federal register

TUESDAY, OCTOBER 3, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 192

Pages 20659–20760

PART I

(Part II begins on page 20759)

HIGHLIGHTS OF THIS ISSUE

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

(Continued inside)

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

WILDERNESS AREAS—Interior Dept. notices of availability of environmental impact statements on proposed wilderness classification of certain national parks and monuments (11 documents).. 20734–20736

FOOD ADDITIVES—
FDA notice of petition proposing extraction testing for plastic stabilizer..... 20737
FDA notice of petition proposing change in limitations of a food contact substance..... 20737

NEW ANIMAL DRUGS—FDA approves a swine feed additive and a tranquilizer for dogs (2 documents); effective 10–3–72 20683

LONG STAPLE COTTON—USDA proposes marketing and recordkeeping rules for 1972 and succeeding years; comments within 15 days..... 20721

TRADEMARKS, TRADE NAMES, AND COPYRIGHTS—Customs Bur. revises regulations..... 20677

HISTORIC PLACES—Interior Dept. updates National Register of Historic Places..... 20732

LABOR RELATIONS IN GOVERNMENT—Federal Labor Relations Council adopts changes in handling appeals and negotiations impasses (2 documents); effective 10–3–72..... 20668, 20671

EDUCATIONALLY DEPRIVED CHILDREN—HEW updates regulations for allocations to Indian reservations and correctional Institutions; effective 10–3–72 20759

PROFITS IN FEDERAL CONTRACTS—Renegotiation Board amendments emphasizing principles of administrative due process..... 20690

COAL MINE SAFETY—Interior Dept. requires protective canopies on self-propelled electric mine face equipment; effective 1–1–73..... 20689

TEXTILE IMPORTS—CITA renews limits on cotton products from Egypt, Brazil, Peru, and Korea, and sets visa requirements for products from Taiwan (5 documents)..... 20743–20747

Contents

(*Continued on next page*)

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

3 CFR

PROCLAMATION:

4160 20665

5 CFR

890 20667
2411 20668
2470 20671
2471 20671

7 CFR

PROPOSED RULES:

722 20721

12 CFR

225 20673

14 CFR

39 (3 documents) 20673
71 20674
207 20674
208 20674
212 20674
214 20675
217 20675
241 20676
249 20676

PROPOSED RULES:

71 (2 documents) 20727

19 CFR

11 20678
24 20678
133 20678

21 CFR

135c 20683
135e 20683
135g 20683
164 20685

26 CFR

1 (3 documents) 20686, 20688

PROPOSED RULES:

1 (3 documents) 20700, 20719
301 20700

29 CFR

1902 20728

30 CFR

75 20689

32 CFR

1472 20690
1477 20690

33 CFR

72 20693

41 CFR

1–1 20693
1–3 20693
1–15 20693
5A–1 20693

45 CFR

116 20760
177 20699

47 CFR

PROPOSED RULES:

81 20729
83 20729

49 CFR

192 20694
571 20695
1201 20696
1202 20696
1204 20697
1205 20697
1206 20697
1207 20698
1208 20698
1209 20698
1210 20699

50 CFR

10 20699

Presidential Documents

Title 3—The President

PROCLAMATION 4160

National Heritage Day

By the President of the United States of America

A Proclamation

The special quality of the United States is the interaction of many peoples from many lands, each asserting the freedom to be different, each respecting and honoring his own ethnic heritage, while contributing to a nation in which all are Americans together.

The shining guarantee of our national future is precisely the repeated rebirth, the reinvigoration, the gift of renewal, implicit in this constant meeting of the world's peoples here in our own land.

The unusual virtue of the United States is that all men and women are accepted for what they are, with friendship and respect founded upon knowledge and understanding of all races, creeds, and national origins.

The "melting pot" is one of unity, but never of uniformity.

The national pride of the United States is, in this sense, pride of our people in the heritage we draw from all nations.

In order that we may pause for a moment to express our appreciation of America's heritage, the Congress, by House Joint Resolution 1304, has requested the President to issue a proclamation designating Sunday, October 1, 1972, as National Heritage Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim Sunday, October 1, 1972, as National Heritage Day. I call upon all Americans to reflect upon the composite vitality, enthusiasm and tenacity of the many separate peoples who have built our beloved country, and to celebrate, with appropriate ceremonies, the fact that our one nation is many nations, and our many nations are one nation, dedicated to freedom, under God.

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

Richard Nixon

[FR Doc.72-17004 Filed 10-2-72;10:42 am]

Rules and Regulations

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes of the Code of Federal Regulations. The rate for subscription service to all revised volumes issued as of January 1, 1972, is $195 domestic, $50 additional for foreign mailing. The subscription price for revised volumes to be issued as of January 1, 1973, will be $200 domestic, $50 additional for foreign mailing.

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

CFR unit (Rev. as of Jan. 1, 1972):

Title		Price
1		$1.00
2–3		2.75
3	1936–1938 Compilation	6.00
	1938–1943 Compilation	9.00
	1943–1948 Compilation	10.50
	1949–1953 Compilation	7.00
	1954–1958 Compilation	7.00
	1959–1963 Compilation	9.00
	1964–1965 Compilation	3.75
	1936–1965 Consolidated Indexes	3.50
	1936–1965 Consolidated Tables	5.25
	1966–1970 Compilation	10.00
	1971 Compilation	1.25
4		.55
5		1.75
6	(Rev. June 1, 1972)	1.25
7	Parts:	
	0–45	2.75
	46–51	1.75
	52	3.25
	53–209	3.25
	210–699	2.50
	700–749	2.00
	750–899	1.25
	900–944	1.75
	945–980	1.00
	981–999	1.00
	1000–1059	1.75
	1060–1119	1.75
	1120–1199	1.50
	1200–1499	2.00
	1500-end	2.50
8		1.00
9		2.00
10		1.75
11	(As of July 1, 1972)	.50
12	Parts:	
	1–299	3.00
	300-end	2.75
13		1.25
14	Parts:	
	1–59	3.00
	60–199	2.75
	200-end	3.25
15		2.00
16	Parts:	
	0–149	$3.25
	150-end	2.00
17		2.75
18	Parts:	
	1–149	2.00
	150-end	2.00
19		2.75
20	Parts:	
	01–399	1.25
	400-end	3.00
21	Parts:	
	1–119	1.75
	120–129	1.50
	130–146e	3.00
	147–299	1.25
	300-end	.60
22		1.75
23		.55
24		3.25
25		1.75
26	Parts:	
	1 (§§ 1.0–1—1.300)	3.50
	1 (§§ 1.301–1.400)	1.00
	1 (§§ 1.401–1.500)	1.50
	1 (§§ 1.501–1.640)	1.25
	1 (§§ 1.641–1.850)	1.75
	1 (§§ 1.851–1.1200)	2.00
	1 (§§ 1.1201–end)	3.50
	2–29	1.25
	30–39	1.50
	40–169	2.00
	170–299	3.75
	300–499	1.50
	500–599	1.75
	600-end	.60
27		.45
28		1.00
29	Parts:	
	0–499	1.75
	500–899	3.00
	900-end	4.00
30		2.75
31		2.50
32	Parts:	
	1–8	3.50
	9–39	2.50
	40–399	2.75
	400–589	2.50
	590–699	1.00
	700–799	3.50
	800–999	2.00
	1000–1399	.75
	1400–1599	1.50
	1600-end	1.00
32A		1.50
33	Parts:	
	1–199	2.50
	200-end	1.75
34	[Reserved]	
35		1.75
36		1.25
37		.70
38		3.50
39		2.00
40		1.75
41	Chapters:	
	1–2	$2.75
	3–5D	2.00
	6–17	3.75
	18	3.75
	19–100	1.25
	101-end	2.75
42		1.75
43	Parts:	
	1–999	1.50
	1000-end	2.75
44		.35
45	Parts:	
	1–199	2.00
	200-end	2.00
46	Parts:	
	1–65	2.75
	66–145	2.75
	146–149	3.75
	150–199	2.75
	200-end	3.00
47	Parts:	
	0–19	1.75
	20–69	2.50
	70–79	1.75
	80-end	2.75
48	[Reserved]	
49	Parts:	
	1–99	.60
	100–199	3.75
	200–999	2.00
	1000–1199	1.25
	1200–1299	3.00
	1300-end	1.25
50		1.25
General Index		1.75
List of Sections Affected, 1949–1963 (Compilation)		6.75

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Miscellaneous Amendments

On August 16, 1972, the following was published in the FEDERAL REGISTER as proposed rule making. The purposes of the amendments are to provide for: (1) Payment of additional funds from a plan's contingency reserve, upon authorization by the Commission; and (2) approval of a new plan to participate in the program to become effective on January the 1st of a calendar year which is at least 9 months after the Commission receives the plan's application to participate and at least 6 months after all evidence required for approval has been received by the Commission. The comments, objections, and suggestions received on the proposal have been considered by the Commission, resulting in

minor revisions in the text of the regulations. Accordingly, Part 890 of Title 5, Code of Federal Regulations, is amended as set out below.

1. Section 890.503(c)(5) is added as follows:

§ 890.503 Reserves.

* * * * *

(5) In addition to those amounts, if any, paid under the above subparagraphs of this paragraph, the Commission may authorize such other payments from the contingency reserve as in the judgment of the Commission may be in the best interest of employees and annuitants enrolled in the program. Amounts paid from the contingency reserve under this subparagraph and under the above subparagraphs of this paragraph shall be considered to be subscription charges in the year in which paid.

2. Section 890.203(a) is amended to read as follows:

§ 890.203 Application for approval of, and proposal of amendments to, health benefits plans.

(a) Application for approval of comprehensive medical plans may be made by letter to the U.S. Civil Service Commission, Washington, D.C. 20415. Participation of an approved plan becomes effective on the January 1st which is (a) at least 9 months after the Commission receives the application and (b) at least 6 months after the Commission receives all evidence to demonstrate that the plan has met all requirements for approval.

* * * * *

(5 U.S.C. 8913)

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

[FR Doc.72-16823 Filed 10-2-72;8:51 am]

Chapter XIV—Federal Labor Relations Council and Federal Service Impasses Panel

SUBCHAPTER B—FEDERAL LABOR RELATIONS COUNCIL

PART 2411—REVIEW FUNCTIONS OF THE COUNCIL

On May 5, 1972, there was published in the FEDERAL REGISTER (37 F.R. 9138) a notice of proposed amendments of rules concerning the procedures of the Council.

Interested persons were invited to submit their views and suggestions in writing within 20 days after publication of such notice. All relevant matter which was submitted has been carefully considered, and the Council has decided to adopt the proposed amendments, with changes, as set forth below.

Accordingly, the Council amends Title 5 of the Code of Federal Regulations, Subchapter B, Part 2411, of Chapter XIV to read as follows:

Subpart A—General Provisions

Sec.
2411.1 Scope.
2411.2 Coverage.
2411.3 Definitions.
2411.4 Policy questions.

Subpart B—Review of Decisions of the Assistant Secretary

2411.11 Purpose.
2411.12 Considerations governing review.
2411.13 Who may file a petition; time limit for filing; opposition; service.
2411.14 Content of petition.
2411.15 Council action on acceptance.
2411.16 Filing of briefs; Assistant Secretary as a party.
2411.17 Council decision; compliance actions.

Subpart C—Review of Negotiability Issues

2411.21 Purpose.
2411.22 Conditions governing review.
2411.23 Who may file a petition; time limits for filing; service.
2411.24 Content of petition.
2411.25 Position of the agency; time limits for filing.
2411.26 Referral by the Federal Service Impasses Panel.
2411.27 Council decision.

Subpart D—Review of Arbitration Awards

2411.31 Purpose.
2411.32 Considerations governing review.
2411.33 Who may file a petition; time limits for filing; opposition; service.
2411.34 Content of petition.
2411.35 Council action on acceptance.
2411.36 Filing of briefs.
2411.37 Council decision.

Subpart E—General Requirements

2411.41 Interlocutory appeals.
2411.42 Approval of submission.
2411.43 Where to file.
2411.44 Number of copies.
2411.45 Time limits; computation; extension.
2411.46 Service; statement of service.
2411.47 Stay of decision or award; requests; criteria.
2411.48 Oral argument.
2411.49 Amicus curiae.
2411.50 Transfer of record.
2411.51 Matters not previously presented; judicial notice.
2411.52 Advisory opinions.
2411.53 Distribution of Council decisions.

AUTHORITY: The provisions of this Part 2411 are issued under 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861; as amended by E.O. 11616, 36 F.R. 17319, and E.O. 11636, 36 F.R. 24901.

Subpart A—General Provisions

§ 2411.1 Scope.

This part sets forth the procedures under which the Council will review decisions of the Assistant Secretary issued pursuant to section 6 of the order, negotiability issues as provided in section 11(c) of the order, and arbitration awards under the order.

§ 2411.2 Coverage.

This part applies to employees, agencies, and labor organizations covered by the order.

§ 2411.3 Definitions.

In this part—

(a) "Order" means Executive Order 11491 of October 29, 1969, entitled "Labor-Management Relations in the Federal Service," as amended by Executive Order 11616 of August 26, 1971, and by Executive Order 11636 of December 17, 1971.

(b) "Executive Director" means the Executive Director of the Council.

(c) "Party" means any person, employee, labor organization, or agency that participated as a party—

(1) In a matter that was decided by the Assistant Secretary under section 6 of the order; or

(2) In a matter that was decided by an agency head under section 11(c) of the order; or

(3) In a matter where the award of an arbitrator was issued under the order.

(d) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations, except that in matters arising under section 6(a) of the order involving the Department of Labor, it means the vice chairman of the Civil Service Commission.

(e) Terms defined in the order are used in this part with the meaning attached to them in the order.

§ 2411.4 Policy questions.

Notwithstanding the procedures set forth in this part, the Assistant Secretary or the panel may refer for review and decision or general ruling by the Council any case involving a major policy issue that arises in a proceeding before either of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Council shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate.

Subpart B—Review of Decisions of the Assistant Secretary

§ 2411.11 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review decisions of the Assistant Secretary issued pursuant to section 6 of the order.

§ 2411.12 Considerations governing review.

A petition for review of a decision of the Assistant Secretary is not a matter of right, but of discretion, and, subject to the requirements of this part, will be granted only where there are major policy issues present or where it appears that the decision was arbitrary and capricious.

§ 2411.13 Who may file a petition; time limit for filing; opposition; service.

(a) Any party aggrieved by a final decision of the Assistant Secretary may petition the Council for review.

(b) The time limit for filing is 20 days from the date the decision was served on the party seeking review.

(c) An opposition to Council acceptance of a petition for review may be filed by any party within 15 days from the date of service of the petition.

(d) A copy of the petition for review and of any opposition to acceptance shall be served by the filing party simultaneously on the other parties and on the Assistant Secretary.

§ 2411.14 Content of petition.

A petition must be a self-contained document enabling the Council to rule on acceptance for review on the basis of its content without the necessity of recourse to the record. The petition must contain:

(a) A concise statement of the grounds on which review is requested;

(b) A summary of the evidence or rulings bearing on the issues, together with a summary of the arguments; and

(c) A copy of the decision of the Assistant Secretary which is being appealed.

§ 2411.15 Council action on acceptance.

The Council shall review the petition and, if 50 percent or more of its members determine that the matter should be considered, the petition will be accepted. The Council shall promptly notify the parties whether the petition has been accepted or rejected.

§ 2411.16 Filing of briefs; Assistant Secretary as a party.

(a) Within 15 days from the date of service by the Council of notice to the parties that the petition is accepted for review, the parties may file briefs with the Council (with specific references to the pertinent documents and, where applicable, with citations of authorities) which shall be served on the other parties.

(b) Where the Council grants review, the Assistant Secretary may, at his discretion, intervene and become a party to the proceeding.

§ 2411.17 Council decision; compliance actions.

(a) A decision of the Assistant Secretary shall be sustained unless it is arbitrary and capricious or inconsistent with the purposes of the order.

(b) The Council shall issue its decision on the case sustaining, enforcing, modifying, and enforcing as so modified, setting aside in whole or in part, or remanding the decision of the Assistant Secretary.

(c) The Council has the overall responsibility to assure compliance with the Executive order and decisions rendered thereunder. However, the Council shall first remand the action to the Assistant Secretary for purposes of compliance consistent with its decision, without limitation on the power of the Council. If the Assistant Secretary finds the necessary action for compliance has not been taken, the matter shall revert to the Council for appropriate action.

Subpart C—Review of Negotiability Issues

§ 2411.21 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review negotiability issues as provided in section 11(c) of the order.

§ 2411.22 Conditions governing review.

The Council will consider a negotiability issue under the conditions prescribed by section 11(c)(4) of the order, namely: If, in connection with negotiations, the head of an agency (or his designee) has determined that a proposal is contrary to law, regulation, or the order and therefore not negotiable, a labor organization may appeal to the Council for a decision when—

(a) It disagrees with the agency head's determination that the proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order; or

(b) It believes that the agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order.

§ 2411.23 Who may file a petition; time limits for filing; service.

(a) A petition for review of a negotiability issue may be filed by a labor organization which is a party to the negotiations.

(b) The time limit for filing is 20 days from the date the agency head's determination was served on the labor organization. However, review of a negotiability issue may be requested by a labor organization under this subpart without a prior determination by the agency head, if the agency head has not made a decision—

(1) Within 45 days after a party to the negotiations initiates referral of the issue for determination, in writing, through prescribed agency channels; or

(2) Within 15 days after receipt by the agency head of a written request for such determination following referral through prescribed agency channels, or following direct submission if no agency channels are prescribed.

(c) A copy of the petition shall be served simultaneously on the other party.

§ 2411.24 Content of petition.

A petition for review shall contain the following:

(a) A statement setting forth the matter proposed to be negotiated as submitted to the agency head for determination.

(b) A copy of the agency head's determination on the proposal, and other documentary material pertinent to the issue.

(c) A full and detailed statement of the labor organization's position and reasons for:

(1) Disagreeing with the agency head's determination that the proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order; or

(2) Believing that the agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order. In this circumstance the statement shall cite the particular section of law, regulation, or the order believed to be violated by the agency's regulations.

§ 2411.25 Position of the agency; time limits for filing.

Within 15 days from the date of service of a copy of a petition for review of a negotiability issue the agency shall file a full statement of its position on any matters relevant to the petition which it wishes the Council to consider in reaching its decision.

§ 2411.26 Referral by the Federal Service Impasses Panel.

(a) Notwithstanding the procedures of this subpart, except 2411.22, when the Panel finds that a negotiability issue is impeding the resolution of a negotiation impasse, the Panel may refer the negotiability issue to the Council for decision.

(b) A referral by the Panel shall contain:

(1) The matter proposed to be negotiated as submitted to the agency head for determination;

(2) The agency head's determination thereon;

(3) Statements of position from each party with supporting evidence and argument; and

(4) Any other appropriate documents of record.

(c) The Panel may refer a negotiability issue for decision by the Council at any time during its consideration of a negotiation impasse.

(d) The Council will give such referrals priority consideration.

§ 2411.27 Council decision.

Subject to the requirements of this part, the Council shall issue its decision sustaining or setting aside in whole or in part, or remanding the agency head's determination.

Subpart D—Review of Arbitration Awards

§ 2411.31 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review arbitration awards under the order.

§ 2411.32 Considerations governing review.

The Council will grant a petition for review of an arbitration award only where it appears, based upon the facts and circumstances described in the petition, that the exceptions to the award present grounds that the award violates applicable law, appropriate regulation, or the order, or other grounds similar to those upon which challenges to arbitration awards are sustained by courts in

private sector labor-management relations. The Council will not consider exceptions to an advisory arbitration award.

§ 2411.33 Who may file a petition; time limits for filing; opposition; service.

(a) Any party aggrieved by an arbitration award may petition the Council for review.

(b) The time limit for filing is 20 days from the date the award was served on the party-seeking review.

(c) An opposition to Council acceptance of a petition for review may be filed by any party within 15 days from the date of service of the petition.

(d) A copy of the petition shall be served simultaneously on the other party.

§ 2411.34 Content of petition.

A petition must be a self-contained document enabling the Council to rule on acceptance for review on the basis of its content without necessity of recourse to the record. The petition must contain:

(a) A concise statement of the grounds on which review is requested;

(b) A summary of the evidence or rulings bearing on the issues, together with a summary of the arguments; and

(c) A copy of the award of the arbitrator and other pertinent documents.

§ 2411.35 Council action on acceptance.

The Council shall review the petition and, if 50 percent or more of its members determine that the matter should be considered, the petition will be accepted. The Council shall promptly notify the parties whether the petition has been accepted or rejected.

§ 2411.36 Filing of briefs.

Within 15 days from the date of service by the Council of notice to the parties that the petition is accepted for review, the parties may file briefs with the Council (with specific reference to the pertinent documents and, where applicable, with citations of authorities) which shall be served on the other parties.

§ 2411.37 Council decision.

(a) An award of an arbitrator shall be modified, set aside in whole or in part, or remanded only on grounds that the award violates applicable law, appropriate regulation, or the order, or other grounds similar to those applied by the courts in private sector labor-management relations.

(b) The Council shall issue its decision sustaining, modifying, setting aside in whole or in part, or remanding the award.

Subpart E—General Requirements

§ 2411.41 Interlocutory appeals.

There shall be no interlocutory appeals. The Council will not consider a petition for review until a final decision or award has been rendered.

§ 2411.42 Approval of submission.

The Council shall consider a petition from an agency or labor organization only when the head of the agency (or his designee), or the national president of the labor organization (or his designee), or the president of a labor organization not affiliated with a national organization (or his designee), as appropriate, has approved submission of the petition.

§ 2411.43 Where to file.

A document submitted to the Council pursuant to this part shall be filed with the Executive Director, Federal Labor Relations Council, 1900 E Street, NW., Washington, DC 20415.

§ 2411.44 Number of copies.

Unless otherwise provided by the Executive Director, any document filed with the Council under this part shall be submitted in an original and three copies.

§ 2411.45 Time limits; computation; extension.

(a) When a time limit for filing is established under this part, the document must be received in the office of the Council before the close of business of the last day of the time limit.

(b) In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included; but the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or Federal legal holiday. Also, when a period of time prescribed or allowed is 7 days or less, intermittent Saturdays, Sundays, and Federal legal holidays shall be excluded in the computation.

