditures.

(a) Contributions and expenditures in the nature of debts, obligations, contracts, agreements, and promises to make contributions or expenditures that are incurred or made after April 7, 1972, the effective date of the Act, shall be continuously reported in separate schedules on the reporting forms prescribed by the Comptroller General until such debts, obligations, contracts, agreements, and promises are paid, liquidated, canceled, forgiven, or otherwise extinguished. In determining total amounts of receipts and expenditures, the amounts reported on separate schedules as provided in this section shall not be considered until actual payment is made, except that expenditures for the use of communications media shall be reported as required in § 14.2 of this subchapter, regardless of when payment is made.

(b) No debt, obligation, contract, agreement, or promise to make a contribution or an expenditure need be reported to the Comptroller General in advance of actual payment unless it is in writing and exceeds the amount of $100.

(c) Such debts, obligations, contracts, agreements, and promises in existence prior to April 7, 1972, the effective date of the Act, are not required to be itemized as to date incurred or name of creditor or debtor, but any total outstanding amounts shall be shown.

§ 16.5 Effect of acknowledgment and filing by the Office.

Any acknowledgment by the Office of Federal Elections of the receipt of any statement of organization or any report or statement filed under this subchapter is intended solely to inform the person filing the same of the receipt thereof by the Office, and neither such acknowledgment nor the acceptance and filing of any such report or statement by the Office shall constitute express or implied approval thereof, or in any manner indicate that the contents of any such report or statement fulfills the filing or other requirements of the Act or of the regulations thereunder.

§ 16.6 Personal responsibility of person signing statement.

(a) Each treasurer of a political committee, each candidate, and any other person required to file any report or statement with the Comptroller General under the Act and under this subchapter shall be personally responsible for the timely and complete filing of such report or statement and for the accuracy of any information or statement contained therein.

(b) Any willfully false or fraudulent statements or representations in such a report or statement will subject the person making the same to the criminal penalties provided under section 1001 of title 18, United States Code.

PART 17—FILING COPIES OF STATEMENTS WITH STATE OFFICERS

Sec.
17.1 Filing requirements.
17.2 Filing copy of statement of organization.
17.3 Filing copy of reports of expenditures and contributions.
17.4 Time and manner of filing copy.
17.5 Duty of State officers.

AUTHORITY: The provisions of this Part 17 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 309, 86 Stat. 18, — U.S.C. —.

§ 17.1 Filing requirements.

(a) A copy of each statement required to be filed with the Comptroller General under this subchapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this part, the term "appropriate State" means the State or other jurisdiction designated in § 17.2 or § 17.3.

§ 17.2 Filing copy of statement of organization.

A copy of each statement of organization required to be filed with the Comptroller General under Part 13 by political committees supporting any candidate for

nomination or election to the office of President or Vice President shall be filed with the State officer of the State or other jurisdiction where the committee has its principal office.

§ 17.3 Filing copy of reports of expenditures and contributions.

A copy of each report required to be filed with the Comptroller General under Part 14 or Part 15 of this subchapter relating to contributions and expenditures in connection with the campaign of a candidate for nomination or election to the office of President or Vice President, shall be filed with the State officer of each State or other jurisdiction in which an expenditure is made by him or on his behalf.

§ 17.4 Time and manner of filing copy.

A copy required to be filed with a State officer under this part shall be filed at the same time and in the same manner as the original report is filed with the Comptroller General, except that the person filing a report with the Comptroller General by mail may elect to file the copy with the State officer by hand delivery, provided that such delivery is made on or before the filing date prescribed by this subchapter. Each such copy of a report or statement shall be a complete, true, and legible copy of the original report or statement filed with the Comptroller General.

§ 17.5 Duty of State officers.

(a) Under section 309(b) of the Act, it is the duty of the Secretary of State, or the equivalent State officer, under section 309(a)—

(1) to receive and maintain in an orderly manner all reports and statements required by title III of the Act to be filed with him;

(2) To preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives need be preserved for only 5 years from the date of receipt;

(3) To make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

(4) To compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

PART 18—REPORTS ON NATIONAL CONVENTION FINANCING

Sec.
18.1 Filing requirement.
18.2 Forms.

AUTHORITY: The provisions of this part 18 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 307, 86 Stat. 16, — U.S.C. —.