(c) Whenever a party has the right or is required to do some act pursuant to this part within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, 3 days shall be added to the prescribed period: Provided, however, that 3 days shall not be added if any extension of time may have been granted.

(d) The Executive Director may extend any time limit provided in this part for good cause shown, and shall notify the parties of any such extension.

§ 2411.46 Service; statement of service.

(a) Any party filing a document as provided in this part is responsible for simultaneously serving a copy on the other parties.

(b) A statement of service shall be submitted at the time of filing. Statement of service shall include the names of the parties served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(c) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person, as the case may be.

§ 2411.47 Stay of decision or award; requests; criteria.

(a) The filing of a petition for review shall not operate as a stay of the decision or award involved in the proceedings unless the Council shall direct otherwise.

(b) Consistent with section 2411.41, the Council will not consider a request for stay unless a final decision or award has been rendered.

(c) A request for stay of an Assistant Secretary's decision will be granted only where it appears, based upon the facts and circumstances presented:

(1) In a representation case, that—

(i) There is a strong likelihood of success on the merits of the appeal;

(ii) In the absence of a stay the applicant will suffer irreparable injury;

(iii) The issuance of a stay will not have a serious adverse effect on other parties to the case; and

(iv) The public interest will not be harmed by the grant of a stay.

(2) In an unfair labor practice case, that—

(i) There is a reasonable likelihood that the appeal will be accepted for review; and

(ii) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

(d) A request for stay of an arbitrator's award will be granted only where it appears, based upon the facts and circumstances presented that:

(1) There is a reasonable likelihood that the petition will be accepted for review; and

(2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

(e) A request for stay in other types of cases will be granted only where it appears, based upon the facts and circumstances presented, that:

(1) There is a reasonable likelihood the appeal will be accepted for review; and

(2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

§ 2411.48 Oral argument.

The Council, in its discretion, may permit oral argument under such circumstances and conditions as it deems appropriate. Unless otherwise ordered, a hearing of oral argument shall be open to the public.

§ 2411.49 Amicus curiae.

The Council, upon petition of an interested person and as it deems appropriate, may grant permission for the filing of a brief and oral argument by an amicus curiae and the parties shall be notified of such action by the Council.

§ 2411.50 Transfer of record.

Upon request by the Council, the Assistant Secretary or the appropriate agency shall transfer the record in the case to the Council.

§ 2411.51 Matters not previously presented; judicial notice.

Consistent with the scope of review set forth in this part, the Council will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Assistant Secretary, an agency head, or an arbitrator.

The Council may, however, take judicial notice of such matters as would be proper.

§ 2411.52 Advisory opinions.

The Council shall not issue advisory opinions.

§ 2411.53 Distribution of Council decisions.

Copies of decisions by the Council shall be furnished to the parties and other interested persons and made available at the office of the Council.

Effective date. This part shall become effective on the date of its publication in the FEDERAL REGISTER (10–3–72).

For the Council.

ROBERT E. HAMPTON,
Chairman.

[FR Doc.72–16711 Filed 10–2–72;8:55 am]

SUBCHAPTER C—FEDERAL SERVICE IMPASSES PANEL

PART 2470—GENERAL

PART 2471—PROCEDURES OF THE PANEL

On May 5, 1972, there was published in the FEDERAL REGISTER (37 F.R. 9141) a notice of proposed amendments of rules concerning the procedures of the Panel. Interested persons were invited to submit their written comments, suggestions, or objections within 20 days after publication of such notice. All relevant matter which was submitted has been carefully considered, and the Panel has decided to adopt the proposed amendments with changes, along with relevant suggestions submitted, as set forth below.

Accordingly, the Panel amends Title 5 of the Code of Federal Regulations, Subchapter C of Chapter XIV to read as as set forth below.

1. Part 2470 is revised to read as follows:

Subpart A—Purpose

Sec.
2470.1 Purpose.

Subpart B—Definitions

2470.2 Definitions.

AUTHORITY: The provisions of this Part 2470 are issued under 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861; as amended by E.O. 11616, 36 F.R. 17319, and E.O. 11636, 36 F.R. 24901.

Subpart A—Purpose

§ 2470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of sections 5 and 17 of Executive Order 11491 of October 29, 1969, as amended, entitled "Labor-Management Relations in the Federal Service." They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiation impasses when the parties negotiating a labor agreement have failed to reach a full settlement by mediation or other voluntary arrangements.

Subpart B—Definitions

§ 2470.2 Definitions.

(a) The following definitions are used in this subchapter:

(1) Executive Secretary means the Executive Secretary of the Panel.

(2) Factfinder(s) means a designated representative of the Panel acting in its behalf in the capacity of a hearing official charged with the responsibility of assembling the facts and positions of the parties to an impasse. He may be a Panel Member, a staff member or other individual designated by the Panel.

(3) Impasse means that point in the negotiation of a labor agreement at which the parties are unable to reach full agreement, notwithstanding their having made earnest efforts to reach agreement by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.

(4) Order means Executive Order 11491 of October 29, 1969, as amended, entitled "Labor-Management Relations in the Federal Service."

(5) Panel means the Federal Service Impasses Panel or a quorum thereof.

(6) Party means the Federal agency, establishment or activity or the labor organization, as defined in sections 2 (a) and (e) of the order, participating in the negotiation of a labor agreement.

(7) Quorum means three or more members of the Panel.

(8) Voluntary arrangements means those methods adopted by the parties for the purpose of assisting them in their negotiation of a labor agreement, which include utilization of (i) the services of the Federal Mediation and Conciliation Service; or (ii) other third-party mediation assistance; or (iii) joint factfinding committees without recommendations; or (iv) referral to a higher authority within the agency and/or the labor organization; or (e) any other method which the parties deem appropriate except third-party factfinding with recommendations, or arbitration, unless said factfinding or arbitration is expressly authorized or directed by the Panel.

(b) Terms defined in the order are used in this part with the meaning attached to them in the order.

2. Part 2471 is revised to read as follows:

Sec.
2471.1 Who may initiate.
2471.2 What to file.
2471.3 Request form.
2471.4 Where to file.
2471.5 Copies and service.
2471.6 Initial procedures of the Panel.
2471.7 Negotiability questions.
2471.8 Use of third-party factfinding with recommendations, or arbitration.
2471.9 Factfinding determination by the Panel; notice of prehearing conference and formal hearing.
2471.10 Prehearing conference.
2471.11 Authority of factfinder(s).
2471.12 Availability of hearing transcript.
2471.13 Report of the factfinder(s) and action by the Panel.
2471.14 Duties of each party.
2471.15 Settlement action by the Panel.
2471.16 Inconsistent labor agreement provisions.

AUTHORITY: The provisions of this Part 2471 are issued under 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861; as amended by E.O. 11616, 36 F.R. 17319, and E.O. 11636, 36 F.R. 24901.

§ 2471.1 Who may initiate.

(a) When an impasse occurs during the course of labor agreement negotiations, either party, or the parties jointly, may request the Panel to consider the matter, by filing a request as hereinafter provided.

(b) The Panel may, upon the request of the Federal Mediation and Conciliation Service, undertake the consideration of an impasse when such mediation assistance has failed and neither party has requested the Panel's consideration.

(c) The Panel may, upon the request of the Executive Secretary, undertake the consideration of a matter which has reached impasse and where neither party has requested the Panel's consideration.

§ 2471.2 What to file.

A request to the Panel for consideration of an impasse must be in writing and include the following essential information:

(a) Identification of the parties and person(s) authorized to initiate the request;

(b) Statement that an impasse has been reached;

(c) Statement of issue(s) at impasse and the position(s) of the initiating party or parties with respect to those issues; and

(d) The nature and extent of all voluntary arrangements utilized.

§ 2471.3 Request form.

FSIP Form 1 has been prepared for use by the parties in filing a request to the Panel for consideration of an impasse.[1] Copies are available upon request to the Office of the Executive Secretary.

§ 2471.4 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Secretary, Federal Service Impasses Panel, 1900 E Street NW., Washington, DC 20415.

§ 2471.5 Copies and service.

Any party submitting a request for Panel consideration and any party submitting a response to such request is responsible for serving a copy simultaneously on the other party to the dispute and on any mediation facility which may have been utilized. When the Panel acts on its own motion, it will notify the parties to the dispute and any mediation facility which may have been utilized.

§ 2471.6 Initial of the Panel

(a) Upon receipt of a request for consideration of an impasse, the Panel will initiate an informal inquiry covering the issue(s) and the positions of the parties thereon, and will consult when necessary

[1] Filed as a part of the original document.

with the parties and the mediation facility utilized, if any, and then determine whether to:

(1) Dismiss the request; or

(2) Direct that negotiations be resumed; or

(3) Direct that negotiations be resumed with mediation assistance; or

(4) Authorize other voluntary arrangements for settlement; or

(5) Assume jurisdiction of the impasse in accordance with the procedures set forth in the following sections.

(b) The parties will be promptly advised in writing of the Panel's initial determination.

§ 2471.7 Negotiability questions.

(a) If, in connection with the consideration of an impasse, a contention has been made that a proposal is contrary to law, regulation, controlling agreement or the order and therefore is not negotiable, the Panel may in its discretion take any of the following actions at any stage of its procedures with respect to said proposal, while the merits of the remaining proposals, if any, may be considered by the Panel:

(1) Request the parties to resolve a question involving interpretation of a controlling agreement at a higher agency level under the procedures of the controlling agreement or, if no such procedures exist, under appropriate agency regulations;

(2) Request the parties to refer a question of negotiability which arose at a local level to the head of the agency for determination;

(3) Refer a question of negotiability to the Federal Labor Relations Council for decision, or advise the labor organization that it may appeal a question of negotiability to the Council for decision, when a labor organization (i) disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order, or (ii) contends that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order.

(b) In making a referral to the Council as described in paragraph (a)(3) of this section, the Panel will submit the proposal in dispute, the agency head's determination thereon, a statement of position with supporting evidence and argument from each party on the negotiability question, and any other appropriate documents of record.

(c) Upon receipt of a decision of the Council that a proposal is negotiable, based upon a question of negotiability referred to the Council by the Panel, the Panel's report to the parties will include the Council's negotiability decision. If warranted, the Panel may refer the proposal to the parties for negotiations.

(d) Upon receipt of a decision of the Council that a proposal is not negotiable, based upon a question of negotiability referred to the Council by the Panel, the Panel will cease to give any further consideration to the proposal and so inform the parties.

(e) The Panel will not make any referrals to the Council under this section when:

(1) The negotiability issue is the only issue at impasse and it arose prior to the filing of the request to the Panel; or

(2) The labor organization has not requested the Panel in writing to make such a referral; or

(3) An agency head determination is pending or issued prior to the filing of the request to the Panel; or

(4) A petition for the review of an agency head determination is pending before the Council; or

(5) An agency head determination was issued after the filing of the request to the Panel, and the labor organization did not request the Panel in writing to refer the negotiability issue to the Council within 20 days from the date the determination was served on the labor organization.

§ 2471.8 Use of third-party factfinding with recommendations, or arbitration.

The parties may resort to third-party factfinding with recommendations, or arbitration, to resolve an impasse, only when authorized or directed by the Panel, and provided the parties have:

(a) Made a joint request to the Panel in writing for such authority;

(b) Agreed upon what issue(s) are at impasse;

(c) Agreed on the method of selecting the third party;

(d) Agreed upon an arrangement for paying the cost of the proceedings; and

(e) Used without success any other arrangement for settlement.

§ 2471.9 Factfinding determination by the Panel; notice of prehearing conference and formal hearing.

(a) When the Panel determines that resolution of an impasse requires factfinding it will:

(1) Appoint one or more factfinders to investigate the dispute; and

(2) Issue and serve, upon each of the parties, a notice of prehearing conference, when scheduled, and of formal hearing.

(b) The notice will state:

(1) Names of the parties to the dispute;

(2) Date, time, place, and purpose of the prehearing conference;

(3) Date, time, and place of the formal hearing;

(4) Name(s) of the factfinder(s) appointed by the Panel; and

(5) Issues to be resolved.

§ 2471.10 Prehearing conference.

A prehearing conference may be held by the factfinder prior to the factfinding hearing to:

(a) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(b) Explore the possibilities of obtaining stipulations of fact;

(c) Clarify the positions of the parties with respect to the issues to be heard, including claims concerning negotiability, if any; and

(d) Discuss any other relevant matters which will help achieve the objectives of the hearing.

§ 2471.11 Authority of factfinder(s).

Factfinder(s), when conducting hearings, shall have the authority to:

(a) Take testimony, including depositions;

(b) Conduct the hearing in open session. The hearing may be conducted in closed session at the discretion of the factfinder(s), however, for good cause shown by either of the parties;

(c) Rule on motions, and requests for appearance of witnesses and the production of records;

(d) Designate the date on which post-hearing briefs, if any, shall be submitted. An original and two copies of each brief shall be submitted to the Executive Secretary with a copy to the other party and a statement of service; and

(e) Regulate all procedural matters of the hearing as to length of sessions, conduct of persons in attendance, recesses, continuances and adjournment; and take any other appropriate action which, in his judgment, will promote the purpose and objectives of the hearing.

§ 2471.12 Availability of hearing transcript.

The parties will make their own arrangements with the reporter for the purchase of their copies of the official transcript of a factfinding proceeding. A copy will be available for examination at the Office of the Executive Secretary.

§ 2471.13 Report of the factfinder(s) and action by the Panel.

(a) The factfinder(s) shall submit a report to the Panel within a reasonable time, normally not to exceed 20 calendar days, after receipt of the transcript, or after receipt of briefs, if any. The parties will be advised when the report has been transmitted to the Panel. The report will not include recommendations for settlement but will include findings of fact on:

(1) History of the current negotiations, including the initial positions of the parties, and a report of items agreed to in whole or part;

(2) Unresolved issues and the efforts made by the parties to reach agreement thereon;

(3) Context within which the negotiations have taken place;

(4) Justification for each proposal as advanced by the parties;

(5) Prevailing practices, if any, pertaining to conditions of employment for other public employees in comparable work situations;

(6) Status of any claim concerning negotiability; and

(7) Any other matters relevant to the impasse.

(b) After receipt of the report of the factfinder(s), the Panel will evaluate the impasse and either:

(1) Submit its recommendations for settlement to the parties; or

(2) Take any other action which it deems appropriate.

§ 2471.14 Duties of each party.

(a) Within 20 calendar days after receipt of a Panel Report and Recommendation(s) for Settlement, each party shall, after conferring with the other, either:

(1) Accept the Panel's recommendations and so notify the Executive Secretary; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Secretary; or

(3) Submit a written statement to the Executive Secretary setting forth the reasons for not accepting the Panel's recommendations and reaching a settlement of all unresolved issues.

(b) A reasonable extension of the 20-day period may be authorized by the Executive Secretary for good cause shown when requested in writing by either party prior to the expiration of the 20-day period.

§ 2471.15 Settlement action by the Panel.

In the event there remain any unresolved issues at the end of the aforesaid 20-day period or any extension thereof, the Panel, after due consideration of the responses of the parties, will take whatever action it deems necessary to bring the dispute to settlement.

§ 2471.16 Inconsistent labor agreement provisions.

Any provisions of the parties' labor agreements relating to impasse resolution which are inconsistent with the provisions of either sections 5 and 17 of the order or the procedures of the Panel shall be deemed to be superseded by the order and the procedures herein.

Effective date. Subchapter C shall become effective on the date of publication in the FEDERAL REGISTER (10–3–72).

Signed at Washington, D.C., this 20th day of September 1972 for the Panel.

JACOB SEIDENBERG,
Chairman.

[FR Doc.72–16712 Filed 10–2–72;8:55 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities of Bank Holding Companies; Correction

In F.R. Doc. 72–15503 adopting the Board's interpretation designated § 225.128—*Insurance agency activities*—which appeared in the September 13, 1972 issue of the FEDERAL REGISTER (37 F.R. 18520), the date of the Board's action was incorrectly shown as August 31, 1971. The correct date is August 31, 1972.

Board of Governors of the Federal Reserve System, September 25, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72–16807 Filed 10–2–72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72–CE–29–AD, Amdt. 39–1524]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 65–90, 65–A90, B90, 99, 99A, A99A, and B99 Airplanes; Correction

In F.R. Doc. 72–16150, appearing on pages 19802 and 19803 in the issue of Friday, September 22, 1972, paragraph D should be corrected to read as follows:

(D) When paragraph C has been complied with the limitation in paragraph A may be removed and the check required by paragraph B may be discontinued.

Issued in Kansas City, Mo., on September 25, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72–16760 Filed 10–2–72;8:46 am]

[Docket No. 72–SO–93, Admt. 39–1527]

PART 39—AIRWORTHINESS DIRECTIVES

Aero Commander (Intermountain) (CallAir) Models B–1 and B–1A Series Airplanes

There have been failures of the landing gear shock struts on the Aero Commander Models B–1 and B–1A series airplanes. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued to require replacement of the main landing gear shock struts with redesigned struts on the Aero Commander (Intermountain) (CallAir) Models B–1 and B–1A airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon 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 me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

AERO COMMANDER DIVISION, NORTH AMERICAN ROCKWELL CORP. Applies to all Aero Commander (Intermountain) (CallAir) Models B–1 and B–1A series airplanes, S/N's 10,000 through 10,035.

Compliance required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent failures of the landing gear shock struts, accomplish the following:

(a) Remove main landing gear shock struts, P/N 18004–1 (left hand) and P/N 18004–2 (right hand) and discard struts and all hardware except the wire cutters, P/N 18026.

(b) Install replacement shock struts, P/N 18045–1 (left hand) and P/N 18045–2 (right hand). Attach these struts with the following hardware:

(1) Upper strut attachment (2 required per strut): NAS 1306–26 bolt, AN 960–616 washer, AN 365–624 nut.

(2) Lower strut attachment (1 required per strut): NAS 1306–38 bolt, AN 960–616 washer, AN 365–624 nut.

(c) Replace the wire cutter, P/N 18026, on the new landing gear shock strut with two AN 3–6A bolts, two AN 960–10 washers, and two AN 365–1032 nuts. Repeat for the opposite strut.

Aero Commander Service Bulletin A–23 pertains to this same subject.

This amendment becomes effective October 6, 1972.

(Sec. 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 East Point, Ga., on September 20, 1972.

P. M. SWARTEK,
Director, Southern Region.

[FR Doc.72–16758 Filed 10–2–72;8:46 am]

[Airworthiness Docket No. 72–SW–53, Amdt. 39–1531]

PART 39—AIRWORTHINESS DIRECTIVES

Airplanes Having Wings, Tail, or Control Surfaces Covered With Fiberglass Using "Razorback" Method

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive applicable to airplanes having wings, tail, or control surfaces covered with fiberglass using the "razorback" method was published in 37 F.R. 16106.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Certain detail changes were requested and the intent of these changes have been incorporated.

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

Applies to airplanes having wings, tail, or control surfaces covered with fiberglass using the "razorback" method, certificated in all categories.

Compliance required within the next 50 hours' time in service after the effective date of this airworthiness directive, unless already accomplished.

To determine if the fabric is attached with plastic coated glass rib stitch cord, inspect the interior of the wings, tail, or control surfaces through inspection openings or by cutting small holes in the fabric. The plastic coating on the rib stitch cord is black in color.

(a) If the fabric is attached with the plastic coated rib stitch cord, replace the stitching with MIL-C-5649 cord or FAA-approved equivalent.

(b) If the fabric is attached with MIL-C-5649 cord, or FAA-approved equivalent, no further action is required.

(c) All work required, including patching holes, may be acomplished in accordance with FAA Advisory Circular 43.13-1. Razorback Fabrics, Inc., Service Bulletin 1-1 dated March 11, 1964, covers the same subject.

NOTE: Copies of Razorback Fabrics, Inc., Service Bulletin 1-1 may be obtained from the company at Manila, Ark. 72442.

This amendment becomes effective October 16, 1972.

(Sec. 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 Fort Worth, Tex., on September 25, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-16759 Filed 10-2-72;8:46 am]

[Airspace Docket No. 72-SO-80]

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

Alteration of Transition Area

On August 17, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16599), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Knoxville, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Knoxville, Tenn., transition area is amended as follows:

"* * * beginning * * *" is deleted and "* * * beginning; within a 15-mile radius of Sevier-Gatlinburg Airport (Lat. 35°-51'25" N., Long. 83°31'44" W.); excluding the portion within the Morristown, Tenn., transition area * * *" is substituted therefor.

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

Issued in East Point, Ga., on September 22, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-16761 Filed 10-2-72;8:46 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-761]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By notice of proposed rule making EDR-218/SPDR-22A,[1] the Board proposed, inter alia, certain amendments to Part 207. For the reasons set forth in SPR-61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 207 of the Economic Regulations (14 CFR Part 207), effective September 27, 1972, as follows:

1. Amend § 207.11(b) and (c) by adding new subparagraphs (7) and (5), respectively, as follows:

§ 207.11 Charter flight limitations.

Charter flights (trips) in air transportation shall be limited to the following:

* * * * *

(b) * * *

(7) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter; or

(c) * * *

(5) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter:

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

(Secs. 204(a), 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 754, as amended; 49 U.S.C. 1324, 1371)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-16834 Filed 10-2-72;8:54 am]

[Reg. ER-762, Amdt. 7]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By notice of proposed rule making EDR-218/SPDR-22A,[1] the Board proposed, inter alia, certain amendments to Part 208. For the reasons set forth in SPR-61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 208 of the Economic Regulations (14 CFR Part 208), effective September 27, 1972, as follows:

1. Amend § 208.3 by revising the definition of "Indirect air carrier" in paragraph (u) to read as follows:

§ 208.3 Definitions.

* * * * *

(u) "Indirect air carrier" means any citizen of the United States who engages indirectly in air transportation including air freight forwarders, persons authorized by the Board to transport by air used household goods of personnel of the Department of Defense, tour operators, study group charterers, overseas military personnel charter operators, and travel group charter organizers.

* * * * *

2. Amend § 208.6 by revising paragraphs (b) (5) and (6) and adding new subparagraph (7), and by revising paragraph (c) (4) and (5) and adding a new subparagraph (6), as follows:

§ 208.6 Charter flight limitations.

Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

* * * * *

(b) * * *

(5) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(6) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(7) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter; or

(c) * * *

(4) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(5) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(6) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter:

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

(Secs. 204(a), 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 754, as amended; 49 U.S.C. 1324, 1371)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-16835 Filed 10-2-72;8:54 am]

[Reg. ER-763, Amdt. 7]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By notice of proposed rule making EDR-218/SPDR-22A,[1] the Board pro-

---

[1] Issued December 30, 1971, 37 F.R. 222 (Docket 23055).

[1] Issued Dec. 30, 1971, 37 F.R. 222 (Docket 23055).

posed, inter alia, certain amendments to Part 212. For the reasons set forth in SPR–61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 212 of the Economic Regulations (14 CFR Part 212), effective September 27, 1972, as follows:

1. Amend § 212.8 by revising paragraph (a) (6) and adding a new subparagraph (7) and by revising paragraphs (b) (3) and (4) and adding a new subparagraph (5), as follows:

§ 212.8 Charter flight limitations.

Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually way-billed basis—

(a) * * *

(6) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(7) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter; or

(b) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(4) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(5) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter:

Provided, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (b) shall not be construed to apply to movements of property.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72–16836 Filed 10–2–72;8:54 am]

[Reg. ER–764, Amdt. 10]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of September, 1972.

By notice of proposed rule making EDR–218/SPDR–22A,[1] the Board proposed, *inter alia,* certain amendments to Part 214. For reasons set forth in SPR–61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214), effective September 27, 1972, as follows:

1. Amend § 214.7(a) by revising subparagraph (4) and adding a new subparagraph (5) and amend paragraph (b) by revising subparagraph (4) and adding a new subparagraph (5), as follows:

§ 214.7 Charter flight limitations.

Charter flights shall be limited to air transportation performed by a direct foreign air carrier on a time, mileage or trip basis where—

(a) * * *

(4) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(5) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter; or

(b) * * *

(4) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(5) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter:

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *Provided, further,* That with respect to paragraph (b) of this section each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 or more seats.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324 and 1372)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72–16837 Filed 10–2–72;8:54 am]

[Reg. ER–765, Amdt. 5]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Reports of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By SPR 61 (Part 372a), ER–763 (Part 212), and ER 764 (Part 214), published contemporaneously herewith, the Board is establishing a new class of charters, called travel group charters, and is authorizing foreign air carriers to perform flights in connection with such charters.

Part 217 calls for the reporting of all civil charter flights performed to or from the United States by foreign air carriers with an exception provided for such carriers which hold permits authorizing casual, occasional, and infrequent flights with small aircraft across the border between the United States and a contiguous nation. It is thus necessary to amend the reporting instructions in § 217.6 in order to provide for the reporting of this newly established class of civil charters.[1]

This amendment of Part 217 is thus basically editorial in nature, in that it merely reflects the establishment in Part 372a of a new class of civil charters to be reported. Since it imposes no significant burden on anyone, the Board finds that notice and public procedure thereon are unnecessary, and it may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 217 of the Economic Regulations (14 CFR Part 217) effective September 27, 1972, as follows:

Amend § 217.6 by revising Subparagraphs (2) and (9) in paragraph (b) and paragraph (g) to read as follows:

§ 217.6 Reporting instructions.

* * * * *

(b) * * *

(2) Pro rata charter (other than travel group charter), as defined in Parts 212 and 214 of this chapter (Board's Economic Regulations). Mixed charters, as defined in Parts 212 and 214 of this chapter, are to be reported as pro rata charters.

* * * * *

(9) Travel group charter, as defined in Part 372a of this chapter (Board's Special Regulations).

* * * * *

(g) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in Column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—ordinary pro rata; C—study group; D—inclusive tour; E—overseas military personnel; and F—travel group.

* * * * *

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72–16838 Filed 10–2–72;8:54 am]

---

[1] Issued Dec. 30, 1971, 37 F.R. 222 (Docket 23055).

[1] Section 217.6(b) (2) presently calls for the reporting of pro rata charters as defined in Parts 212 and 214 of the Board's Economic Regulations (prior affinity type of pro rata charters). Since travel group charters are distinguishable from other kinds of pro rata charters and are governed by Part 372a, the Board wishes reports on charters operations to differentiate specifically between ordinary pro rata charters and travel group charters.

[Reg. ER-766, Amdt. 1]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of Reporting Requirements for CAB Form 41, Schedule T-6

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By SPR-61 (Part 372a), ER-761 (Part 207), and ER-762 (Part 208), published contemporaneously herewith, the Board is establishing a new class of charters, called travel group charters, and is authorizing direct air carriers to perform flights in connection with such charters.

The instructions for Schedule T-6—Summary of Civil Aircraft Charters—in sections 25 and 35 of Part 241 presently require that data shall be reported for all civil charter flights performed by the route and supplemental air carriers, respectively. It is thus necessary to amend Schedule T-6 itself in order to provide for the reporting of this newly established class of pro rata civil charters.[1] This amendment of Part 241 is thus basically editorial in nature, in that it merely reflects the establishment in Part 372a of a new class of civil charters to be reported. Since it imposes no significant burden on anyone, the Board finds that notice and public procedure thereon are unnecessary, and it may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective September 27, 1972, as follows:

1. Amend section 25, Schedule T-6, by revising paragraph (c) (2) and (7) and paragraph (i) to read as follows:

Section 25—Traffic and Capacity Elements

* * * * *

Schedule T-6—Summary of Civil Aircraft Charters

* * * * *

(c) * * *

(2) Pro rata charter (other than travel group charter), as defined in Part 207 of the Board's economic regulations. Mixed charters, as defined in Part 207, are to be reported as pro rata charters.

* * * * *

(7) Travel group charter, as defined in Part 372a of the Board's special regulations.

* * * * *

(i) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—ordinary pro rata; C—study group; D—overseas military personnel; and E—travel group.

* * * * *

2. Amend section 35, Schedule T-6, by revising paragraphs (b) (4) and (8) and paragraph (h), to read as follows:

Section 35—Traffic and Capacity Elements

* * * * *

Schedule T-6—Summary of Civil Aircraft Charters

* * * * *

(b) * * *

(4) Pro rata charter (other than travel group charter), as defined in Part 208 of the Board's economic regulations. Mixed charters, as defined in Part 208, are to be reported as pro rata charters.

* * * * *

(8) Travel group charter, as defined in Part 372a of the Board's special regulations.

* * * * *

(h) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3. Column 4 on the split-charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—ordinary pro rata; C—study group; D—inclusive tour; E—overseas military personnel; and F—travel group.

* * * * *

(Secs. 204, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-16839 Filed 10-2-72;8:54 am]

[1] Paragraph (c) (2) of the instructions for Schedule T-6 in section 25 of Part 241, and paragraph (b) (4) of parallel instructions in section 35 of said part, presently call for the separate reporting of pro rata charters as defined in Part 208 (prior affinity pro rata charters). Since travel group charters are distinguishable from other kinds of pro rata charters and are governed by Part 372a, the Board wishes reports on charter operations to differentiate specifically between ordinary pro rata charters and travel group charters.

[Reg. ER-767, Amdt. 20]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS, AND MEMORANDA

Preservation of Records by Travel Group Charter Organizers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By SPR-61 (Part 372a), published contemporaneously herewith, the Board is establishing a new class of charters, to be called travel group charters, and is authorizing a new class of charter operators to act as indirect air carriers with respect to such charters. The rule being adopted in SPR-61 contains certain record retention requirements for the travel group charter organizer. Specifically, he will be required to retain documents reflecting deposits made by, or refunds made to, each charter participant and statements, bills, and receipts from vendors of goods and services furnished in connection with the travel group charters. In the interest of uniformity, we are herein amending Part 249 so as to reflect the new record retention requirement.

Since the amendments contained herein impose no significant burden upon any person, and are needed to reflect the record retention requirements imposed by Part 372a, the Board finds that notice and public procedure thereon are unnecessary and they may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 249 of the Economic Regulations (14 CFR Part 249), effective September 27, 1972, as follows:

1. Amend the Table of Contents by revising the title of § 249.9, the table as amended to read, in pertinent part, as follows:

Sec.

249.9 Period of preservation of records by tour operators, study group charterers, overseas military personnel charter operators, and travel group charter organizers.

2. Amend § 249.1 to read as follows:

§ 249.1 Applicability.

Except as otherwise provided in this subpart or other parts of this subchapter, the provisions of this subpart shall apply to (a) air carriers, as defined in section 101(3) of the Act, which hold certificates of public convenience and necessity, supplemental air carriers, subject to the reporting requirements of Part 241 of this subchapter and former Part 242 of this subchapter, (b) holders of a permit authorizing the navigation in the United States of foreign civil aircraft pursuant to Part 375 of this chapter (Board's Special Regulations), (c) foreign air carriers, as defined in section 101(19) of the Act, (d) tour operators as defined in § 378.2(d) of this chapter, (e) study group charterers, as defined in § 373.2 of this chapter, (f) overseas military personnel charter operators, as defined in § 372.2 of this chapter, and (g) travel group charter organizers, as defined in § 372a.2 of this chapter.

3. Amend § 249.2 by inserting therein, in alphabetical sequence, the definition of "travel group charter organizer," as follows:

§ 249.2 Definitions.

* * * * *

"Travel group charter organizer" means (1) any citizen of the United States, as defined in section 101(13) of the Act (other than a direct air carrier), who is authorized under Part 372a to engage in the formation of travel groups in accordance with the provisions of

Part 372a; or (2) any person not a citizen of the United States, as defined in section 101(13) of the Act (other than a direct foreign air carrier), who is engaged in the formation of travel groups for transportation on travel group charters which originate in the United States in accordance with the provisions of Part 372a, and who holds a permit issued pursuant to section 402 of the Act authorizing such transportation.

4. Amend § 249.9 by revising the title and adding a new paragraph (d), as follows:

§ 249.9 Period of preservation of records by tour operators, study group charterers, overseas military personnel charter operators, and travel group charter organizers.

* * * * *

(d) Every travel group charter organizer (as defined in § 249.2) conducting a travel group charter pursuant to Part 372a of this chapter shall retain for 2 years after completion of the travel group charter or series of travel group charters true copies of the following documents at its principal or general office in the United States and shall make them available upon request by an authorized representative of the Board.

(1) All documents which evidence or reflect deposits made by, and refunds made to, each charter participant; and

(2) All statements, invoices, bills, and receipts from suppliers or furnishers of goods and services in connection with the travel group charter or series of travel group charters.

(Secs. 204(a), 402, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 766; 49 U.S.C. 1324, 1372, 1377)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc. 72-16840 Filed 10-2-72;8:54 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-266]

TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

SEPTEMBER 21, 1972.

On December 19, 1970, notice of proposed rule making pertaining to a revision of the Customs Regulations relating to trademarks, trade names, and copyrights (19 CFR 11.14-11.21) was published in the FEDERAL REGISTER (35 F.R. 19269). An extension of time for filing comments to April 19, 1971, was granted (36 F.R. 3527).

After consideration of all comments received, the following changes are made in the proposed Part 133:

1. Section 133.0 is revised to more adequately explain the provisions contained in Part 133.

2. Paragraph (b) of § 133.1 is changed by inserting the words "or denial" after the word "approval," and by consolidating the references to the provisions under which applications are filed.

3. In the center heading for Subpart C, the word "infringing" is changed to "bearing."

4. Paragraph (b) of § 133.21 is changed by inserting the words "seizure and" after the words "subject to."

5. Paragraph (c) of § 133.21 is changed as follows:

In subparagraph (2), the cross-reference "(see §§ 133.2(d) and 133.12 (d))" is inserted before the semicolon.

Subparagraph (6) is rephrased to provide for those situations in which a general consent is filed with the Bureau, as well as cases in which the importer obtains written consent to a specific importation.

6. Paragraph (c) of § 133.23 is changed to permit an addressee appearing in person to obtain skillful removal of marks, and to delete the procedure permitting the package to be sent to the addressee for removal.

7. Section 133.31 is changed as follows:

a. A new paragraph (b) is inserted stating the persons eligible to record a copyright, and paragraphs (b) and (c) are redesignated as (c) and (d), respectively.

b. In redesignated paragraph (d), the words "or denial" are inserted after the word "approval," and the references to provisions under which applications are filed are consolidated.

8. Section 133.32 is changed as follows:

a. Paragraphs (b) and (c) are designated as (c) and (e), respectively.

b. Requirements that the application contain a statement setting forth the circumstances of actual or potential injury if the applicant claims such injury by reason of importations of works eligible for recordation of copyright, and that the foreign title of the work be identified if it differs from the U.S. title are added as paragraphs (b) and (d), respectively.

c. Redesignated paragraph (e) is changed by inserting the word "first" before the word "publication" the first two times that word appears.

9. Section 133.33 is changed as follows:

a. In subparagraph (1) of paragraph (a), the cross-reference is changed to read "§ 133.32(e)," and the second sentence is rephrased to more clearly state the nature of the document to be filed showing ownership interest and the circumstances in which it is required.

b. In subparagraph (2) of paragraph (a), the words "reproduced on paper" are inserted after the word "likenesses," and a sentence is added providing for the submissions relating to a component part to accompany an application for an entire copyrighted work.

10. Section 133.34 is changed as follows:

a. Paragraph (b) is rephrased to show that the term of recordation of a copyright is coextensive with the ownership interest of the recordant.

b. Paragraph (c) is changed by inserting after the word "canceled" the words "upon the request of the recordant or" to provide for cancellation at the instance of the recordant.

11. Section 133.35 is changed as follows:

a. In paragraph (a), the word "new" before the word "owner" is deleted.

b. In paragraph (b), subparagraph (1) is rephrased to clearly indicate the type of document required to show ownership interest.

12. In paragraph (a) of § 133.36, the words "title to be presently in the name as changed" are changed to read "the change in the name of the owner."

13. In paragraph (a) of § 133.37, the words "copyright registration" are changed to read "term of the copyright" in the first sentence, and subparagraphs (1) and (2) are rephrased to clearly state the information required as part of an application to renew Customs recordation of a copyright.

14. In § 133.42, paragraph (b) is redesignated as (c), and paragraph (a) is divided into paragraphs (a) and (b) to separately state the definition of piratical copies.

15. In § 133.43, paragraph (b) is changed by substituting 30 days for 10 days and deleting ", exclusive of any intervening Saturday, Sunday, or holiday," to provide a reasonable time for the copyright owner to make representations as to piratical copying.

16. Section 133.45 is changed as follows:

a. The heading of the section, and the heading of paragraph (b) are clarified.

b. Paragraph (c) is rephrased to clarify the provision pertaining to release of works under the Universal Copyright Convention.

17. In § 133.51, subparagraph (3) of paragraph (b) is rephrased to clarify its application only to books or periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act.

18. Paragraph (b) of § 133.52 is changed to clarify the disposition of articles forfeited for violation of the copyright laws.

In addition, editorial corrections are made in §§ 133.6, 133.13, and 133.15, and in the heading of § 133.46.

There is included as part of the revision a parallel reference table showing the relationship of sections in Part 133 to superseded sections in 19 CFR Parts 11 and 24.

Accordingly, new Part 133, and the conforming changes in Parts 11 and 24 of the Customs Regulations, Chapter I, Title 19 of the Code of Federal Regulations, are hereby adopted as set forth below.

Effective date. These amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 21, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

PART 11—PACKING AND STAMPING; MARKING

The heading of Part 11 is amended to read as set forth above.

§§ 11.14–11.21 [Deleted]

Part 11 is amended by deleting §§ 11.14 through 11.21.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.12 [Amended]

In § 24.12, paragraph (a)(1) is amended by deleting subdivision (i).

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

Chapter I of title 19 of the Code of Federal Regulations is amended by adding Part 133 entitled, "Trademarks, Trade Names, and Copyrights" as follows:

AUTHORITY: The provisions of this Part 133 issued under R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624. Subpart D also issued under sec. 109, 61 Stat. 664, 17 U.S.C. 109.

§ 133.0 Scope.

This part provides for the recordation of trademarks, trade names, and copyrights with the Bureau of Customs for the purpose of prohibiting the importation of certain articles. It also sets forth the procedures for the disposition of articles bearing prohibited marks or names, and copyrighted or piratical articles, including release to the importer in appropriate circumstances.

Subpart A—Recordation of Trademarks

§ 133.1 Recordation of trademarks.

(a) *Eligible trademarks.* Trademarks registered by the U.S. Patent Office under the Trademark Act of March 3, 1881, the Trademark Act of February 20, 1905, or the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) except those registered on the supplemental register under the 1946 Act (15 U.S.C. 1096), may be recorded with the Bureau of Customs if the registration is current.

(b) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with §§ 133.2, 133.5, 133.6, and 133.7 of this subpart.

(Secs. 28, 42, 60 Stat. 436, 440; 15 U.S.C. 1096, 1124)

§ 133.2 Application to record trademark.

An application to record one or more trademarks shall be in writing, addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction within which it was organized, incorporated, or created);

(b) The places of manufacture of goods bearing the recorded trademark;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trademark and a statement as to the use authorized; and

(d) The identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the trademark abroad. For this purpose:

(1) "Common ownership" means individual or aggregate ownership of more than 50 percent of the business entity; and

(2) "Common control" means effective control in policy and operations and is not necessarily synonymous with common ownership.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.3 Documents and fee to accompany application.

(a) *Documents.* The application shall be accompanied by:

(1) A status copy of the certificate of registration certified by the U.S. Patent Office showing title to be presently in the name of the applicant; and

(2) Seven hundred copies of this certificate, or of a U.S. Patent Office facsimile. The copies may be reproduced privately and shall be on paper approximately 8½" by 11" in size. If the certificate consists of two or more pages, the copies may be reproduced on both sides of the paper.

(b) *Fee.* The application shall be accompanied by a fee of $100 for each trademark to be recorded. However, if the trademark is registered for more than one class of goods (see 37 CFR Part 6) the fee for recordation shall be $100 for each class for which the applicant desires to record the trademark with the Bureau of Customs. For example, to secure recordation of a trademark registered for three classes of goods, a fee of $300 is payable. The check or money order shall be made payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.4 Effective date, term, and cancellation of trademark recordation and renewals.

(a) *Effective date.* Recordation of trademark and protection thereunder shall be effective on the date an application for recordation is approved, as shown on the recordation notice issued by the Bureau of Customs instructing Customs officers as to the terms and conditions of import protection appropriate.

(b) *Term.* The recordation or renewal of an existing recordation of a trademark shall remain in force concurrently with the 20-year current registration period or last renewal therof in the Patent Office.

(c) *Cancellation of recordation.* Recordation of a trademark with the Bureau

of Customs shall be canceled if the trademark registration is finally canceled or revoked.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.5 Change of ownership of recorded trademark.

If there is a change in ownership of a recorded trademark and the new owner wishes to continue the recordation with the Bureau of Customs, he shall apply therefor by:

(a) Complying with § 133.2;

(b) Describing any time limit on the rights of ownership transferred;

(c) Submitting a status copy of the certificate of registration certified by the United States Patent Office showing title to be presently in the name of the new owner; and

(d) Paying a fee of $40 which covers all trademarks included in the application which have been previously recorded with the Bureau of Customs. The check or money order shall be payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.6 Change in name of owner of recorded trademark.

If there is a change in the name of the owner of a recorded trademark, but no change in ownership, written notice thereof shall be given to the Commissioner of Customs, accompanied by:

(a) A status copy of the certificate of registration certified by the U.S. Patent Office showing title to be presently in the name as changed; and

(b) A fee of $40 which covers all trademarks included in the application which have been previously recorded with the Bureau of Customs. The check or money order shall be payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.7 Renewal of trademark recordation.

(a) *Application to renew.* To continue uninterrupted Customs protection for trademarks, the trademark owner shall submit a written application to renew Customs recordation to the Commissioner of Customs not later than 3 months after the date of expiration of the current 20-year trademark registration issued by the Patent Office. A timely application to renew a Customs recordation must include the following:

(1) A status copy of the certificate of registration certified by the U.S. Patent Office showing renewal of the trademark and title to be in the name of the applicant;

(2) A statement describing any change of ownership or in the name of owner, in compliance with §§ 133.5 and 133.6 of this part, and any change of addresses of owners or places of manufacture; and

(3) A fee of $40 which covers all recordation renewals submitted with the fee. The check or money order shall be made payable to the Bureau of Customs.

(b) *Delayed application.* Upon request made during the grace period of 3 months afforded by paragraph (a) of this section, a trademark owner whose application for renewal of recordation is unavoidably delayed may be afforded a reasonable extended period within which to comply with the requirements of paragraph (a) of this section. The request shall be in writing, addressed to the Commissioner of Customs, and shall set forth the circumstances due to which application is delayed.

(c) *Untimely application.* Failure of the trademark owner to submit a renewal application within the 3-month grade period afforded in accordance with paragraph (a) of this section or within an extension of time granted in accordance with paragraph (b) of this section, shall deprive the trademark owner of the renewal process. A delinquent applicant will be required to apply anew to record the renewed trademark in accordance with the procedures and requirements of §§ 133.2 and 133.3.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

Subpart B—Recordation of Trade Names

§ 133.11 Trade names eligible for recordation.

The name or trade style used for at least 6 months to identify a manufacturer or trader may be recorded with the Bureau of Customs. Words or designs used as trademarks, whether or not registered in the Patent Office shall not be accepted for recordation as a trade name. Generally, the complete business name will be recorded unless convincing proof establishes that only a part of the complete name is customarily used.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.12 Application to record a trade name.

An application to record a trade name shall be in writing addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name, complete business address, and citizenship of the trade name owner or owners (if a partnership, the citizenship of each partner; if an association or corporation, the State, country, or other political jurisdiction within which it was organized, incorporated or created);

(b) The name or trade style to be recorded;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trade name and a statement as to the use authorized;

(d) The identity of any parent or subsidiary company, or other foreign company under common ownership or control which uses the trade name abroad (see § 133.2(d)); and

(e) A description of the merchandise with which the trade name is associated.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.13 Documents and fee to accompany application.