§ 18.1 Filing requirement.

(a) Within 60 days following the end of a national party's presidential nominating convention (but not later than 20 days prior to the date of the presidential election), a full and complete financial statement of the sources from which it derived its funds and the purpose for which funds were expended shall be filed with the Comptroller General by each committee or other organization which—

(1) Represents a State, or a political subdivision thereof, or any group of persons in dealing with national party officials with respect to such nominating convention, or

(2) Represents such national party in making arrangements for such nominating convention.

§ 18.2 Forms.

Such reports shall be prepared on forms to be prescribed by the Comptroller General, and which may be obtained from the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548, and shall be filed in accordance with the definition contained in § 11.16 of this subchapter.

PART 19—PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

§ 19.1 Prohibition.

No person shall make a contribution (as defined in Part 11 of this subchapter) in the name of another person or in any other name than his own in connection with any candidate's campaign for nomination or election to the office of President or Vice President, and no person shall knowingly accept such a contribution made by one person in the name of another person or in any other name than the contributor's in connection with any such campaign. The foregoing sentence applies to any contributor, as well as to any candidate, or any officer or employee of a political committee, or any other person.

(Sec. 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 310, 86 Stat. 19, — U.S.C. —)

PART 20—ADMINISTRATIVE DUTIES AND COMPLAINTS OF VIOLATIONS

Subpart A—Duties of the Comptroller General as Supervisory Officer

Sec.
20.1 Reporting forms and bookkeeping manuals.
20.2 Public inspection and copying of reports.
20.3 Prohibition against commercial use of information.
20.4 Preserving filed reports and statements.
20.5 Current list of statements pertaining to candidates.
20.6 Reports by the Comptroller General.
20.7 Audits and field investigations.
20.8 Reporting violations to law enforcement authorities.
20.9 Regulations and interpretations.

Subpart B—Complaints and Violation

Sec.
20.10 Filing of complaints.
20.11 Investigation.

AUTHORITY: The provisions of this Part 20 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply sections 308 (a) and 308(d), 86 Stat. 16, 18, — U.S.C. —.

Subpart A—Duties of the Comptroller General as Supervisory Officer

§ 20.1 Reporting forms and bookkeeping manuals.

Forms for the reports and statements required to be filed under this subchapter and a manual setting forth recommended uniform methods of bookkeeping will be furnished upon request, without charge, to persons required to file.

§ 20.2 Public inspection and copying of reports.

(a) Reports and statements filed with the Comptroller General under this subchapter will be made available for inspection and copying, or duplicating at the prescribed charge, by any person commencing as soon as practicable after receipt and, in any case, not later than the end of the second day following the date of receipt, at the:

Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548.

The Office will be open for business during the hours from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. During the period immediately after preelection and preconvention reports have been received, the Office will also be open for business on Saturdays from 9 a.m. to 5 p.m.

(b) A list of rules and charges for copies authorized by the Act shall be posted at the Office.

§ 20.3 Prohibition against commercial use of information.

No information copied or obtained from reports and statements shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose. For purposes of this subchapter, "soliciting contributions" means requesting gifts or donations of money, or anything of value for any cause or organization—political, social, charitable, religious, or otherwise. For purposes of this subchapter, "any commercial purpose" means any sale, trade, or barter of any list of names or addresses taken from such reports and statements and any use of any such lists for any surveys or sales promotion activity. Violations of this section are subject to the criminal penalties provided in section 311 of the Act.

§ 20.4 Preserving filed reports and statements.

(a) Reports and statements filed with the Comptroller General under the Act will be preserved for a period of 10 years from the date of receipt. After the expiration of the 10-year period, the original report or statement will be transferred to the National Archives and Records Service of the General Services Administration.

§ 20.5 Current list of statements pertaining to candidates.

(a) A current list of statements or parts thereof pertaining to each candidate will be maintained at the Office of Federal Elections for public inspection during regular business hours. Each list will be brought up to date within 2 days

of receipt of any information requiring a change in the list.

§ 20.6 Reports by the Comptroller General.