(a) *Documents.* The application shall be accompanied by a statement of the owner, partners, or principal corporate officer, and by statements by at least two other persons not associated with or related to the applicant but having actual knowledge of the facts, stating that to his best knowledge and belief:

(1) The applicant has used the trade name in connection with the class or kind of merchandise described in the application for at least 6 months;

(2) The trade name is not identical or confusingly similar to any other trade name or registered trademark used in connection with such class or kind of merchandise; and

(3) The applicant has the sole and exclusive right to the use of such trade name in connection with the merchandise of that class or kind.

(b) *Fee.* The application shall be accompanied by a fee of $100 for each trade name to be recorded. The check or money order shall be made payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.14 Publication of trade name recordation.

(a) *Notice of tentative recordation.* Notice of tentative recordation of a trade name shall be published in the FEDERAL REGISTER and the Customs Bulletin. The notice shall specify a procedure and a time period within which interested parties may oppose the recordation.

(b) *Notice of final action.* After consideration of any claims, rebuttals, and other relevant evidence, notice of final approval or disapproval of the application shall be published in the FEDERAL REGISTER and the Customs Bulletin.

§ 133.15 Term of Customs trade name recordation.

Protection for a recorded trade name shall remain in force as long as the trade name is used. The recordation shall be canceled upon request of the recordant or upon evidence of disuse. From time to time, the Commissioner of Customs may request the trade name owner to advise whether the name is still in use. The failure of a trade name owner to respond to such a request shall be regarded as evidence of disuse.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

Subpart C—Importations Bearing Recorded Trademarks or Trade Names

§ 133.21 Restrictions on importation of articles bearing recorded trademarks and trade names.

(a) *Copying or simulating marks or names.* Articles of foreign or domestic manufacture bearing a mark or name copying or simulating a recorded trademark or trade name shall be denied entry and are subject to forfeiture as prohibited importations. A "copying or simulating" mark or name is an actual counterfeit of the recorded mark or name or is one which so resembles it as to be

likely to cause the public to associate the copying or simulating mark with the recorded mark or name.

(b) *Identical trademark.* Foreign-made articles bearing a trademark identical with one owned and recorded by a citizen of the United States or a corporation or association created or organized within the United States are subject to seizure and forfeiture as prohibited importations.

(c) *Restrictions not applicable.* The restrictions set forth in paragraphs (a) and (b) of this section do not apply to imported articles when:

(1) Both the foreign and the U.S. trademark or trade name are owned by the same person or business entity;

(2) The foreign and domestic trademark or trade name owners are parent and subsidiary companies or are otherwise subject to common ownership or control (see §§ 133.2(d) and 133.12(d));

(3) The articles of foreign manufacture bear a recorded trademark or trade name applied under authorization of the U.S. owner;

(4) The objectionable mark is removed or obliterated prior to importation in such a manner as to be illegible and incapable of being reconstituted, for example by:

(i) Grinding off imprinted trademarks wherever they appear;

(ii) Removing and disposing of plates bearing a trademark or trade name;

(5) The merchandise is imported by the recordant of the trademark or trade name or his designate; or

(6) The recordant gives written consent to an importation of articles otherwise subject to the restrictions set forth in paragraphs (a) and (b) of this section, and such consent is furnished to appropriate Customs officials.

(Sec. 42, 60 Stat. 440, sec. 526, 46 Stat. 741; 15 U.S.C. 1124, 19 U.S.C. 1526)

§ 133.22 Detention of articles subject to restrictions.

(a) *In general.* Articles subject to the restrictions of § 133.21 shall be detained for 30 days from the date of notice to the importer that such restrictions apply to permit the importer to establish that any of the circumstances described in § 133.21(c) are applicable.

(b) *Notice of detention.* Notice of detention of articles found subject to the restrictions of § 133.21 shall be given the importer in writing, except that for articles accompanying the importer or arriving by mail, notice of detention shall be given in the following manner:

(1) *Articles accompanying importer.* When the articles are carried as accompanying baggage or on the person of persons arriving in the United States, the Customs inspector shall orally advise the importer that the articles are subject to detention.

(2) *Mail importations.* When the articles arrive by mail in noncommercial shipments, or in commercial shipments valued at $250 or less, notice of the detention shall be given on Customs Form 8.

(c) *Failure to obtain release in 30 days.* If the importer has not obtained release of detained articles within the 30-day period of detention, the merchandise shall be seized and forfeiture proceedings instituted. The importer shall be promptly notified of the seizure and liability to forfeiture and his right to petition for relief in accordance with the provisions of Part 171 of this chapter.

§ 133.23 Release of detained articles.

(a) *General.* Articles detained in accordance with § 133.22 may be released to the importer during the 30-day period of detention if any of the circumstances allowing exemption from trademark or trade name restriction set forth in § 133.21(c) are established.

(b) *Articles accompanying importer.* Articles arriving as accompanying baggage or on the person of the importer may be exported or destroyed under Customs supervision at the request of the importer, or may be released if:

(1) The importer removes or obliterates the marks in a manner acceptable to the Customs officer at the time of examination of the articles; or

(2) The request of the importer to obtain skillful removal of the marks is granted by the district director on such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

(c) *Mail importations.* Articles arriving by mail in noncommercial shipments, or in commercial shipments valued at $250 or less may be exported or destroyed at the request of the addressee or may be released if:

(1) The addressee appears in person at the appropriate Customs office and at that time removes or obliterates the marks in a manner acceptable to the Customs officer; or

(2) The request of the addressee appearing in person to obtain skillful removal of the marks is granted by the district director on such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

§ 133.24 Demand for redelivery of released merchandise.

If it is determined that merchandise which has been released from Customs custody is subject to the restrictions of § 133.21, the district director shall promptly make demand for the redelivery of the merchandise under the terms of the entry bond in accordance with § 8.26 of this chapter. If the merchandise is not redelivered to Customs custody, a claim for liquidated damages shall be made in accordance with § 25.17 of this chapter.

Subpart D—Recordation of Copyrights

§ 133.31 Recordation of copyrighted works.

(a) *Eligible works.* Claims to copyright which have been registered in accordance with the provisions of the Copyright Act of July 30, 1947, as amended (17 U.S.C. 1–32), or unregistered claims to copyright in works entitled to protection under section 9(c) of that Act, as amended (17 U.S.C. 9(c)), by virtue of the Universal Copyright Convention, may be recorded with the Bureau of Customs if the copyright is subsisting.

(b) *Persons eligible to record.* The copyright proprietor, or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of eligible works, may file an application to record a copyright.

(c) *Countries party to the Universal Copyright Convention.* The following countries are party to the Universal Copyright Convention:

Andorra.
Argentina.
Australia.
Austria.
Belgium.
Brazil.
Cambodia.
Canada.
Chile.
Costa Rica.
Cuba.
Czechoslovakia.
Denmark.
Ecuador.
Finland.
France.
Germany, Federal Republic of.
Ghana.
Greece.
Guatemala.
Haiti.
Holy See.
Iceland.
India.
Ireland.
Israel.
Italy.
Japan.
Kenya.
Laos.
Lebanon.
Liberia.
Liechtenstein.
Luxembourg.
Malawi.
Malta.
Mexico.
Monaco.
Netherlands.
New Zealand.
Nicaragua.
Nigeria.
Norway.
Pakistan.
Panama.
Paraguay.
Peru.
Philippines.
Portugal.
Spain.
Sweden.
Switzerland.
Tunisia.
United Kingdom.
United States of America.
Venezuela.
Yugoslavia.
Zambia.

(d) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with § 133.32, § 133.35, § 133.36, or § 133.37.

§ 133.32 Application to record copyright.

An application to record a copyright to secure Customs protection against the importation of piratical copies shall be in writing addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name and complete address of the copyright owner or owners;

(b) If the applicant is a person claiming actual or potential injury by reason of actual or contemplated importations of copies of eligible works, a statement setting forth the circumstances of such actual or potential injury;

(c) The name and principal address of any foreign person or business entity authorized or licensed to use the copyright, and a statement as to the use authorized;

(d) The foreign title of the work, if different from the U.S. title; and

(e) In the case of protection claimed under section 9(c) of the Copyright Act, by virtue of the Universal Copyright

Convention, a statement setting forth the name of the author and his citizenship and domicile at the time of first publication, the date and country of first publication, and a description of the work, including its title, and a statement that all copies bore the Universal Copyright Convention notice from the date of first publication.

§ 133.33 Documents and fee to accompany application.

(a) *Documents.* The application for recordation shall be accompanied by the following documents:

(1) An "additional certificate" of copyright registration issued by the U.S. Copyright Office, except for unregistered Universal Copyright Convention works as described in § 133.32(e) of this subpart. If the name of the applicant differs from the name of the copyright owner identified in the certificate, or from the name appearing in the Universal Copyright Convention notice referred to in § 133.32(e), the application shall also be accompanied by a certified copy of any assignment, exclusive license, or other document recorded in the Copyright Office showing that the applicant has acquired an ownership interest in the copyright.

(2) Seven hundred 8" x 10½" photographic or other likenesses reproduced on paper of any three-dimensional work, design, print, label, or other work not readily identifiable by title and author. An application shall be excepted from this requirement if it covers a work such as a book, magazine, periodical, or similar copyrighted matter readily identifiable by title and author. Seven hundred likenesses of a component part of a copyrighted work, together with the name or title, if any, by which the part so depicted is identifiable, may accompany an application covering an entire copyrighted work.

(b) *Fee.* Each application shall be accompanied by a fee of $100 for each copyright to be recorded. The check or money order shall be made payable to the Bureau of Customs.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

§ 133.34 Effective date, term, and cancellation of recordation.

(a) *Effective date.* Recordation of copyright and protection thereunder shall be effective on the date an application for recordation is approved, as shown on the recordation notice issued by the Bureau of Customs instructing Customs officers as to the terms and conditions of import protection appropriate.

(b) *Term.* The recordation of a copyright shall remain in force until the ownership interest of the recordant in the copyright expires. Unless such ownership interest expires sooner, the recordation shall remain in force until the end of the initial 28-year term of copyright, or, if the recordation is renewed in accordance with § 133.37, until the end of the renewal term of the copyright.

(c) *Cancellation.* Recordation of a copyright with the Bureau of Customs shall be canceled upon request of the recordant, or if the registration in the U.S. Copyright Office is finally canceled or revoked.

§ 133.35 Change of ownership of recorded copyright.

(a) *Application.* If the ownership of a recorded copyright is transferred and the owner wishes to continue the recordation with the Bureau of Customs, he shall make written application to the Commissioner of Customs as follows:

(1) Comply, as appropriate, with § 133.32; and

(2) Describe any time limit on the rights of ownership transferred.

(b) *Document and fee.* The application shall be accompanied by:

(1) A certified copy of any assignment, exclusive license, or other document recorded in the U.S. Copyright Office showing the applicant has acquired an ownership interest in the copyright; and

(2) A fee of $40. The check or money order shall be payable to the Bureau of Customs.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

§ 133.36 Change in name of owner of recorded copyright.

If there is a change in the name of the owner of a recorded copyright, but no transfer of ownership, written notice specifying the change shall be given to the Commissioner of Customs accompanied by the following:

(a) A certified copy of any document recorded in the U.S. Copyright Office showing the change in the name of the owner; and

(b) Payment of a fee of $40. The check or money order shall be payable to the Bureau of Customs.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

§ 133.37 Renewal of copyright recordation.

(a) *Application for renewal.* To continue uninterrupted Customs protection for a recorded copyright, the copyright owner shall make written application to the Commissioner of Customs to renew Customs recordation not later than 3 months from the date of expiration of the term of the copyright. An application to renew a Customs recordation shall include the following:

(1) An "additional certificate" of the renewal registration issued by the U.S. Copyright Office showing that a claim to renewal copyright in the name of the applicant or his predecessor in interest has been registered;

(2) A statement describing any change of ownership or name of owner, in compliance with §§ 133.35 and 133.36 and any change of address of the owner; and

(3) Payment of a fee of $40. The check or money order shall be payable to the Bureau of Customs.

(b) *Delayed application.* Upon request made during the grace period of 3 months afforded by paragraph (a) of this section, a copyright owner whose application for renewal of recordation is unavoidably delayed may be afforded a reasonable extended period within which to comply with the requirements of paragraph (a) of this section. The request shall be in writing, addressed to the Commissioner of Customs, and shall set forth the circumstances due to which application is delayed.

(c) *Untimely application.* Failure of the copyright owner to submit a renewal application within the 3-month grace period afforded in accordance with paragraph (a) of this section, or within an extension of time granted in accordance with paragraph (b) of this section, shall deprive the copyright owner of the renewal process. A delinquent applicant will be required to apply anew to record the renewed copyright in accordance with the procedures and requirements of §§ 133.22 and 133.33.

Subpart E—Importations Violating Copyright Laws

§ 133.41 False notice of copyright.

(a) *Importation prohibited.* The importation of articles bearing a false notice of copyright is prohibited. Books, periodicals, newspapers, music, moving picture films, and other articles which bear words indicating they are entitled to copyright protection in the United States, when in fact they are not so entitled, bear a false notice of copyright.

(b) *Seizure and forfeiture.* All articles bearing a false notice of copyright shall be seized and forfeited, except when imported in the mails. Such articles imported in the mails shall be returned to the postmaster for return to the sender as nondeliverable.

(Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.42 Piratical copies.

(a) *Definition.* Piratical copies are actual copies or substantial copies of a recorded copyrighted work, produced and imported in contravention of the rights of the copyright owner.

(b) *Importation prohibited.* The importation of piratical copies of works copyrighted in the United States is prohibited.

(c) *Seizure and forfeiture.* The district director shall seize and forfeit an imported article which he determines constitutes a piratical copy of a recorded copyrighted work. The district director shall also seize and forfeit an imported article if the importer does not deny a representation that the article is a piratical copy as provided in § 133.43(a).

(Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.43 Procedure on suspicion of piratical copying.

(a) *Notice to the importer.* If the district director has any reason to believe that an imported article may be a piratical copy of a recorded copyrighted work, he shall withhold delivery, notify the importer of his action, and advise him that

if the facts so warrant he may file a statement denying that the article is in fact a piratical copy and alleging that the detention of the article will result in a material depreciation of its value, or a loss or damage to him. The district director shall also advise the importer that in the absence of receipt within 30 days of a denial by the importer that the article constitutes a piratical copy, it shall be considered to be such a copy and shall be subject to seizure and forfeiture.

(b) *Notice to copyright owner.* If the importer of suspected piratical copies files a denial as provided in paragraph (a) of this section, the district director shall furnish the copyright owner a representative sample of the imported articles, together with notice that the imported articles will be released to the importer unless within 30 days from the date of the notice the copyright owner files with the district director:

(1) A written demand for the exclusion from entry of the detained imported articles; and

(2) A bond in the form and amount specified by the district director, conditioned to hold the importer or owner of such imported articles harmless from any loss or damage resulting from Customs detention in the event the Commissioner of Customs or his designee determines that the article is not a piratical copy prohibited importation under section 106 of the Copyright Act (17 U.S.C. 106).

(c) *Result of action or inaction by copyright owner.* After notice to the copyright owner that delivery is being withheld for imported articles suspected to be piratical copies of his recorded copyrighted work, the district director shall proceed in accordance with the applicable procedure set forth below:

(1) *Demand and bond filed.* If the copyright owner files a written demand for exclusion of the suspected piratical copies together with a proper bond, the district director shall promptly notify the importer and the copyright owner that, during a specified time limited to not more than 30 days, they may submit further evidence, legal briefs, or other pertinent material to substantiate the claim or denial of piratical copying. The burden of proof shall be upon the party claiming that any article is in fact a piratical copy. At the close of the period specified for submission of evidence, the district director shall forward the entire file in the case, together with a representative sample of the imported articles and his views or comments, to the Commissioner of Customs or his designee for decision of the disputed claim of piratical copying.

(2) *Piracy disclaimed or unsupported.* If the copyright owner disclaims that the specific imported article is a piratical copy of his recorded copyrighted work, or concedes that he possesses in sufficient evidence or proofs to substantiate a claim of piracy, the district director shall release the detained shipment to the importer, and shall release all further importations of the same article, by whomever imported, without further notice to the copyright owner.

(3) *Failure to file demand or bond.* If the copyright owner fails to file a written demand for exclusion and bond as required by paragraph (b) of this section, the district director shall release the detained articles to the importer, and notify the copyright owner of the release. The district director shall withhold delivery of all further importations of the same article by the same importer, and shall notify the copyright owner of each such subsequent shipment as provided in paragraph (b) of this section.

(4) *Withdrawal of bond.* At any time prior to transmittal of the case to the Commissioner of Customs or his designee for decision, the copyright owner may withdraw a bond filed in accordance with paragraph (b) of this section. Prior to returning the bond to the copyright owner and release of the detained articles, the district director shall require the copyright owner and the importer to file written statements agreeing to hold the Bureau of Customs and the district director harmless for any consequence of return of the bond and release of the detained articles. After withdrawal of a bond, the district director shall release importations of the same article by the same importer without further notice to the copyright owner.

§ 133.44 Decision of disputed claim of piratical copying.

(a) *Claim of piracy sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is a piratical copy, the district director shall seize and forfeit the imported articles in accordance with Part 23 of this chapter, and shall return the bond to the copyright owner.

(b) *Denial of piracy sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is not a piratical copy, the district director shall release all such detained merchandise and transmit the copyright owner's bond to the importer.

(Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.45 U.S. manufacturing requirements for books and periodicals.

(a) *Importation prohibited.* Books and periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act (17 U.S.C. 16) which requires manufacture in the United States may not be imported during the existence of the U.S. copyright unless:

(1) The importation is permitted under one of the limited exceptions in 17 U.S.C. 107;

(2) The importation is entitled to U.S. copyright protection under the provisions of 17 U.S.C. 9(c) by virtue of the Universal Copyright Convention (see paragraph (c) of this section); or

(3) The importation is permitted by an ad interim copyright (see paragraph (b) of this section).

(b) *Release under ad interim copyright.* Upon compliance with the usual Customs requirements, the district director may release up to 1,500 copies of a book or periodical covered by an ad interim copyright when imported pursuant to the quantitative exception in 17 U.S.C. 16 if:

(1) There is presented with the entry an "Import Statement" issued by the Register of Copyrights authorizing the importation of a number of copies not in excess of 1,500 copies; and

(2) The copies are otherwise admissible.

(c) *Release under Universal Copyright Convention—(1) Determination of eligibility.* The district director shall release books under the Universal Copyright Convention without an "Import Statement" and in unlimited quantities upon a determination that either:

(i) The book was first published in a Convention country other than the United States, and the author was not a citizen or domiciliary of the United States at the time of first publication; or

(ii) The book was first published abroad, and at the time of first publication, the author was a citizen of a Convention country other than the United States and was not domiciled in the United States.

(2) *Information required.* Prior to releasing the books, the district director shall require the importer to supply the following information in writing:

(i) The country in which the book was first published;

(ii) The country of which the author was a citizen at the time of first publication; and

(iii) Whether the author was domiciled in the United States at the time of first publication.

(Secs. 9, 16, 107, 61 Stat. 655, as amended, 657, as amended, 663; 17 U.S.C. 9, 16, 107)

§ 133.46 Demand for redelivery of released articles.

If it is determined that articles which have been released from Customs custody are subject to the prohibitions or restrictions of this subpart, the district director at the port of entry shall promptly make demand for redelivery of the articles under the terms of the entry bond in accordance with § 8.26 of this chapter. If the articles are not redelivered to Customs custody, a claim for liquidated damages shall be made in accordance with § 25.17 of this chapter.

Subpart F—Procedure Following Forfeiture or Assessment of Liquidated Damages

§ 133.51 Relief from forfeiture or liquidated damages.

(a) *Petition for relief.* The importer may petition in accordance with Parts 171 and 172 of this chapter for relief from, or cancellation of, a forfeiture incurred for violation of the trademark or copyright laws, or a claim for liquidated damages for failure to redeliver released merchandise incurred under the provisions of § 133.24 or § 133.46.

(b) *Conditioned relief.* In appropriate cases, relief from a forfeiture may be granted pursuant to a petition for relief upon the following conditions and such other conditions as may be specified by the appropriate Customs authority:

(1) The unlawfully imported or prohibited articles are exported or destroyed under Customs supervision and at no expense to the Government;

(2) All offending trademarks or trade names are removed or obliterated prior to release of the articles;

(3) In the case of books or periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act (17 U.S.C. 16):

(i) Satisfactory evidence is submitted that a statement of abandonment has been filed and recorded in the Copyright Office by the copyright owner in accordance with the procedures of the Copyright Office; and

(ii) The notice of copyright is completely obliterated prior to release of the books or periodicals.

§ 133.52 Disposition of forfeited merchandise.

(a) *Trademark or trade name violation.* Articles forfeited for violation of the trademark laws shall be disposed of in accordance with the procedures applicable to forfeitures for violation of the Customs laws, after the removal or obliteration of the name, mark, or trademark by reason of which the articles were seized.

(b) *Copyright violations.* Articles for which forfeiture for violation of the copyright laws has been perfected shall be destroyed.

(Sec. 42, 60 Stat. 440, sec. 108, 61 Stat. 664; 15 U.S.C. 1124, 17 U.S.C. 108)

§ 133.53 Refund of duty.

If a violation of the trademark or copyright laws is not discovered until after entry and deposit of estimated duty, the entry shall be endorsed with an appropriate notation and the duty refunded as an erroneous collection upon exportation or destruction of the prohibited articles in accordance with § 8.49 or § 15.5 of this chapter.

(Sec. 558(a), 46 Stat. 744, as amended; 19 U.S.C. 1558(a))

ANNEX TO REVISED PART 133

Parallel Reference Table

(This table shows the relation of sections in revised part 133 to superseded 19 CFR Part 11.)

Revised section	*Superseded section*
133.0	None.
133.1(a)	11.15(a).
133.1(b)	None.
133.2	11.15(a).
133.3	11.15(a).
133.4	None.
133.5	None.
133.6	None.
133.7	11.15(c).
133.11	None.
133.12	11.16.
133.13	11.16.
133.14	None.
133.15	None.
133.21	11.14.
133.22(a)	11.17(a).
133.22(b)	11.17(b).
133.22(c)	11.17(b).
133.23(a)	None.
133.23(b)	None.
133.23(c)	11.17.
133.24	None.
133.31(a)	11.19(a).
133.31(b)	None.
133.31(c)	11.19(b).
133.31(d)	None.
133.32	11.19(a).
133.33	11.19(a).
133.34	None.
133.35	None.
133.36	None.
133.37	None.
133.41	11.18.
133.42 (a) & (b)	11.20(a).
133.42(c)	11.20(b).
133.43 (a) & (b)	11.20(c).
133.43(c)(1)	11.20(d).
133.43(c)(2-4)	None.
133.44	11.20(e).
133.45(a)	11.21(a).
133.45(b)	11.21(c).
133.45(c)	None.
133.46	None.
133.51	None.
133.52(a)	11.17(c).
133.52(b)	None.
133.53	11.17(d).

[FR Doc. 72-16793 Filed 10-2-72;8:52 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Trifluomeprazine Tablets, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-746V) filed by Norden Laboratories Inc., Lincoln, Nebr. 68501, proposing revised labeling for the safe and effective use of trifluomeprazine tablets, veterinary, as a tranquilizer for dogs. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding a new section as follows:

§ 135c.84 Trifluomeprazine tablets, veterinary.

(a) *Chemical name.* Phenothiazine, 10-[3-(dimethylamino)-2-methyl-propyl]-2-(trifluoromethyl), maleate.

(b) *Specifications.* Trifluomeprazine tablets, veterinary, contain 10 milligrams of trifluomeprazine in each tablet.

(c) *Sponsor.* See code No. 026 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) The tablets are administered orally to dogs for tranquilization and chemical restraint at a dosage level of ¼ to 1 milligram per pound of body weight once or twice daily as required.

(2) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–3–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 25, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-16747 Filed 10-2-72;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Carbadox

The Commissioner of Food and Drugs has evaluated a new animal drug application (41–061V) filed by Pfizer, Inc., 235 East 42d Street, New York, NY 10017, proposing the safe and effective use of carbadox in feed for swine. The application is approved.

Having considered the submitted data and other relevant material, the Commissioner concludes that a tolerance limitation is required to assure that edible tissues of swine treated with the drug are safe for human consumption.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135e and 135g are amended as follows:

1. Part 135e is amended by adding the following new section:

§ 135e.63 Carbadox.

(a) *Chemical name.* Methyl 3-(2-quinoxalinylmethylene) carbazate-N^1,N^4-dioxide.

(b) *Approvals.* Premix level containing 2.2 percent (10 grams per pound) of carbadox has been granted; for sponsor, see code No. 030 in § 135.501(c) of this chapter.

(c) *Assay limits.* Finished feed not less than 75 percent nor more than 125 percent of labeled amount.

(d) *Related tolerances.* See § 135g.81 of this chapter.

(e) *Special considerations.* (1) Finished feeds processed from feed supplements that contain up to 0.055 percent of carbadox and that comply with the provisions of both this paragraph and paragraph (f) of this section are exempted from the requirements of section 512(m) of the act.

(2) Do not use in feeds containing bentonite.

(f) *Conditions of use.* It is used as follows:

CARBADOX IN ANIMAL FEED

	Grams per ton	Limitations	Indications for use
1. Carbadox...	10–25 (0.0011–0.00275%)	For swine; do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in complete feeds containing less than 15 percent crude protein.	For increase in rate of weight gain and improvement of feed efficiency.
2. Carbadox...	50 (0.0055%)	...do...	For control of swine dysentery (vibrionic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); increase rate of weight gain and improve feed efficiency.

2. Part 135g is amended by adding a new section as follows:

§ 135g.81 Carbadox.

No residues of carbadox (Methyl 3-(2-quinoxalinylmethylene) carbazate-N^1, N^4-dioxide) and its metabolite (quinoxaline-2-carboxylic acid) are found in the uncooked edible tissues of swine as determined by the following method of analysis:

I. Reagents

A. Benzene—Distilled-in-Glass grade, Burdick and Jackson Laboratories or equivalent.

B. Ethyl acetate—Distilled-in-Glass grade, Burdick and Jackson Laboratories or equivalent.

C. n-Hexane—Distilled-in-Glass grade, Burdick and Jackson Laboratories or equivalent.

D. 1-Propanol—reagent grade, dried over molecular sieve pellets (5A).

E. Citric acid monohydrate—U.S.P., Pfizer, Inc., or equivalent.

F. Potassium hydroxide—pellets, reagent grade.

G. Sodium hydroxide—pellets, reagent grade.

H. Hydrochloric acid—reagent, A.C.S.

I. Sulfuric acid—reagent, A.C.S.

J. Sodium sulfate—anhydrous, reagent grade.

K. Quinoxaline-2-carboxylic acid—Pfizer Inc., or equivalent.

L. Propyl quinoxaline-2-carboxylate—Pfizer, Inc., or equivalent.

M. Acridine—practical grade; Matheson, Coleman and Bell or equivalent.

II. Solutions

A. 1*M* Citric acid.

B. 5M Sodium hydroxide.

C. 3th Potassium hydroxide.

D. 0.5*M* Citric acid buffer. Adjust the pH of 100 milliliters of 1*M* citric acid to pH 6.0 with 5*M* sodium hydroxide (approximately 55 milliliters), using a previously calibrated pH meter. Adjust the final volume to 200 milliliters with distilled water. Before making the final pH adjustment, cool the buffer to room temperature.

E. 1-Propanol-sulfuric acid reagent (97:3). Dilute 3 milliliters of concentrated sulfuric acid to 100 milliliters with dried, filtered, and cooled 1-propanol.

F. Acridine solution. Dissolve 1 milligram of acridine in 100 milliliters of benzene.

G. Quinoxaline-2-carboxylic acid solutions:

1. *Stock solution A.* Dissolve 1.25 milligram of quinoxaline-2-carboxylic acid in enough 1-propanol to make 100.0 milliliters (concentration 12.5 micrograms per milliliter).

2. *Stock solution B.* Dilute 1.0 milliliter of stock solution A to 100.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 0.125 microgram per milliliter).

3. *Working standard solution C.* Dilute a 2.0 milliliter aliquot of stock solution B to 10.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 25.0 nanograms per milliliter).

4. *Working standard solution D.* Dilute a 3.0 milliliter aliquot of stock solution B to 10.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 37.5 nanograms per milliliter).

5. *Working standard solution E.* Dilute a 4.0 milliliter aliquot of stock solution B to 10.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 50.0 nanograms per milliliter).

6. *Fortification solution.* Dilute 3.0 milliliters stock solution A to 250 milliliters with distilled water (concentration 150 nanograms per milliliter).

7. *Propyl quinoxaline-2-carboxylate solution.* Dissolve 1.00 milligram of propyl quinoxaline-2-carboxylate in enough ethyl acetate to make 10 milliliters (concentration 100 micrograms per milliliter).

III. Apparatus

A. Column, glass-tapered at one end, 0.9 centimeters x 21.5 centimeters, prepared from a 10-milliliter serological pipette.

B. Centrifuge tubes, heavy duty—50-milliliter graduated (60-milliliter capacity), equipped with glass stoppers, R. C. Ewald, Inc., or equivalent.

C. Centrifuge tubes—50 milliliters graduated, equipped with glass stoppers.

D. Volumetric flasks—5-, 10-, 100-, and 250-milliliter capacity, glass stoppered.

E. Pipettes, automatic transfer—10-, 15-, and 25-milliliter delivery volume.

F. Pipettes, measuring—0.1 and 0.5 milliliter delivery volume.

G. Pipettes, volumetric—1-, 2-, 3-, 4-, and 5-milliliter delivery volume.

H. Pipette, serological—10 milliliter delivery volume.

I. Pipettes—Pasteur, disposable.

J. Propipette bulb.

K. Syringe—10 microliter capacity, Hamilton or equivalent.

L. Crystallizing dish—190 millimeter (diameter) x 100 millimeter (height), for oil bath.

M. Test tube rack.

N. Test tube mixer—Vortex mixer or equivalent.

O. Lab jack—Cenco or equivalent.

P. Thermo-stir hotplate.

Q. Magnetic stirrer bar (teflon).

R. Thermometer—centigrade, 0° to 150° C. range.

S. Knife (for cutting frozen tissue).

T. Ultraviolet light—254 nanometers and 366 nanometers.

U. Scalpel.

V. Torsion balance—style RX-1, class A, Torsion Balance Co., or equivalent.

W. Cahn electrobalance—Cahn Model C-2 or equivalent.

X. Centrifuge—International, size 2, model K, or equivalent.

Y. Rotary evaporator equipped either with a water aspirator or with a vacuum pump and condenser.

Z. Alkacid test paper.

AA. Glassine paper.

BB. Glasswool.

CC. Flask—round bottom, 29/42 ST, 250 milliliters.

DD. Flask—round bottom, 19/22 ST, 65 milliliters.

EE. Funnel—burette.

FF. Hair dryer.

GG. pH meter.

HH. Tray—instrument, stainless steel.

II. Water bath.

JJ. Precoated thin layer plates—20 x 20 centimeters; 250 micron thickness, Silica gel GF, E. Merck, Darmstadt; distributed by Brinkmann Instruments Inc., Westbury, N.Y. 11590 or equivalent.

KK. Desaga multiplate developing tanks for five 20 x 20 centimeters plates-distributed by Brinkmann Instruments Inc. or equivalent.

LL. Gas-liquid chromatograph—Micro Tek 220 model instrument (or equivalent) equipped with a Ni^{63} electron affinity pulsed detector and a 0–1 MV recorder. Conditions and operating parameters for the gas-liquid chromatograph are: Isothermal column temperature, 175° C.; inlet heater, 270° C.; EC detector temperature, 275° C.; argon-methane (95:5) flowrate, 100 milliliters per minute (40 pounds per square inch); chart speed, ½ inch per minute, attentuation, 10 x 64. Electrometer pulse parameters: RF mode; voltage output, 55; pulse rate, 270 microseconds; pulse width, 3.0 microseconds.

A glass sleeve injection port liner is installed for off-column injections.

MM. Packing—3 percent OV–17 on Gas Chrom Q, 60–80 mesh, Applied Sciences Laboratories, Inc. or equivalent.

NN. Column—pyrex glass, U-tube, 6 feet (length) x 4 millimeters (inside diameter). Condition the packed column at 280° C. for at least 72 hours with argon-methane (95:5) flow, detached from the detector input.

OO. Septum—high temperature type (HT-13), Applied Sciences Laboratories, Inc. or equivalent.

PP. Detector-$Nickel^{63}$ electron capture. The voltage current profile for this detector should plateau at 30 volts or less in the DC mode when a stream of nitrogen gas is passed through the column and the electron capture detector.

IV. Procedure

A. Dissolution and hydrolysis step

Transfer 5 grams of swine tissue (freshly sliced from frozen tissue) to a 50-milliliter centrifuge tube. Add 10 milliliters of 3*M* potassium hydroxide, stopper, and place in a 100° C. silicone oil bath for 1 hour.

NOTE: The level of the silicone oil bath should exceed that of the tissue sample. Stopper the tubes lightly in order to allow the digestion mixture to "breath". To determine the recovery of quinoxaline-2-carboxylic acid in swine tissue at the 30 p.p.b. level, fortify 5 grams of sample with 1 milliliter of fortification solution (concentration 150 nanograms per milliliter).

B. Extraction step

1. Cool the alkaline hydrolyzate in an ice bath and acidify to $\leq$ 1 pH 1 (deep red to alkacid test paper) with 4 milliliters of concentrated hydrochloric acid. Add 15 milliliters of ethyl acetate to the acidified hydrolyzate, stopper, and extract by shaking for 20 seconds. Centrifuge the mixture at 1,500 revolutions per minute for 5 minutes to clarify the ethyl acetate phase. Recover the ethyl acetate phase with a blowout pipette equipped with a propipette bulb, and transfer this extract to a 60-milliliter separatory

funnel equipped with teflon stopcocks. Reextract the hydrolyzate with two additional 15-milliliter portions of ethyl acetate, and combine the organic extracts.

NOTE: Do not contaminate the ethyl acetate phase with interfacial material during these extractions. Quinoxaline-2-carboxylic acid is unstable in strongly acidic solutions. Continue to process these extracts through the benzene extraction and evaporation steps.

2. Add 5 milliliters of 0.5*M* citric acid buffer (pH 6.0) to the ethyl acetate extract, shake, and allow the lower phase to clarify for about 20 minutes. Collect the aqueous phase in a 50-milliliter glass-stoppered centrifuge tube. Reextract the ethyl acetate phase with an additional 5 milliliters of pH 6 buffer, wait for the aqueous phase to clarify, and combine the aqueous extracts. Acidify ($\leq$ pH 1) the aqueous extract with 2 milliliters of concentrated hydrochloric acid, stopper, and extract with 25 milliliters of benzene. Centrifuge to clarify the benzene layer and transfer the organic phase, using a blowout pipette equipped with a propipette bulb, to a 250-milliliter round bottom flask. Repeat the extraction and centrifugation steps three times. Combine the benzene extracts (about 100 milliliters) and evaporate to near-dryness, using a rotary evaporator equipped with a water aspirator and with a water bath set at 40° C.

NOTE: A rotary evaporator equipped with a vacuum pump and condenser may be used at this point. These residues may be stored overnight.

C. ESTERIFICATION STEP

Reconstitute the residue from the previous step by rinsing the walls of the round bottom flask with 2 x 2 milliliters of 1-propanol-sulfuric acid reagent; transfer each rinse with a disposable pipette to a 50-milliliter centrifuge tube. Stopper and heat the tube in a silicone oil bath at 90° C. for 1 hour. Cool the reaction mixture in an ice bath before proceeding to the following extraction step.

NOTE: Samples and standards may be stored overnight at room temperature in the propanol-sulfuric acid medium.

D. EXTRACTION OF THE ESTER DERIVATIVE

Add 10 milliliters of water and 15 milliliters of n-hexane to the esterification mixture. Extract and centrifuge to clarify the n-hexane phase. Transfer the n-hexane extract to a 65-milliliter round bottom flask; reextract the aqueous-propanol phase with two additional 15-milliliter portions of n-hexane. Centrifuge after each extraction and combine the n-hexane extracts. (NOTE: Avoid taking any of the aqueous phase in this extraction step; otherwise, the n-hexane extracts will have to be washed with 3 x 10 milliliters of water and dried over sodium sulfate.) Concentrate this solution to 0.5 milliliter, using a rotary evaporator equipped with a water aspirator and with a water bath set at 25° C. (NOTE: A rotary evaporator equipped with a vacuum pump and condenser may be used at this point.) Fortify this solution with 0.1 milliliter of acridine marker (1 milligram per 100 milliliters benzene).

NOTE: Do not store the n-hexane extracts of the propyl ester derivative overnight. Continue to process these solutions by the following thin-layer chromatography step E.

E. THIN-LAYER CHROMATOGRAPHY

1. Quantitatively transfer the concentrated n-hexane extract to the "origin" of a 20-centimeters x 20-centimeters silica gel thin-layer plate, using a disposable pipette. When pipetting this extract, streak it in a uniform band approximately 15 centimeters across and approximately 20 millimeters above the lower edge of the plate, making sure not to scratch or remove appreciable portions of absorbent and avoiding application of the sample to the sides of the plate. The applied band should not diffuse or penetrate to the end of the silica gel layer, but should remain 10 millimeters above the lower edge of the silica gel layer. Rinse the round bottom flask (containing residual n-hexane) with three portions of approximately 0.25 milliliter each of ethyl acetate; transfer each portion with the same pipette and cover the same area of the plate as described above. Following each application of the extract and ethyl acetate washes, evaporate the solvent from the plate by directing a stream of cool air to the sample zone ("origin"). Prior to chromatographic development, place an edge (approximately 5 millimeters deep) of the thin-layer plate into a tray of ethyl acetate so that the solvent will rise through the applied sample zone to form it into a narrow band approximately 10 millimeters above the "origin." Air dry this plate before chromatographic development.

2. Place the prepared plate in a chromatographic chamber lined with blotting paper and saturated with the benzene-ethyl acetate system (85:15). Develop the plate twice in this system, maintaining straight solvent fronts and allowing the solvent front to reach the top of the plate during each irrigation. Air dry the thin-layer plate for approximately 5 minutes between the first and second irrigations. Each irrigation takes approximately 75 minutes. Developed plates should not be stored overnight. Examine the developed plate under long wavelength (366 nanometers) ultraviolet light and locate the blue fluorescent band of acridine (R_f approximately 0.5). Mark out a 12-millimeters x 20-centimeters band of silica gel encompassing an area 5 millimeters above and 7 millimeters below the center of the acridine marker and extending from one side of the plate to the other.

NOTE: The relative mobilities of propyl quinoxaline-2-carboxylate and acridine must be checked in each laboratory to determine where a 12-milliliters x 20-centimeters zone of silica gel is to be excised in order to quantitatively recover the propyl ester derivative. This may be accomplished by mixing 0.1 milliliter of acridine solution (1 milligram per 100 milliliters) with 0.4 milliliter of propyl quinoxaline-2-carboxylate (100 micrograms per milliliter) and chromatographing this solution as directed above. Examine the developed plate under long wavelength (366 nanometers) ultraviolet light and locate the blue fluorescent band of acridine (R_f approximately 0.5). Examination of the plate under short wavelength (254 nanometers) ultraviolet light locates the blue absorbing band of propyl quinoxaline-2-carboxylate (R_f approximately 0.5).

3. Reduce the sample zone to a fine powder by making a series of horizontal cuts with a scalpel. Gently transfer this powder with the aid of a stainless steel spatula to glassine paper; pour this material into a burette funnel atop a small glass column packed with a glass wool plug. Elute the adsorbent with ethyl acetate (about 6 milliliters), and collect the eluate to mark in a 5-milliliter volumetric flask. Examine this eluate by gas-liquid chromatography.

NOTE: Contamination of thin-layer chromatographic plates can be checked by gas-liquid chromatographic examination of an eluate prepared by processing a blank plate as in paragraph 1 above, starting at the point: "place a edge (approximately 5 millimeters deep) of the thin-layer plate into a tray of ethyl acetate * * *." If the plate is contaminated, examine alternate lots of precoated thin-layer plates.

F. STANDARD CURVE

Pipette 4-milliliter aliquots of quinoxaline-2-carboxylic acid working standard solutions C, D, and E, respectively, and 4-milliliter portions of 1-propanol-sulfuric acid reagent into 50-milliliter centrifuge tubes; stopper, react, extract, and concentrate as directed in the esterification and extraction steps described in subsections C and D above; however, omit the addition of acridine to the n-hexane concentrate and do not chromatograph it by thin-layer chromatography. Instead, reconstitute the n-hexane concentrate with ethyl acetate and quantitatively transfer this solution to a 5-milliliter volumetric flask to give working standard solutions C, D, and E. The final concentrations of working standard solutions C, D, and E, are 20, 30, and 40 nanograms per milliliter, respectively, and are equivalent to 20, 30, and 40 p.p.b., respectively.

G. GAS-LIQUID CHROMATOGRAPHY

Separately inject 4 microliters of each of the working standard solutions C, D, and E (prepared as described above (F) into the gas-liquid chromatograph to determine the retention time of propyl quinoxaline-2-carboxylate and the relative response of the EC detector. Construct a standard curve by plotting concentration (p.p.b.) versus peak height (millimeters).

(NOTE: The reagent blank must show no interfering gas-liquid chromatographic peaks.) The peak height of propyl quinoxaline-2-carboxylate at the 30-p.p.b. level (working standard solution D) should approximate 10 percent of full-scale deflection with a retention time of 5 minutes. Follow these injections with 4-microliter injections of the tissue eluates, allowing 20 minutes between injections to clear the instrument of background peaks.

Measure the peak heights of samples and determine their concentration (p.p.b.) by reference to the standard curve.

H. CALCULATIONS

From the standard curve and the observed peak height of quinoxaline-2-carboxylic acid in the sample, determine its concentration (p.p.b.).

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (10–3–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 27, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72–16746 Filed 10–2–72;8:45 am]

PART 164 — CERTIFICATION OF BATCHES OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Increase in Fee for Sterility Testing of Insulin

In a notice published in the FEDERAL REGISTER of June 13, 1972 (37 F.R. 11729), the Commissioner of Food and Drugs proposed that Part 164 be amended to increase the fee for sterility testing of insulin to a level equal to the fee for sterility testing of all antibiotic drugs. Interested persons were invited to submit their comments in response to the notice of proposed rule making within 60 days. No comments were re-

ceived. Accordingly, the Commissioner of Food and Drugs concludes that Part 164 should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 506, 55 Stat. 851, as amended; 21 U.S.C. 356), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 164 is amended by revising § 164.10(b)(9) to read as follows:

§ 164.10 Fees.

* * * * *

(b) * * *

(9) Ten dollars for each package in the sample of the finished batch submitted for all tests except sterility; $58.80 for all the packages in the sample submitted for the initial sterility test in accordance with § 164.2(d)(10); and $117.60 for all packages in the sample submitted for any repeat sterility test, if necessary, in accordance with the U.S.P. or N.F.

* * * * *

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Sec. 506, 55 Stat. 851, as amended; 21 U.S.C. 356)

Dated: September 26, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-16748 Filed 10-2-72;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7208]

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

Certain Partnership Elections and Returns

On August 13, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to (1) clarify the time for electing optional adjustment to basis of partnership property under section 754 of the Internal Revenue Code of 1954, (2) clarify the time and provide an additional manner by which certain unincorporated organizations may elect under section 761(a) of such Code to be excluded from subchapter K of chapter 1 of such Code, (3) eliminate the requirements for filing returns and information by certain unincorporated organizations electing under such section, (4) clarify the requirements for filing returns by certain partnerships, and (5) make certain other clarifying changes, was published in the FEDERAL REGISTER (36 F.R. 15123). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted subject to the changes which follow:

PARAGRAPH 1. Paragraph (b) of § 1.754–1, as set forth in paragraph 1 of the notice of proposed rule making, is changed to read as set forth below.

PAR. 2. Paragraph (b)(2)(ii)(*b*) of § 1.761–2, as set forth in paragraph 3 of the notice of proposed rule making, is changed to read as set forth below.

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

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

Approved: September 27, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to (1) clarify the time for electing optional adjustment to basis of partnership property under section 754 of the Internal Revenue Code of 1954, (2) clarify the time and provide an additional manner by which certain unincorporated organizations may elect under section 761(a) of such Code to be excluded from subchapter K of chapter 1 of such Code, (3) eliminate the requirements for filing returns and information by certain unincorporated organizations electing under such section, (4) clarify the requirements for filing returns by certain partnerships, and (5) make certain other clarifying changes, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Paragraph (b) of § 1.754–1 is amended to read as follows:

§ 1.754–1 Time and manner of making election to adjust basis of partnership property.