(a) An annual report for the preceding calendar year will be published and widely disseminated as early in each calendar year as the Comptroller General determines is feasible. To the extent that such information is contained in the reports furnished by candidates and political committees, the annual report will include compilations of—

(1) Total reported contributions and expenditures for all candidates, political committees, and other persons during the year;

(2) Total amounts contributed and expended broken down into candidate, party, and nonparty expenditures on the national, State, and local levels;

(3) Total amounts expended for influencing nominations and elections stated separately;

(4) Aggregate amounts contributed by any contributor shown to have contributed in excess of $100.

(b) Special reports which the Comptroller General may publish from time to time comparing the various totals and categories of contributions and expenditures made with respect to preceding elections, and such other reports as he may deem appropriate, will likewise receive the widest dissemination.

§ 20.7 Audits and field investigations.

(a) The Comptroller General will make audits and field investigations, from time to time, with respect to reports and statements filed with him under this subchapter and with respect to alleged failure to file any such required report or statement.

(b) Audits and field investigations will be made as directed by the Director of the Office of Federal Elections on his own initiative, on the basis of information received by the Office, or on the basis of complaints received.

(c) All candidates and political committees required to file reports under this subchapter shall keep adequate books and records. Such books and records shall be maintained on a current basis and shall be made available for inspection and audit by authorized representatives of the Comptroller General. Such books and records shall be preserved for a period of 4 years following the date of filing of the reports to which they pertain.

(d) Any omissions or mistakes discovered in a filed report or statement will be called to the attention of the person who filed it with a request for completion or correction. A corrected report or statement or an amendment thereto, shall be signed, verified and submitted in the same manner as the original. In no case shall the filed report or statement be returned or allowed out of the Office.

§ 20.8 Reporting violations to law enforcement authorities.

(a) The Comptroller General will report apparent violations of any provision of title III of the Act or of this subchapter to the Attorney General of the United States for appropriate action.

(b) In the case of any alleged failure to file any report required to be filed with the Comptroller General under the provisions of title III of the Act, the person required to so file shall be notified and requested to explain such failure to file. If the explanation is not made within the time period stated in the letter of notification, or if the explanation is not satisfactory in the judgment of the Director, the case shall be immediately referred to the Attorney General for appropriate action.

§ 20.9 Regulations and interpretations.

The Comptroller General may prescribe additional rules and regulations to carry out the provisions of the Act pertaining to his duties as a supervisory officer. Such rules and regulations and any amendment of this chapter will be published in the FEDERAL REGISTER and distributed to political committees registered with the Comptroller General and will otherwise be made available to any interested person.

Subpart B—Complaints and Violations

§ 20.10 Filing of complaints.

(a) Any person who believes a violation of title III of the Act or of this subchapter, pertaining to the duties and responsibilities of the Comptroller General, has occurred may file a complaint in person or by mail with the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548.

(b) There is no prescribed form for a complaint, but it shall be typewritten or handwritten legibly in ink. The name and address of the person making the complaint must be typewritten or legibly hand printed on the complaint, and the complaint must be signed by such person and verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. A complaint shall be specific in naming the alleged violator and in describing the alleged violation. Complaints will be held in confidence, and officials and employees of the Office may not divulge information about complaints without specific authorization from the Director.

§ 20.11 Investigation.

(a) If, in the judgment of the Director after due consideration of the complaint, there appears to be substantial reason to believe that a violation has occurred or is about to occur, he shall expeditiously undertake an investigation of the complaint. If the complainant is a candidate, the investigation shall include the reports and statements filed by the complainant under this subchapter.

(b) (1) If, on the basis of the investigation, the Director decides that there does not appear to have been any violation, or that there is not likely to be any violation, he shall so notify the complainant and fully state the reasons for the decision. The complainant may, if he is not satisfied with the Director's decision, request a review of the decision by the Comptroller General. Such request must be in writing and must state the reasons why the complainant believes the Director's decision is incorrect.

(2) If the Director decides that there appears to have been, or that there is likely to be, a violation by any person, he shall notify the alleged violator of the decision and advise him of the action proposed to be taken and of his right to a hearing. The notice shall specify the period of time within which a hearing may be requested.

(c) (1) Upon timely request by an alleged violator, the Director shall promptly schedule a hearing on the complaint and shall notify the alleged violator of the time and place of the hearing.

(2) The hearing shall be held before the Director or his designee and shall be held at the Director's office in Washington, D.C., or, in the Director's discretion, at a location in the geographical area of the election involved.