* * * * *

(b) *Time and method of making election.* (1) An election under section 754 and this section to adjust the basis of partnership property under sections 734(b) and 743(b), with respect to a distribution of property to a partner or a transfer of an interest in a partnership, shall be made in a written statement filed with the partnership return for the taxable year during which the distribution or transfer occurs. For the election to be valid, the return must be filed not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the return for such taxable year (or before August 23, 1956, whichever is later). Notwithstanding the preceding two sentences, if a valid election has been made under section 754 and this section for a preceding taxable year and not revoked pursuant to paragraph (c) of this section, a new election is not required to be made. The statement required by this subparagraph shall (i) set forth the name and address of the partnership making the election, (ii) be signed by any one of the partners, and (iii) contain a declaration that the partnership elects under section 754 to apply the provisions of section 734(b) and section 743(b). For rules regarding extensions of time for filing elections, see § 1.9100–1.

(2) The principles of this paragraph may be illustrated by the following example:

Example. A, a U.S. citizen, is a member of partnership ABC, which has not previously made an election under section 754 to adjust the basis of partnership property. The partnership and the partners use the calendar year as the taxable year. A sells his interest in the partnership to D on January 1, 1971. The partnership may elect under section 754 and this section to adjust the basis of partnership property under sections 734(b) and 743(b). Unless an extension of time to make the election is obtained under the provisions of § 1.9100–1, the election must be made in a written statement filed with the partnership return for 1971 and must contain the information specified in subparagraph (1) of this paragraph. Such return must be filed by April 17, 1972 (unless an extension of time for filing the return is obtained). The election will apply to all distributions of property to a partner and transfers of an interest in the partnership occurring in 1971 and subsequent years, unless revoked pursuant to paragraph (c) of this section.

* * * * *

PAR. 2. Paragraph (a) of § 1.761–1 is amended to read as follows:

§ 1.761–1 Terms defined.

(a) *Partnership.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not a corporation or a trust or estate within the meaning of the Code. The term "partnership" is broader in scope than the common law meaning of partnership, and may include groups not commonly called partnerships. See section 7701(a)(2). See regulations under section 7701(a)(1), (2), and (3) for the description of those unincorporated organizations taxable as corporations or trusts. A joint undertaking merely to share expenses is not a partnership. For example, if two or more persons jointly construct a ditch merely to drain surface water from their properties, they are not partners. Mere coownership of property which is maintained, kept in repair, and rented or leased does not constitute a partnership. For example, if an individual owner, or tenants in common, of farm property lease it to a farmer for a cash rental or a share of the crops, they do not necessarily create a partnership thereby. Tenants in common, however, may be partners if they actively carry on a trade, business, financial operation, or venture and divide the profits thereof. For example, a partnership exists if coowners of an apartment building lease space and in addition provide services to the occupants either directly or through an agent. For rules relating to the exclusion of certain partnerships from the application of all or part of subchapter K of chapter 1 of the Code, see § 1.761–2.

* * * * *

PAR. 3. There is inserted immediately after § 1.761–1 the following new section:

§ 1.761–2 Exclusion of certain unincorporated organizations from the application of all or part of subchapter K of chapter 1 of the Code.

(a) *Exclusion of eligible unincorporated organizations*—(1) *In general.* Under conditions set forth in this section, an unincorporated organization described in subparagraph (2) or (3) of this paragraph may be excluded from the application of all or a part of the provisions of subchapter K of chapter 1 of the Code. Such organization must be availed of (i) for investment purposes only and not for the active conduct of a business, or (ii) for the joint production, extraction, or use of property, but not for the purpose of selling services or property produced or extracted. The members of such organization must be able to compute their income without the necessity of computing partnership taxable income. Any syndicate, group, pool, or joint venture which is classifiable as an association, or any group operating under an agreement which creates an organization classifiable as an association, does not fall within these provisions.

(2) *Investing partnership.* Where the participants in the joint purchase, retention, sale, or exchange of investment property—

(i) Own the property as coowners,

(ii) Reserve the right separately to take or dispose of their shares of any property acquired or retained, and

(iii) Do not actively conduct business or irrevocably authorize some person or persons acting in a representative capacity to purchase, sell, or exchange such investment property, although each separate participant may delegate authority to purchase, sell, or exchange his share of any such investment property for the time being for his account, but not for a period of more than a year, then

such group may be excluded from the application of the provisions of subchapter K under the rules set forth in paragraph (b) of this section.

(3) *Operating agreements.* Where the participants in the joint production, extraction, or use of property—

(i) Own the property as coowners, either in fee or under lease or other form of contract granting exclusive operating rights, and

(ii) Reserve the right separately to take in kind or dispose of their shares of any property produced, extracted, or used, and

(iii) Do not jointly sell services or the property produced or extracted, although each separate participant may delegate authority to sell his share of the property produced or extracted for the time being for his account, but not for a period of time in excess of the minimum needs of the industry, and in no event for more than 1 year, then

such group may be excluded from the application of the provisions of subchapter K under the rules set forth in paragraph (b) of this section. However, the preceding sentence does not apply to any unincorporated organization one of whose principal purposes is cycling, manufacturir , or processing for persons who are not members of the organization.

(b) *Complete exclusion from subchapter K*—(1) *Time for making election for exclusion.* Any unincorporated organization described in subparagraph (1) and either (2) or (3) of paragraph (a) of this section which wishes to be excluded from all of subchapter K must make the election provided in section 761(a) not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the partnership return for the first taxable year for which exclusion from subchapter K is desired. Notwithstanding the prior sentence such organization may be deemed to have made the election in the manner prescribed in subparagraph (2)(ii) of this paragraph.

(2) *Method of making election.* (i) Except as provided in subdivision (ii) of this subparagraph, any unincorporated organization described in subparagraphs (1) and either (2) or (3) of paragraph (a) of this section which wishes to be excluded from all of subchapter K must make the election provided in section 761 (a) in a statement attached to, or incorporated in, a properly executed partnership return, Form 1065, which shall contain the information required in this subdivision. Such return shall be filed with the internal revenue officer with whom a partnership return, Form 1065, would be required to be filed if no election were made. Where, for the purpose of determining such officer, it is necessary to determine the internal revenue district (or service center serving such district) in which the electing organization has its principal office or place of business, the principal office or place of business of the person filing the return shall be considered the principal office or place of business of the organization. The partnership return must be filed not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the partnership return with respect to the first taxable year for which exclusion from subchapter K is desired. Such partnership return shall contain, in lieu of the information required by Form 1065 and by the instructions relating thereto, only the name or other identification and the address of the organization together with information on the return, or in the statement attached to the return, showing the names, addresses, and identification numbers of all the members of the organization; a statement that the organization qualifies under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section; a statement that all of the members of the organization elect that it be excluded from all of subchapter K; and a statement indicating where a copy of the agreement under which the organization operates is available (or if the agreement is oral, from whom the provisions of the agreement may be obtained).

(ii) If an unincorporated organization described in subparagraphs (1) and either (2) or (3) of paragraph (a) of this section does not make the election provided in section 761(a) in the manner prescribed by subdivision (i) of this subparagraph, it shall nevertheless be deemed to have made the election if it can be shown from all the surrounding facts and circumstances that it was the intention of the members of such organization at the time of its formation to secure exclusion from all of subchapter K beginning with the first taxable year of the organization. Although the following facts are not exclusive, either one of such facts may indicate the requisite intent:

(*a*) At the time of the formation of the organization there is an agreement among the members that the organization be excluded from subchapter K beginning with the first taxable year of the organization, or

(*b*) The members of the organization owning substantially all of the capital interests report their respective shares of the items of income, deductions, and credits of the organization on their respective returns (making such elections as to individual items as may be appropriate) in a manner consistent with the exclusion of the organization from subchapter K beginning with the first taxable year of the organization.

(3) *Effect of election*—(i) *In general.* An election under this section to be excluded will be effective unless within 90 days after the formation of the organization (or by October 15, 1956, whichever is later) any member of the organization notifies the Commissioner that the member desires subchapter K to apply to such organization, and also advises the Commissioner that he has so notified all other members of the organization by registered or certified mail. Such election is irrevocable as long as the organization remains qualified under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section, or unless approval of revocation of the election is secured from the Commissioner. Application for permission to revoke the election must be submitted to the Commissioner of Internal Revenue, Attention: T:I, Washington, D.C. 20224, no later than 30 days after the beginning of the first taxable year to which the revocation is to apply.

(ii) *Special rule.* Notwithstanding subdivision (i) of this subparagraph, an election deemed made pursuant to subparagraph (2)(ii) of this paragraph will not be effective in the case of an organization which had a taxable year ending on or before [the last day of the first calendar month which begins after the date of the publication of the Treasury decision in the FEDERAL REGISTER] if any member of the organization notifies the Commissioner that the member desires subchapter K to apply to such organization, and also advises the Commissioner that he has so notified all other members of the organization by registered or certified mail. Such notification to the Com-

missioner must be made on or before [the 90th day after the date of the publication of the Treasury decision in the FEDERAL REGISTER] and must include the names and addresses of all of the members of the organization.

(c) *Partial exclusion from subchapter K.* An unincorporated organization which wishes to be excluded from only certain sections of subchapter K must submit to the Commissioner, no later than 90 days after the beginning of the first taxable year for which partial exclusion is desired, a request for permission to be excluded from certain provisions of subchapter K. The request shall set forth the sections of subchapter K from which exclusion is sought and shall state that such organization qualifies under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section, and that the members of the organization elect to be excluded to the extent indicated. Such exclusion shall be effective only upon approval of the election by the Commissioner and subject to the conditions he may impose.

(d) *Cross reference.* For requirements with respect to the filing of a return on Form 1065 by a partnership, see § 1.6031–1.

PAR. 4. Section 1.6031–1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.6031–1 Return of partnership income.

(a) *In general*—(1) *General rule.* Except as provided in paragraphs (b) and (d) of this section with respect to certain organizations excluded from the application of subchapter K of chapter 1 of the Code and certain partnerships having no U.S. business, an unincorporated organization defined as a partnership in section 761(a), through or by means of which any business, financial operation, or venture is carried on, shall make a return for each taxable year on Form 1065. For purposes of filing a partnership return, an unincorporated organization will not be considered, within the meaning of section 761(a), to carry on a business, financial operation, or venture as a partnership before the first taxable year in which such organization receives income or makes or incurs any expenditures treated as deductions for Federal income tax purposes. Such return shall state specifically the items of partnership gross income and the deductions allowable by subtitle A of the Code and shall include the names and addresses of all the partners and the amount of the distributive shares of income, gain, loss, deduction, or credit allocated to each partner. Such return shall be made for the taxable year of the partnership, irrespective of the taxable years of the partners. For taxable years of a partnership and of a partner, see section 706 and § 1.706–1. For signing of a partnership return, see § 1.6063–1.

(2) *Special rule.* Except in the case of an unincorporated organization deemed to be excluded from the application of subchapter K in the manner described in paragraph (b)(2)(ii) of § 1.761–2 for the first year of its existence, an unincorporated organization described in paragraph (a) of § 1.761–2 shall file a partnership return for the first taxable year in which the participants by a formal agreement undertake to engage in joint operations, or in the absence of a formal agreement for the first taxable year in which the participants with respect to the joint use of property jointly have income, or make or incur any expenditures treated as deductions for Federal income tax purposes. Additionally, if an organization described in paragraph (a) of § 1.761–2 does not elect under section 761 and the regulations thereunder to be excluded from the application of subchapter K or chapter 1 of the Code, it is required to file a return for each taxable year subsequent to its first taxable year in accordance with the requirements of this section until an election is made in accordance with paragraph (b)(2)(i) of § 1.761–2. Where no annual accounting period has been adopted by an organization described in paragraph (a) of § 1.761–2, its taxable year shall be the calendar year in accordance with section 441(g). For special rules in the case of an organization making the election for exclusion under section 761, see paragraphs (b)(2)(i) and (c) of § 1.761–2 and paragraph (b) of this section.

(b) *Unincorporated organizations excluded from the application of subchapter K*—(1) *Wholly excluded.* (i) Any unincorporated organization with respect to which under section 761(a) an election to be excluded from all the provisions of subchapter K of chapter 1 of the Code has been made in the manner described in paragraph (b)(2)(i) of § 1.761–2 shall file Form 1065 for the first year with respect to which such an election has been made and such return shall, in lieu of the information therein required, contain or be accompanied by the information required by such paragraph.

(ii) Except as otherwise provided in subdivision (i) of this subparagraph, an unincorporated organization which is wholly excluded from the application of subchapter K need not file a partnership return.

(2) *Partially excluded.* Any unincorporated organization excluded from the application of part of subchapter K of chapter 1 of the Code shall file a return on Form 1065 containing such information as the Commissioner may require. See section 761 and paragraph (c) of § 1.761–2.

* * * * *

[FR Doc.72–16828 Filed 10–2–72;8:54 am]

[T.D. 7187]

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

Certain Unit Investment Trusts; Correction

In F.R. Doc 72–9487 filed July 5, 1972; 8:53 a.m., appearing at page 13254 in the issue of Thursday, July 6, 1972, the following change should be made:

An additional sentence should be added at the end of subparagraph (2) of § 1.851–7 (c) appearing at page 13255 of the above issue, reading as follows:

"For purposes of this subparagraph, the basis of the holder's interest in assets sold by the trust or distributed to him shall be an amount which bears the same relationship to the basis of his total interest in the trust that the fair market value of the assets so sold or distributed bears to the fair market value of such total interest in the trust, such fair market value to be determined on the date of such sale or distribution."

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

[FR Doc.72–16827 Filed 10–2–72;8:50 am]

[T.D. 7210]

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

Gain on Straddle Transactions

In order to make minor corrections to and clarify the rules relating to gain on the lapse of an option issued as part of a straddle in the case of multiple options under section 1234(c) of the Internal Revenue Code of 1954, paragraphs (c)(1) and (c)(2)(ii) of § 1.1234–2 of the Income Tax Regulations (26 CFR Part 1) are hereby amended to read as follows:

§ 1.1234–2 Special rule for grantors of straddles.

* * * * *

(c) *Special rules in the case of a multiple option.* (1) If, in the case of a multiple option, the number of the options to sell and the number of the options to buy are the same and if the terms of all of the options are identical (as to the quantity of the security, price, and period of time), then each of the options contained in the multiple option shall be deemed to be a component of a straddle for purposes of section 1234(c)(1) and paragraph (a) of this section.

(2) * * *

(ii) It is clear from the facts and circumstances that the lapsed option was part of a straddle. See example (6) of paragraph (f) of this section. A multiple option to which this subdivision applies may not be regarded as consisting of a number of straddles which exceeds the lesser of the options to sell or the options to buy as the case may be. For example, if a multiple option of five puts and four calls is granted it may not be regarded as consisting of more than four straddles, although the particular facts and circumstances could dictate that the option consists of less than four straddles.

* * * * *

Because this Treasury decision amends existing regulations merely by making minor corrections to and clarifying the rules relating to gain on the lapse of a multiple option granted by the taxpayer as part of a straddle, it is hereby found

unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

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

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

Approved: September 27, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-16829 Filed 10-2-72;8:54 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS UNDERGROUND COAL MINES

Requirements for Installation of Canopies or Cabs on Self-Propelled Electric Face Equipment

Background. In accordance with the provisions of section 317(j) of the Federal Coal Mine Health and Safety Act, as amended (83 Stat. 789; 30 U.S.C. 877 (j)), and pursuant to the authority vested in the Secretary under section 101 (a) of the Act (83 Stat. 745; 30 U.S.C. 811 (a)), there was published, as proposed rule making, in the FEDERAL REGISTER for March 18, 1971 (36 F.R. 5244), § 75.-1710-1 of Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, entitled "Canopies or cabs; electric face equipment; installation requirements."

Interested persons were afforded a period of 30 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to this proposed mandatory safety standard, stating the grounds therefor, and to request a public hearing on such objections.

Written objections were timely filed with the Director, Bureau of Mines, stating the grounds for objections and requesting a hearing on proposed § 75.1710-1. In accordance with section 101(f) of the Act, a notice of objections filed and hearing requested was published in the FEDERAL REGISTER for June 14, 1972 (37 F.R. 11779).

Following this notice, there was published on June 27, 1972, at 37 F.R. 12643, a notice of public hearing to be held for the purpose of receiving relevant evidence on the following issues:

(1) That all electric face equipment be equipped with substantial canopies or cabs to protect the operator of such equipment from falls of roof, face, and ribs; and,

(2) That substantially constructed canopies or cabs only be required on self-propelled electric face equipment, with a staggered installation schedule for equipment presently in use, dependent upon the mining height of the particular mine.

The public hearing was held on July 31, 1972, in the House of Delegates Chambers, State Capitol Building, Charleston, W. Va. Presentations were made by the following organizations: U.S. Bureau of Mines, National Independent Coal Operator's Association Harlan County Coal Operators' Association, Acme Machinery, Inc., Bituminous Coal Operators' Association, Joy Manufacturing Co., Consolidation Coal Co., Jeffrey Mining Machinery Co., Eastover Mining Co., Sigmon Construction Co., United Mine Workers of America, FMC Corp., and Eastern Associated Coal, Inc.

A verbatim transcript of the hearing is available for public inspection in the office of the Deputy Director, Health and Safety, Room 4512, Bureau of Mines, Department of the Interior, Washington, DC 20240.

Findings. Section 101(g) of the Act (83 Stat. 747; 30 U.S.C. 811(g)), provides, in part, that within 60 days after completion of any public hearing on proposed mandatory safety standards, the Secretary of the Interior shall make findings of fact which shall be public. On the basis of the evidence presented at the hearing, it is found that:

(1) Roof falls have been the prime cause of fatalities in underground bituminous coal mines, having accounted for an average of over 50 percent of such fatalities.

(2) Fatalities to operators of self-propelled electric face equipment due to falls of roof, face, and rib will be significantly reduced by the installation and use of substantially constructed canopies or cabs on such equipment. Equipment-operator fatalities caused by operators being pinned, squeezed, or crushed against the roof, rib, or other equipment will also be significantly reduced by the installation and use of substantially constructed canopies or cabs on self-propelled electric-face equipment.

(3) Practical technology is not available to design and construct a canopy or cab for installation on all electric-face equipment which will protect the equipment operator from a massive roof fall.

(4) A majority of roof falls involving fatalities are not massive, as evidenced by an analysis of the 520 roof-fall fatalities occurring from 1966 through 1971 which showed that 71.2 percent of these fatalities were caused by falls of strata 24 inches or less in thickness. Observation of roof falls on existing canopies and cabs further showed that the falling rock generally sheared along the perimeter of the canopies or cabs.

(5) Practical technology is available to design and construct a substantial canopy or cab for installation on self-propelled electric-face equipment of sufficient strength to protect the equipment operator from a nonmassive roof fall.

(6) Although practical technology is available to design and construct a substantial canopy or cab for installation on self-propelled electric-face equipment of sufficient strength to protect the equipment operator from a nonmassive roof fall, it has been shown that in mining heights less than 72 inches, additional research and study is necessary to solve human engineering problems such as reduction of visibility and cramping of the equipment operator. Such research and study is currently being undertaken on behalf of the Bureau of Mines and results will be available in calendar year 1973. Depending upon the results of such research and study, as well as experience gained in the course of enforcement of the Federal Coal Mine Health and Safety Act of 1969 and other pertinent statutes, the timetables, based on mining heights, for the installation of canopies or cabs on self-propelled electric-face equipment, contained in § 75.1710-1(a) (2), (3), (4), (5), and (6), may be shortened or lengthened.

(7) Observation of self-propelled electric-face equipment presently in use (including machinery presently equipped with canopies or cabs) shows that practical technology is available to retrofit existing self-propelled electric-face equipment with substantially contructed canopies or cabs.

(8) Manufacturers of new self-propelled electric-face equipment need the same amount of time to design and install substantially constructed canopies or cabs on such equipment as do coal mine operators to design and install canopies or cabs on equipment presently in use.

(9) It is recognized that continuing research and study may lead to the development of other means of protecting operators of self-propelled electric-face equipment from falls of roof, face, or rib, or from rib and face rolls, which are no less effective than substantially constructed canopies or cabs. Such research and study should be particularly applicable for roof-bolting machines, short-wall machines, and longwall systems. Therefore, an operator will be permitted to apply to the Assistant Director—Technical Support for approval of devices to be used in lieu of substantially constructed canopies or cabs provided that the Assistant Director—Technical Support is satisfied the devices will provide no less than the same measure of protection to the equipment operator as would a substantially constructed canopy or cab.

Based on evidence received at the public hearing of July 31, 1972, and in view of the foregoing reasons and facts, it is determined to modify the installation requirements for canopies or cabs on electric-face equipment as proposed in the FEDERAL REGISTER for March 18, 1971 (36 F.R. 5244), by adopting 30 CFR 75.1710-1 as set forth below.

Effective date. This amendment shall be effective on January 1, 1973.

(Secs. 101(a), 317(j) Federal Coal Mine Health and Safety Act of 1969, as amended; 83 Stat. 745, 789; 30 U.S.C. 811(a), 877(j))

JOHN B. RIGG,
Assistant Secretary of the Interior.

SEPTEMBER 28, 1972.

Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, is hereby amended by adding a new § 75.1710–1, to read as follows:

§ 75.1710–1 Canopies or cabs; self-propelled electric face equipment; installation requirements.

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches.

(b) (1) For purposes of this section, a canopy means a structure which provides overhead protection against falls of roof.

(2) For purposes of this section, a cab means a structure which provides overhead and lateral protection against falls of roof, rib, and face, or rib and face rolls.

(c) In determining whether to install substantially constructed canopies as opposed to substantially constructed cabs, the operator shall consider and take into account the following factors:

(1) The mining method used;

(2) Physical limitations, including but not limited to the dip of the coalbed, and roof, rib, and face conditions;

(3) Previous accident experience, if any, caused by falls of roof, rib, and face, or rib and face rolls;

(4) Overhead protection, such as that afforded by a substantially constructed canopy, against falls of roof will always be required; and

(5) Lateral protection, such as that afforded by a substantially constructed cab, may also be necessary where the occurrence of falls of rib and face, or rib and face rolls is likely.