(3) The hearing shall be informal and formal rules of evidence shall not apply. However, the Director or his designee may, in his discretion, exclude any evidence that he considers to be immaterial, repetitious, or scandalous. The alleged violator shall have the right to be represented by an attorney or other representative. Each hearing shall be recorded by sound recording or, in the discretion of the Director, by stenographic methods. A transcript of the proceedings may be purchased by the parties involved at rates to be prescribed by the Director.

(d) Following the hearing or, if no hearing is requested within the time period specified in the notice, then following the expiration of such time period, if the Director believes, in the exercise of his judgment based on the investigation and hearing, if any, that any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of Title III of the Act or any regulation or order issued thereunder, the Director shall, without further notice, refer the matter to the Attorney General of the United States with a request that a civil action for injunctive or other relief be instituted in the appropriate district court of the United States as provided for by section 308(d)(1) of the Act.

PART 21—PENALTIES FOR VIOLATIONS

§ 21.1 Penalties.

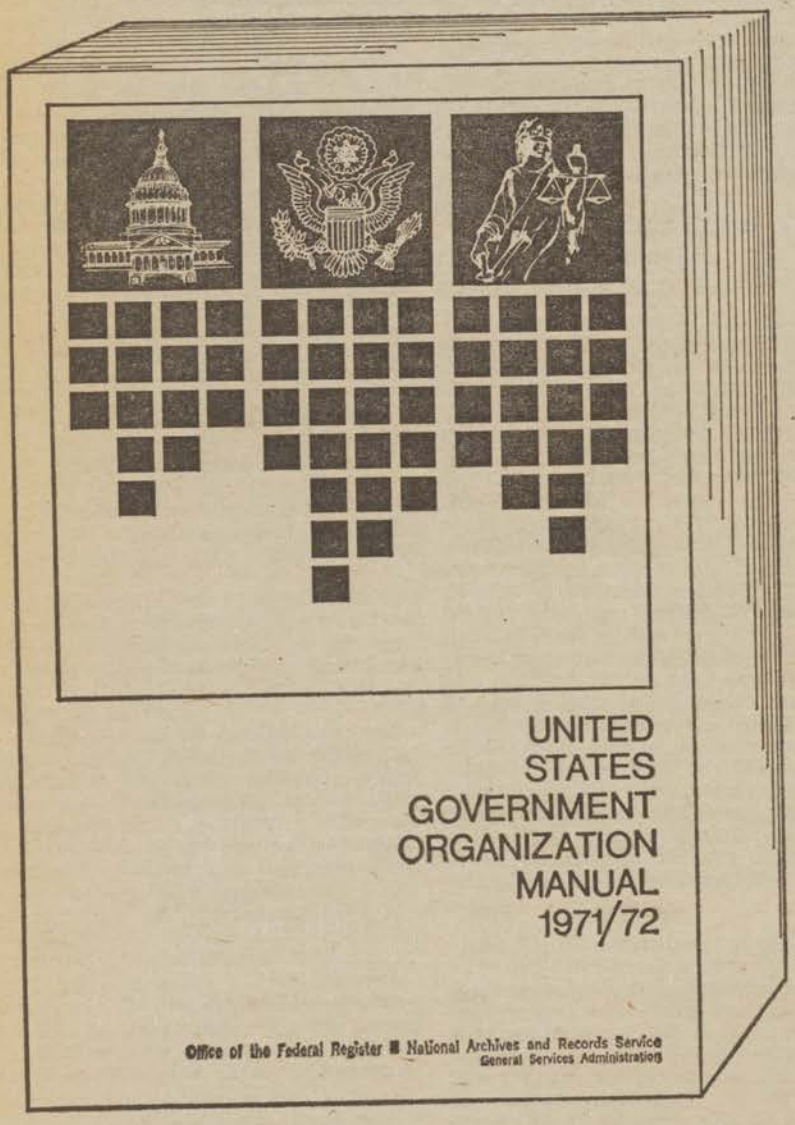
Under section 311(a) of the Act, any person who violates any provision of Title III of the Act may be fined not more than $1,000 or imprisoned not more than 1 year, or both. Under section 311 (b) of the Act, in the case of any conviction under Title III of the Act, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.

(Sec. 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply sec. 311, 86 Stat. 19, — U.S.C. —.)

[SEAL] ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.72-4585 Filed 3-23-72;8:51 am]

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