(d) For purposes of this section, a canopy or cab will be considered to be substantially constructed if a registered engineer certifies that such canopy or cab has the minimum structural capacity to support elastically: (1) A dead weight load of 18,000 pounds, or (2) 15 p.s.i. distributed uniformly over the plan view area of the structure, whichever is lesser.

(e) Evidence of the certification required by paragraph (d) of this section shall be furnished by attaching a plate, label, or other appropriate marking to the canopy or cab for which certification has been made, stating that such canopy or cab meets the minimum requirements for structural capacity set forth in paragraph (d) of this section. Written evidence of such certification shall also be retained by the operator, and shall be made available to an authorized representative of the Secretary upon request. Written evidence of certification may consist of the report of the registered engineer who certified the canopy or cab, or of information from the manufacturer of the canopy or cab stating that a registered engineer has certified that the canopy or cab meets the minimum requirements for structural capacity set forth in paragraph (d) of this section.

(f) An operator may apply to the Assistant Director—Technical Support, Bureau of Mines, Department of the Interior, Washington, D.C. 20240 for approval of the installation of devices to be used in lieu of substantially constructed canopies or cabs on self-propelled electric face equipment. The Assistant Director—Technical Support may approve such devices if he determines that the use thereof will afford the equipment operator no less than the same measure of protection from falls of roof, face, or rib, or from rib and face rolls as would a substantially constructed canopy or cab meeting the requirements of this section.

[FR Doc.72–16812 Filed 10–2–72;8:49 am]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1472—CONDUCT OF RENEGOTIATION

PART 1477—STATEMENTS TO CONTRACTORS

Miscellaneous Amendments to Chapter

The Renegotiation Board hereby adopts the proposed amendments to Parts 1472 and 1477 which were published on July 25, 1972 (37 F.R. 41816–41819), certain changes having been made therein.

In adopting these regulations, the Board has endeavored, by the institution of new procedures, to provide more information to contractors engaged in renegotiation proceedings and to improve opportunities for the making of agreements to eliminate excessive profits. The new regulations reflect special emphasis on principles of administrative due process. Significant changes have been made in the procedures to provide, among other things, for the preparation and issuance to contractors of a renegotiation report and a memorandum of decision explaining the final action.

Said regulations, as adopted, read as set forth below.

Dated: September 28, 1972.

RICHARD T. BURRESS,
Chairman.

A. Part 1472 of Title 32 is amended as follows:

1. Section 1472.3 *Conduct of renegotiation by Regional Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.3 Conduct of renegotiation by Regional Board.

(a) *Submission of additional information; preliminary meetings.* After a case has been assigned to a Regional Board for renegotiation, the Regional Board personnel assigned to the case will examine the Standard Form of Contractor's Report and other information submitted by the contractor and will determine what additional information is needed. When necessary, a preliminary meeting or meetings will be held with the contractor to discuss the information and data to be submitted by the contractor and the manner in which it is to be submitted. The contractor shall also be entitled in any case to submit, and in cases deemed appropriate will be invited at an appropriate stage in the proceedings to submit, a statement setting forth such further information, data, and representations as it may desire to have taken into consideration under the factors prescribed in section 103(e) of the act, and explained in Parts 1460 and 1490 of this chapter. A reasonable opportunity will be provided for the submission of any information, data, or representations that the contractor may be requested or invited to submit.

(b) *Disputed issues.* Before completing the reports described in paragraphs (e), (f), and (h) of this section, the Regional Board personnel assigned to the case will endeavor to resolve with the contractor any issues or disputed matters of fact, law or accounting. Upon its request, the contractor will be afforded a reasonable opportunity to present to such Regional Board personnel, both orally and in writing, any statements or arguments which the contractor desires to submit in support of its position on any such issues or matters.

(c) *Plant inspection.* In cases deemed appropriate or, in any event, in any case in which there exists a possibility of a determination of excessive profits, Regional Board personnel will, whenever practicable, with the consent of the contractor, visit an inspect the appropriate plant or site of the contractor, unless a visit of reasonably recent date was made to such plant or site in conection with the renegotiation of the contractor for an earlier fiscal year. Generally, a plant

visit, if undertaken, will be made before the completion of the Renegotiation Report pursuant to paragraph (h) of this section.

(d) *Regional Board member as renegotiator.* A Regional Board member who serves as the assigned renegotiator in a case will not be eligible thereafter to serve as a member of a panel of the Regional Board constituted pursuant to paragraph (k) of this section or to vote as a member of the Regional Board in the determination or recommendation made pursuant to paragraph (j) or (l) of this section.

(e) *Accounting Report.* After all relevant financial, accounting, and related information has been obtained, the Regional Board accountant assigned to the case will prepare an Accounting Report which will include pertinent financial schedules and accounting data. Except as provided in paragraph (f) of this section, a copy of the Accounting Report will be furnished to the contractor after approval thereof by the Director, Division of Accounting, and after such furnishing is authorized by the Chairman of the Regional Board. The letter transmitting the Accounting Report will request the contractor to state, within a fixed time, its concurrence in or its objections to the Statement of Income (Schedule A) included in such report, and will invite its comments upon any other matters set forth therein. A copy of any modification thereafter made of the Accounting Report will be furnished to the contractor after approval thereof by the Director, Division of Accounting, and after such furnishing is authorized by the Chairman of the Regional Board. The contractor will be requested to state its concurrence in or its objections to such modification.

(f) *Clearance recommendation.* If the renegotiator assigned to the case, after considering the Accounting Report, all information and data submitted by the contractor, and all relevant procurement, performance and other information that shall have been obtained, concludes that the contractor did not realize excessive profits in the fiscal year under review, he will prepare a Clearance Recommendation which will include an analysis of the case under the statutory factors. Such recommendation and any supporting Accounting Report or schedule will not be furnished to the contractor.

(g) *Clearance determination or recommendation.* A renegotiator's Clearance Recommendation will, upon its completion, and after approval thereof by the Director, Division of Renegotiating, be submitted to the Regional Board for consideration. If the decision of the Regional Board is that the contractor did not realize any excessive profits, it will make and enter a determination, in a Class B case, or a recommendation, in a Class A case, to that effect, and will notify the contractor thereof by registered mail; and the clearance procedure set forth in Part 1473 of this chapter will be followed. At the same time, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. If the Regional Board declines to approve the clearance recommendation of the renegotiator, an Accounting Report and a Renegotiation Report will be prepared, which will be subject to the provisions of paragraphs (e) and (h) of this section.

(h) *Renegotiation Report.* If the renegotiator assigned to the case, after considering the Accounting Report, all information and data submitted by the contractor, and all relevant procurement, performance, and other information that shall have been obtained, concludes that the contractor realized excessive profits in the fiscal year under review, he will prepare a Renegotiation Report which will include an analysis and evaluation of the case under the statutory factors and a recommendation with respect to the amount of such excessive profits. Similarly, if the Regional Board declines to approve a clearance recommendation submitted by the assigned renegotiator, a Renegotiation Report will be prepared. A copy of the Renegotiation Report will be furnished to the contractor after approval thereof by the Director, Division of Renegotiating, and after such furnishing is authorized by the Chairman of the Regional Board; and the contractor will be offered a renegotiation conference as provided in paragraph (i) of this section.

(i) *Renegotiation conference.* In any case in which the Regional Board does not make and enter a clearance determination or recommendation, after the Renegotiation Report has been furnished to the contractor a renegotiation conference will be held with the contractor by the Regional Board personnel assigned to the case, unless the contractor fails or declines to attend such a conference. At the conference the contractor will be afforded an opportunity to discuss the Renegotiation Report and any accounting adjustments reflected in the Accounting Report, as well as any information and data previously submitted by the contractor or otherwise obtained by the Regional Board, and any other matters considered pertinent to the case; and the possibilities of an agreement to eliminate excessive profits will be explored with the contractor. Whether or not a renegotiation conference is held, the contractor will be requested to notify the renegotiator, within the time fixed by him, whether the contractor is or is not willing to enter into an agreement to eliminate excessive profits.

(j) *Determination or recommendation without panel meeting.* (1) After such notification from the contractor to the renegotiator, and any further negotiations between them, or upon the failure of the contractor to furnish such notification within the time fixed therefor, the Regional Board personnel assigned to the case will submit the Accounting Report and the Renegotiation Report to the Regional Board, including any modifications of either thereof made as a result of the renegotiation conference or otherwise. At the same time the renegotiator will notify the contractor in writing of his recommendation to the Regional Board, including with his letter a copy of any modification of the Renegotiation Report, after approval thereof by the Director, Division of Renegotiating, and after such furnishing is authorized by the Chairman of the Regional Board. Unless the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount of such recommendation, the letter from the renegotiator will request the contractor to state, within a fixed time, whether it desires to meet with a panel of the Regional Board as provided in paragraph (k) of this section.

(2) If the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount recommended to the Regional Board, or within the time fixed therefor does not request a meeting with a panel of the Regional Board, the Regional Board will make and enter, in a Class B case, its determination, or in a Class A case, its recommendation to the Board with respect to the amount of excessive profits, if any, of the contractor for the fiscal year under review, and will notify the contractor by registered mail of such determination or recommendation. At the same time, unless the contractor shall have agreed to the amount so determined or recommended, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. The determination or recommendation of the Regional Board may be in an amount greater than, equal to, or less than the amount recommended by the renegotiator. However, if the Regional Board declines to make and enter a determination or recommendation in the amount recommended by the renegotiator and agreed to by the contractor, it will notify the contractor in writing of its decision, stating the reasons therefor, and will request the contractor to state, within a fixed time, whether it desires to meet with a panel of the Regional Board as provided in paragraph (k) of this section.

(3) If the decision of the Regional Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(4) If the decision of the Regional Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the Regional Board, to notify the Regional Board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination or recommendation. After such notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the Regional Board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be will be followed. In the event of the issuance of an order, as the case may be,

will be followed. In the event of the issuance of an order, if the Board does not initiate a review thereof, the contractor will be entitled, upon request, the co will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

(k) *Panel meeting.* In any case in which the contractor has not indicated its willingness to enter into an agreement to eliminate excessive profits in the amount recommended by the renegotiator to the Regional Board or in which the Regional Board has declined to make and enter a determination or recommendation in the amount recommended by the renegotiator and agreed to by the contractor, the contractor shall be entitled at its request, made within the time fixed pursuant to paragraph (j)(1) or (j)(2) of this section, to meet with a panel of the Regional Board. Any written argument or other presentation which the contractor desires to submit to a panel, in addition to the material previously submitted by the contractor, should, whenever possible, be filed with the chairman of the panel reasonably in advance of the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law or accounting; and again, when appropriate, the possibilities of an agreement to eliminate excessive profits will be explored with the contractor.

(l) *Determination or recommendation after panel meeting.* (1) After the panel meeting provided in paragraph (k) has been held, the panel will submit to the Regional Board its recommendation for final disposition of the case. Thereupon the Regional Board will make and enter, in a Class B case, its determination, or in a Class A case, its recommendation to the Board with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such determination or recommendation. At the same time, unless the contractor shall have agreed to the amount so determined or recommended, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. The determination or recommendation of the Regional Board may be in an amount greater than, equal to, or less than the amount recommended by the panel.

(2) If the decision of the Regional Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(3) If the decision of the Regional Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the Regional Board, to notify the Regional Board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination or recommendation. After such notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the Regional Board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be, will be followed. In the event of the issuance of an order, if the Board does not initiate a review thereof, the contractor will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

2. Section 1472.4 *Conduct of renegotiation by Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.4 Conduct of renegotiation by Board.

(a) *Reasons for reassignment from a Regional Board.* A case will be reassigned from a Regional Board to the Board for further proceedings when (1) a Regional Board makes a recommendation in a Class A case with which the contractor or the Board is not in accord and when the Board does not direct the Regional Board to conduct further proceedings in the matter (see §§ 1473.2(a), 1474.3(a), and 1475.3(a) of this chapter); or (2) a Regional Board makes a determination by order in a Class B case and the Board initiates a review of such determination (see § 1475.3(b)); or (3) the Board considers for any other reason that the further proceedings in the case should be conducted by the Board rather than by the Regional Board to which the case has been previously assigned.

(b) *Proceedings before the Board or a division of the Board*—(1) *Assignment and processing.* Generally, once a case has been reassigned to the Board from a Regional Board, or after the Board has initiated review of a Regional Board determination, the case will be assigned to the Board or a division of the Board. The Board or the division will study the information and data assembled by the Regional Board and will determine what additional information or data, if any, is needed. Such additional information and data will be secured and an independent study of the case will be conducted. The Board or the division, as the case may be, will not be bound or limited in any manner by any evaluation, recommendation or determination of the Regional Board.

(2) *Meeting with the Board or a division of the Board.* In every case reassigned pursuant to § 1475.3 of this chapter or paragraph (a)(3) of this section, the contractor will be afforded an opportunity to meet with the Board or the assigned division of the Board prior to the making of a determination. Any written argument or other presentation which the contractor desires to submit for consideration by the Board or the division, in addition to the material previously submitted by the contractor to the Regional Board, should whenever possible, be filed with the Director, Office of Review, reasonably in advance of the meeting. Failure of the contractor to file information or arguments prior to the meeting will not preclude presentation thereof at the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law, or accounting. Also, when appropriate, the Board or the division will explore with the contractor the possibilities of an agreement to eliminate excessive profits.

(c) *Board determination.* (1) After the meeting with the Board or a division of the Board as provided in paragraph (b)(2) of this section, or after it has been determined that no such meeting is required, the Board will take under consideration the final disposition of the case. In a case that has been assigned to a division, the division will submit its recommendation to the Board. Thereupon the Board will make and enter its determination with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such determination. The determination of the Board may be in an amount greater than, equal to, or less than the amount determined or recommended by the Regional Board or recommended by the division. At the same time, except in a refund case if the contractor shall have agreed to the amount of excessive profits so determined, the Board will provide the contractor with a Memorandum of Decision stating the basis for the determination, as provided in § 1477.3 of this chapter.

(2) If the determination of the Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(3) If the determination of the Board is that the contractor realized excessive profits, the Board will afford the contractor a reasonable time, to be fixed by the Board, to notify the Board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination. After such notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the Board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be, will be followed. In the event of the issuance of an order, the contractor will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

B. Part 1477 of Title 32 is amended as follows:

1. Section 1477.3 *Furnishing of other statements* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1477.3 **Furnishing of other statements.**

When a Regional Board has made a determination in a Class B case, or a recommendation in a Class A case, or when the Board has made a determination, the Regional Board or the Board, as the case may be, except in a refund case if the contractor shall have agreed to the amount so determined or recommended, will furnish to the contractor a Memorandum of Decision stating the basis for the determination or recommendation. See §§ 1472.3 and 1472.4 of this chapter. When furnished in a refund case, the memorandum will assist the contractor to decide whether or not to enter into an agreement.

§ 1477.4 [Amended]

2. Section 1477.4 *Contents of statements* is amended in the following respects:

(a) Paragraph (a) is amended by deleting "or summary furnished pursuant to this part" and inserting in lieu thereof "furnished pursuant to § 1477.2."

(b) Paragraphs (b) and (d) are amended by deleting "or summary" in each thereof.

(c) Paragraph (f) is deleted in its entirety and the following is inserted in lieu thereof:

(f) In general, in a statement furnished pursuant to § 1477.2, every reasonable effort will be made to be responsive to the contentions of the contractor and to provide the contractor, by adequate presentation of the essential facts and reasons involved in the determination, with a basis upon which to evaluate the determination and to decide whether or not to file a petition with the Court of Claims for a redetermination thereof (see Part 1475 of this chapter).

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

[FR Doc.72-16816 Filed 10-2-72;8:52 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-185R]

PART 72—MARINE INFORMATION

Recognition of Agency Name Change

The purpose of this amendment is to delete reference to the U.S. Naval Oceanographic office now in 33 CFR Part 72, Marine Information, and in its place name the Defense Mapping Agency Hydrographic Center. The Agency referred to in these regulations has had a name change which this change reflects.

Notice of this regulation change is not necessary because it is merely in response to an agency name change, is purely informative, and changes no burden on the public.

This change is effective 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 72 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By amending § 72.01-10 (a) (1), (b), and (b) (3) by deleting the phrase "U.S. Oceanographic Office" each of the three places it occurs and inserting in its place "Defense Mapping Agency Hydrographic Center."

2. By amending § 72.01-10(c) by striking the entire text thereof and inserting the following in its place: "This notice may be obtained free of charge, upon request to the Director, Defense Mapping Agency Hydrographic Center, Washington, D.C. 20390. Request should be based on an affirmative need for the information."

3. By amending the first paragraph of § 72.01-25 by striking the words "(Naval Oceanographic Office publications numbered 117A and 117B)" and inserting the words "(Defense Mapping Agency Hydrographic Center publications N.O. 117A and N.O. 117B)" in their place.

4. By amending §72.01-25 by striking the text of (a), (b), and (c) thereof and inserting the following in its place:

§ 72.01-25 **Marine Broadcast Notice to Mariners.**

(a) Any authorized agent for the sale of Defense Mapping Agency Hydrographic Center charts and publications whose names and addresses are contained in the Defense Mapping Agency Hydrographic Center Catalog of Nautical Charts N.O. Pub. No. 1-N-A.

(b) The Defense Mapping Agency Hydrographic Center Depots or Offices whose names and addresses are published in Notice to Mariners N.O. 1 each year.

(c) The Defense Mapping Agency Hydrographic Center, Washington, D.C. 20390.

§ 72.01-40 [Amended]

5. By amending § 72.01-40(c) by striking the words "Naval Branch Oceanographic offices" and inserting the words "Defense Mapping Agency Hydrographic Center" in their place.

Effective date. This amendment shall become effective on November 6, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

SEPTEMBER 28, 1972.

[FR Doc.72-16795 Filed 10-2-72;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

[Federal Procurement Regs.; Temporary Reg. 27, Supplement 1]

Chapter 1—Federal Procurement Regulations

PART 1-1—GENERAL

PART 1-3—PROCUREMENT BY NEGOTIATION

PART 1-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Miscellaneous Amendments to Chapter; Change of Effective Date

Revision of regulations pursuant to Public Law 91-379 as implemented by the Cost Accounting Standards Board.

1. *Purpose.* This regulation modifies the effective date of FPR Temporary Regulation 27 dated June 29, 1972 (37 F.R. 13092, July 1, 1972), with respect to negotiated nondefense contracts.

2. *Effective date.* This regulation is effective on October 1, 1972, except as otherwise provided in paragraph 5.

3. *Expiration date.* This regulation will continue in effect until canceled.

4. *Background.* FPR Temporary Regulation 27 implements the rules and regulations of the Cost Accounting Standards Board (CASB) with respect to negotiated defense contracts. It also extends the application of the Board's rules to negotiated nondefense contracts.

5. *Change of effective date.* The effective dates for the provisions in paragraphs 5b and 5d of FPR Temporary Regulation 27, as they pertain to negotiated nondefense contracts, are revised to read November 1, 1972, in lieu of October 1, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

SEPTEMBER 29, 1972.

[FR Doc.72-16999 Filed 10-2-72;10:21 am]

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-1—GENERAL

Subpart 5A-1.3—General Policies

SMALL BUSINESS EXEMPTION; ECONOMIC STABILIZATION PROGRAM

Part 5A-1 of Title 41, Chapter 5A is amended as follows:

1. Section 5A-1.321 is amended as follows:

§ 5A-1.321 **Stabilization of prices, rents, wages, and salaries.**

* * * * *

(d) The Cost of Living Council amended its regulations to establish a Small Business Exemption under the economic stabilization program. All price adjustments and most pay adjustments of certain firms and local governmental units having 60 or fewer employees are affected.

(e) This section prescribes procedures for carrying out the purpose of the Executive order and shall apply to all procurements of the Federal Supply Service.

2. Section 5A-1.321-1 is revised as follows:

§ 5A-1.321-1 **Solicitations (IFB/RFP).**

(a) The following price certification shall be included in all solicitations (invitations for bids and requests for proposals) and resulting contracts, excluding small purchases under $2,500 (see § 5A-1.321-1(b)).

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies (1) that he is in

compliance and will continue to comply with the requirements of Executive Order 11640, January 26, 1972, or (2) that he is a small business concern (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972) and as such is exempt from wage and price controls (except where health services or construction are involved).

(b) Prior to the payment of invoices under this contract, the contractor shall place on, or attach to, each invoice submitted one of the following certifications, as appropriate:

I hereby certify that the amounts invoiced herein do not exceed the lower of (1) the contract price or (2) maximum levels established in accordance with Executive Order 11640, January 26, 1972.

I hereby certify that I am a small business concern employing 60 or fewer employees (as determined in accordance with the regulation of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972, and any subsequent amendments) and as such am exempt from wage and price controls by the Council's regulation.

(c) The contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts for supplies or services issued under this contract.

(b) The following price certification shall be included on all solicitations involving small purchases under $2,500 and on all purchase orders issued pursuant to small purchase procedures (Subpart 5A–3.6). When the solicitation is made by telephone, the offeror shall be advised of these requirements. Failure to comply with these requirements will result in rejection of the offer (for purchases made with imprest funds see § 5A–1.321–6).

PRICE CERTIFICATION (SMALL PURCHASES)

(a) By submission of this offer, offeror certifies (1) that he is in compliance and will continue to comply with the requirements of Executive Order 11640, January 26, 1972, or (2) that he is a small business concern, generally employing 60 or fewer employees (as determined in accordance with the regulations of the Cost of Living Council) and as such is exempt from wage and price controls.

(b) Prior to payment of invoices under this contract, the contractor shall place on, or attach to, each invoice submitted one of the following certifications, as appropriate:

I hereby certify that amounts invoiced herein do not exceed the lower of (1) the contract price or (2) maximum levels established in accordance with Executive Order 11640, January 26, 1972.

I hereby certify that I am a small business concern (as determined in accordance with the regulations of the Cost of Living Council) and as such am exempt from wage and price controls.

(c) Payments will not be made on invoices unless certification, as prescribed above, has been completed.

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

Effective date. These regulations are effective on the date shown below.

Dated: September 19, 1972.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.72-16808 Filed 10-2-72;8:50 am]

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. 192–8; Docket No. OPS–10]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Deactivation of Service Lines

This amendment of the Federal safety standards for gas pipelines will require certain steps to be taken in order to prevent the unauthorized introduction of gas into inactive pipeline facilities. This rule making involves a revision of § 192.727 of title 49 of the Code of Federal Regulations and the addition of a new § 192.379 to Part 192.

These amendments are in response to a clearly demonstrated need for positive regulatory action as indicated by two gas explosion incidents discussed in the notice proposing this rule making. The objective is to prevent unauthorized persons from activating gas service lines that have been deactivated or abandoned, or are not presently in use.

On June 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (OPS Notice 71–2, 36 F.R. 10885) proposing certain changes in the regulations designed to prevent the unauthorized introduction of gas into inactive service lines. Interested persons were afforded an opportunity to participate in the rule making by submitting written information, views, or arguments. The opinions and data presented in the comments that were subsequently received have been fully considered and are reflected in these final rules.

Several commenters correctly noted that one of the gas explosion accidents mentioned in the notice of proposed rule making involved newly installed yet inactive facilities rather than abandoned or deactivated pipeline facilities. They questioned whether the proposed regulations would cover such situations. As the intent of these amendments is to prevent the unauthorized introduction of gas into any pipeline not presently in service, whether abandoned, deactivated, or not yet activated, § 192.379 has been added to the Federal safety standards to make clear that new service lines must also meet the same requirements.

Proposed § 192.727(c) (now redesignated as § 192.727(d)), would have provided for the deactivation of customer service lines by two alternative methods. In response to a large number of recommendations, a third alternative method has been adopted which allows for the installation in the service line or meter assembly of a mechanical device or fitting that will prevent the flow of gas. This method is in common usage and has proven effective in terms of overall safety. Also in answer to many comments, the requirement for physical removal of customer meters on inactive service lines (proposed as § 192.727(d)), has been deleted. This is now believed to be an unnecessary measure when one of the alternatives prescribed by new paragraph (d) has been met.

Paragraphs (e) and (f) of the proposed amendment have not been changed.

A number of commenters expressed objection to proposed § 192.727(b), on the basis that it made necessary the disconnecting, purging, and sealing of properly maintained pipeline facilities that are not subject to gas pressure in the course of normal operations. There are instances when pipelines, such as bypasses, are commonly not subject to gas pressure, and a requirement that such pipelines be sealed off from any potential gas supply is not feasible. This paragraph has therefore been revised and a new paragraph (c) has been added to avoid this problem.

Paragraph (b) now establishes safety requirements for all pipelines, the use of which is to be permanently discontinued, that is, for all pipelines that are to be abandoned. Paragraph (c) contains deactivation requirements applying only to pipelines, other than service lines, which are not being maintained under the Federal safety standards. Thus, a pipeline not normally subject to gas pressure need not meet the requirements of this paragraph.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal." This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings of the Committee which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

In consideration of the foregoing, Part 192 of title 49 of the Code of Federal Regulations is amended as follows, effective November 3, 1972.

1. The table of sections for Part 192, Subpart H, is amended by adding the following new section heading after § 192.377:

Sec. 192.379 New service lines not in use.

2. The following new section is added after § 192.377 in Subpart H.

§ 192.379 New service lines not in use.

Each service line that is not placed in service upon completion of installation must comply with one of the following until the customer is supplied with gas:

(a) The valve that is closed to prevent the flow of gas to the customer must be

provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(b) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.

(c) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

3. Section 192.727 is amended to read as follows:

§ 192.727 **Abandonment or inactivation of facilities.**

(a) Each operator shall provide in its operating and maintenance plan for abandonment or deactivation of pipelines, including provisions for meeting each of the requirements of this section.

(b) Each pipeline abandoned in place must be disconnected from all sources and supplies of gas, purged of gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(c) Except for service lines, each inactive pipeline that is not being maintained under this part must be disconnected from all sources and supplies of gas, purged gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(d) Whenever service to a customer is discontinued, one of the following must be complied with:

(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(2) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.

(3) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

(e) If air is used for purging, the operator shall insure that a combustible mixture is not present after purging.

(f) Each abandoned vault must be filled with a suitable compacted material.

(Sec. 3, Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 1672; Sec. 1.58(d), regulations of the Office of the Secretary of Transportation, 49 CFR 1.58(d); Redelegation of authority to the Director, Office of Pipeline Safety, Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation, 49 CFR Part 1)

Issued in Washington, D.C., on September 27, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.72-16815 Filed 10-2-72;8:52 am]

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

[Docket No. 69-18; Notice 11]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment; Revocation

This notice amends 49 CFR Part 571, by revoking § 571.108a, Motor Vehicle Safety Standard No. 108a, *Lamps, reflective devices, and associated equipment* and deleting a conforming amendment to Standard No. 108, in accordance with a decision of the U.S. Court of Appeals.

Standard No. 108a was established on December 2, 1971 (36 F.R. 22909), to clarify requirements for turn signal and hazard warning signal flashers effective January 1, 1973. These requirements were established by an amendment published on August 28, 1971 (36 F.R. 13743). The amendment deleted sampling and failure rate provisions from the tests for these items of motor vehicle equipment, and modified the performance requirements.

Pursuant to section 105(a)(1), of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1394(a)(1)), Wagner Electric Corp. petitioned for review of the August 28, 1971 order in the U.S. Court of Appeals for the Third Circuit. On August 29, 1972, the court granted the petition, set aside the order and remanded the matter to the National Highway Traffic Safety Administration for new rulemaking proceedings consistent with the court's views. (Wagner Electric Corp. v. Volpe, No. 71-1976 (3d Cir. 1972).)

By this notice, the NHTSA deletes from the Code of Federal Regulations the amendment set aside by the court's order. The deleted provision essentially constituted the version of the standard that was to become effective January 1, 1973 (Standard No. 108a) along with paragraph S4.1.1.16 of Standard No. 108, which allowed manufacturers to conform to the new requirements before that date.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

§ 571.108 [Amended]

1. In § 571.108, *Motor Vehicle Safety Standard No. 108,* paragraph S4.1.1.16 is deleted, and in S4.1.1 the reference thereto is changed to "S4.1.1.15."

§ 571.108a [Deleted]

2. Section 571.108a, *Motor Vehicle Safety Standard No. 108a,* is deleted.

Effective date. This notice reflects the order of the U.S. Court of Appeals for the Third Circuit, whose mandate was issued September 19, 1972, and is effective as of that date.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; Delegation of authority, 49 CFR 1.51)

Issued on September 28, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-16853 Filed 10-2-72;8:55 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 34178 (Sub-No. 1)]

ACCOUNTING FOR FEDERAL INCOME TAXES AND INVESTMENT TAX CREDIT

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 21st day of August 1972.

The Revenue Act of 1971, Public Law 92-178, provides for restoration of the investment tax credit under section 38 of the Internal Revenue Code of 1954, as amended. Section 101(c)(1)(A) of the Act states:

> (A) No taxpayer shall be required to use, for purposes of financial reports subject to the jurisdiction of any Federal agency or reports made to any Federal agency, any particular method of accounting for the credit allowed by such section 38,

The Treasury Department has stated that only two methods of accounting for the investment credit under the "Revenue Act of 1971" are acceptable.

1. In the "flow-through" method, the amount of the investment credit for the year is reflected as a reduction of tax liability for that year.

2. In the "deferral" method, the amount of the credit is reflected as a reduction of tax liability ratably over the period during which the asset is depreciated on the books of the business.

For regulatory purposes, the Commission, by notice issued February 9, 1959 (24 F.R. 1401), ruled that all carriers under its jurisdiction would account for Federal income taxes by the "flow-through" method. Upon introduction of the investment tax credit in 1962, as provided in section 38 of the Internal Revenue Code, the Commission found that the credit was an integral part of the Federal income tax liability computation. By notice issued December 17, 1962 (27 F.R. 12778), it ruled that the credit should also be accounted for by the "flowthrough" method. The Commission affirmed the findings in the notices by order dated February 1, 1963, under Docket No. 34178. Accordingly, all carriers' financial statements included in reports to the Commission are required to reflect the credit on the "flow-through" method.

The Commission is herewith changing its accounting rules to bring them into conformity with the "Revenue Act of 1971." The provisions of the Act apply only to accounting and reporting of the investment tax credit. It does not apply to other elements of "deferred taxes" such as accelerated depreciation or shortened tax-depreciation guideline lives. Accordingly, the Commission is revising its accounting rules only as they apply to the investment tax credit.

Under the provisions of the Act the carriers' freedom to use the method of their choice is limited to the areas of accounting and reporting. The Commission reaffirms its findings that the actual Federal income taxes payable for each year, based on the effective tax regulations for the year and including reductions in tax because of the investment credit, shall be used as the proper expense to be considered in ratemaking proceedings.

Carriers are presently required to disclose reductions in income taxes because of the investment tax credit in explanatory notes to certain schedules in their annual reports to the Commission. Appropriate changes will be made in the Commission's annual report forms to implement the reporting of the "deferral" method.

It appearing, that inasmuch as the appended amendments to the several uniform systems of accounts are for the purpose of conforming the Commission's accounting regulations with the statutory requirement set forth in the Revenue Act of 1971, Public Law 92–178; that the amendments prescribed herein grant relief from existing regulations and/or relate to matters of practice and procedure; that this proceeding does not constitute a major Federal action that will have a significant effect upon the quality of the human environment and that, accordingly, the detailed statement and procedure incident thereto, as prescribed by the Commission's regulations, in Ex Parte No. 55 (Sub-No. 4), "Implementation—National Environmental Policy Act, 1969" 340 I.C.C. 431 (1972), are unnecessary; and that further notice and public proceedings under section 553 of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary, and good cause exists for making the amendments effective upon publication hereof in the FEDERAL REGISTER.

Wherefore, and good cause therefor appearing:

It is ordered, That Parts 1201, 1202, 1204, 1205, 1206, 1207, 1208, 1209, and 1210 of Title 49 of the Code of Federal Regulations be, and they are hereby, amended as described below.

It is further ordered, That this order shall become effective upon publication in the FEDERAL REGISTER (10–3–72), and that the prescribed amendments are effective January 1, 1972.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(49 U.S.C. 12, 20, 204, 313, 412)

By the Commission, Division 2.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

PART 1201—RAILROAD COMPANIES

Amend Part 1201—Uniform System of Accounts for Railroad Companies.

Item No. 1. *List of instructions and accounts.* Under "General Instructions," directly below instruction "1–10 Transactions with affiliated companies," add the following:

1–11 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "1–10 Transactions with affiliated companies,"

1–11 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flowthrough method shall charge account 532, Railway Tax Accruals, or account 590, Federal Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 760, Federal Income Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 532, Railway Tax Accruals, or account 590, Federal Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 784, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 532, Railway Tax Accruals, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 784 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "784 Other Deferred Credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

784 Other Deferred Credits.

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 1–11.)

PART 1202—ELECTRIC RAILWAYS

Amend Part 1202—Uniform System of Accounts for Electric Railways.

Item No. 1. *List of items under title.* Under "Operating Expenses," directly below instruction "01–15 Equalization of maintenance expenses," add the following:

01–16 Accounting for the investment tax credit.

Item No. 2. *Operating expenses, general instructions.* Directly below the text of instruction "01–15 Equalization of maintenance expenses," add instruction 01–16 to read as follows:

01–16 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flowthrough method shall charge account 215, Taxes Assignable to Transportation Operations, or account 290, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 435–1, Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 215, Taxes Assignable to Transportation Operations, or account 290, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 446, Other Unadjusted Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 215, Taxes Assignable to Transportation Operations, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 446 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "446 Other unadjusted credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

(b) Paragraph (b) is added to read as follows:

446 **Other unadjusted credits.**

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 01–16.)

PART 1204—PIPELINE COMPANIES

Amend Part 1204—Uniform System of Accounts for Pipeline Companies.

Item No. 1. *List of instructions and accounts.* Under "General Instructions", directly below instruction "1–11 Interpretation of rules", add the following:

1–12 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "1–11 Interpretation of rules", add instruction 1–12 to read as follows:

1–12 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 670, Federal Income Taxes on Ordinary Income, or account 695, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 56, Taxes Payable, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a) charge account 670, Federal Income Taxes on Ordinary Income, or account 695, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 63, Other Noncurrent Liabilities, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 670, Federal Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 63 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "63 Other noncurrent liabilities" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

63 **Other noncurrent liabilities.**

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 1–12.)

PART 1205—REFRIGERATOR CAR LINES

Amend Part 1205—Uniform System of Accounts for Refrigerator Car Lines.

Item No. 1. *List of instructions and accounts under the title.* Under "Income and Balance Sheet Accounts Instructions", directly below "41 Contingent assets and liabilities", add the following:

42 Accounting for the investment tax credit.

Item No. 2. *Income and balance sheet accounts instructions.* Directly below the text of instruction "41 Contingent assets and liabilities", add instruction 42 to read as follows:

42 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 532, Car Line Tax Accruals, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 760, Federal Income Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 532, Car Line Tax Accruals, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 784, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 532, Car Line Tax Accruals, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 784 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "784 Other deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

748 **Other deferred credits.**

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 42.)

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

Amend Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers.

Item No. 1. *List of definitions, instructions and accounts under the title.* Under "Instructions", directly below "2–31 Amortization of intangibles", add the following:

2–32 Accounting for the investment tax credit.

Item No. 2. *Instructions.* Directly below the text of instruction "2–31 Amortization of intangibles", add instruction 2–32 to read as follows:

2–32 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 8000, Income Taxes on Ordinary Income, or account 9050, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 2120, Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in Paragraph (a) charge account 8000, Income Taxes on Ordinary Income, or account 9050, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 2450, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 8000, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 2450 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "2450 Other deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

2450 Other deferred credits.

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 2-32.)

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Amend Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property.

Item No. 2. *Instructions.* Directly be*counts under the title.* Under "Instructions", directly below "29 Amortization of intangibles", add the following:

30 Accounting for the investment tax credit.

Item No. 2. *Instructions.* Directly below the text of instruction "29 Amortization of intangibles", add instruction 30 to read as follows:

30 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 8800, Income Taxes on Ordinary Income, or account 8950, Income Taxes of Extraordinary and Prior Period Items, as applicable and shall credit account 2120, Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a) charge account 8800, Income Taxes on Ordinary Income, or account 8950, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 2450, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 8800, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 2450 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "2450 Other deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

2450 Other deferred credits.

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 30.)

PART 1208—MARITIME CARRIERS

Amend Part 1208—Uniform System of Accounts for Maritime Carriers.

Item No. 1. *List of instructions and accounts under the title.* Under "General Instructions", directly below "11 Extraordinary and prior period items", add the following:

12 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "11 Extraordinary and prior period items", add instruction 12 to read as follows:

12 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 989, Federal Income Taxes on Ordinary Income, or account 998, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 440, Accrued Taxes Payable, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall concurrently with making the entries prescribed in paragraph (a), charge account 989, Federal Income Taxes on Ordinary Income, or account 998, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 564, Miscellaneous Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 989, Federal Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 564 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method, shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "564 Miscellaneous deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

564 Miscellaneous deferred credits.

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 12.)

PART 1209—INLAND AND COASTAL WATERWAYS CARRIERS

Amend Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers.

Item No. 1. *List of instructions and accounts under the title.* Under "General Instructions", directly below "12 Amortization of investment in leased property", add the following:

13 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "12 Amortization of investment in leased property," add instruction 13 to read as follows:

13 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 532, Income Taxes on Ordinary Income, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 206, Accrued Taxes, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 532, Income Taxes on Ordinary Income, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 232, Other Deferred Cred-

its, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 532, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 232 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "232 Other deferred credits" by adding paragraph (d) to read as follows:

232 Other deferred credits.

* * * * *

(d) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 13.)

PART 1210—FREIGHT FORWARDERS

Amend Part 1210—Uniform System of Accounts for Freight Forwarders.

Item No. 1. *List of instructions and accounts under the title.* Under "General Instructions" directly below "7 Submission of questions" add the following:

8 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "7 Submission of questions," add instruction 8 to read as follows:

8 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 431, Income Taxes on Ordinary Income, or account 450, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 204, Accrued Taxes, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 431, Income Taxes on Ordinary Income, or account 450, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 231, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 431, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 231 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "231 Other deferred credits" by adding paragraph (d) to read as follows:

231 Other deferred credits.

* * * * *

(d) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 8.)

[FR Doc.72-16817 Filed 10-2-72;8:52 am]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds; Correction

Open season dates for rails in the Atlantic, Pacific, and Central Flyways were published in the FEDERAL REGISTER on September 1, 1972 (37 F.R. 17839).

Based on recent information from the Chairman of the South Carolina Wildlife Resources Department, it is determined that the rail season dates should be changed from November 4, 1972–January 12, 1973, to October 15, 1972–December 23, 1972. Accordingly, § 10.104 of this part is amended by changing the dates for South Carolina under the column heading for rails (sora and Virginia) to read "October 15, 1972–December 23, 1972."

It is determined that this change in the South Carolina rail season will benefit the interested public by permitting the hunting of this species 3 weeks earlier, which coincides with favorable tides and water conditions without undue pressure being placed on these species of migratory birds. For this cause, it is found that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest and this amendment shall be effective upon publication in the FEDERAL REGISTER.

(16 U.S.C. 703–711)

Effective date: Upon publication in the FEDERAL REGISTER (10–3–72).

SPENCER H. SMITH,
Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 28, 1972.

[FR Doc.72-16801 Filed 10-2-72;8:50 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Special Allowances

Paragraph (c)(3)(xii) of § 177.4 *Payment of interest benefits, administrative cost allowances, and special allowance,* which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969" (Public Law 91–95) is amended to provide for the payment of such an allowance for the period July 1, 1972, through September 30, 1972, inclusive.

As so amended § 177.4(a)(3)(xii) reads as follows:

§ 177.4 Payment of interest benefits, administrative cost allowances, and special allowance.

* * * * *

(c) *Special allowances.* * * *

(3) * * *

(xii) For the period July 1, 1972, through September 30, 1972, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of three fourths of 1 percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

Dated: September 28, 1972.

S. P. MARLAND, Jr.,
Commissioner of Education.

Approved: September 29, 1972.

JOHN G. VENEMAN,
Acting Secretary.

[FR Doc.72-16998 Filed 10-2-72;10:08 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301]

INCOME TAX

Expenses of Work Incentive Programs

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 November 2, 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 November 2, 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 40(b) and 7805 of the Internal Revenue Code of 1954.

(85 Stat. 553; 68A Stat. 917; 26 U.S.C. 40(b), 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) and the regulations on procedure and administration (36 CFR Part 301) to the provisions of section 601 of the Revenue Act of 1971 (85 Stat. 553), relating to credit for certain expenses incurred in work incentive programs, such regulations are amended as follows:

Sec.	
1.39	Statutory provisions; certain uses of gasoline, special fuels, and lubricating oil.
1.40	Statutory provisions; expenses of work incentive programs.
1.40–1	Expenses of work incentive program.
1.42	Statutory provisions; overpayments of tax.
1.50A	Statutory provisions; amount of credit.
1.50A–1	Determination of amount.
1.50A–2	Carryback and carryover of unused credit.
1.50A–3	Recomputation of credit allowed by section 40.
1.50A–4	Exceptions to the application of § 1.50A–3.
1.50A–5	Electing small business corporation.
1.50A–6	Estates and trusts.
1.50A–7	Partnerships.
1.50B	Statutory provisions; definitions; special rules.
1.50B–1	Definitions of WIN expenses and WIN employees.
1.50B–2	Electing small business corporations.
1.50B–3	Estates and trusts.
1.50B–4	Partnerships.
1.50B–5	Limitations with respect to certain persons.
1.6411	Statutory provisions; tentative carryback adjustments.
1.6411–1	Tentative carryback adjustments.
1.6411–2	Computation of tentative carryback adjustment.
1.6411–3	Allowance of adjustments.
301.6411	Statutory provisions; tentative carryback adjustments.
301.6501(m)	Statutory provisions; limitations on assessment and collections; tentative carryback adjustment period.
301.6501(m)–1	Tentative carryback adjustment assessment period.
301.6501(o)	Statutory provisions; limitation on assessment and collection; work incentive program credit carrybacks.
301.6501(o)–1	Work incentive program credit carrybacks, taxable years beginning after December 31, 1971.
301.6511	Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.
301.6511(d)–7	Overpayment of income tax on account of work incentive program credit carryback.
301.6601	Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.
301.6601–1	Interest on underpayments.
301.6611	Statutory provisions; interest on overpayments.
301.6611–1	Interest on overpayments.

PARAGRAPH 1. Section 1.39 is redesignated as § 1.42 and the historical note thereto is revised. There is inserted immediately after § 1.38–1 new §§ 1.39, 1.40 and 1.40–1. These redesignated, revised, and new provisions read as follows:

§ 1.39 Statutory provisions; certain uses of gasoline, special fuels, and lubricating oil.

SEC. 39. *Certain uses of gasoline, special fuels, and lubricating oil*—(a) *General rule*—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the amounts payable to the taxpayer—

(1) Under section 6420 with respect to gasoline used during the taxable year on a farm for farming purposes (determined without regard to section 6420(h)),

(2) Under section 6421 with respect to gasoline used during the taxable year (A) otherwise than as a fuel in a highway vehicle or (B) in vehicles while engaged in furnishing certain public passenger land transportation service (determined without regard to section 6421(i)),

(3) Under section 6424 with respect to lubricating oil used during the taxable year otherwise than in a highway motor vehicle (determined without regard to section 6424(g)), and

(4) Under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(f)).

(b) *Transitional rules.*—For purposes of paragraphs (1) and (2) of subsection (a), a taxpayer's first taxable year beginning after June 30, 1965, shall include the period after June 30, 1965, and before the beginning of such firt taxable year. For purposes of paragraph (3) of subsection (a), a taxpayer's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year.

(c) *Exception.*—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed, and under section 6421(i), 6424(g), or 6427(f) is payable, under such section.

(Sec. 39 as added by sec. 809(c), Excise Tax Reduction Act 1965 (79 Stat. 167) and as amended by sec. 207(c) Airport and Airway Development Act 1970 (84 Stat. 248))

§ 1.40 Statutory provisions; expenses of work incentive programs.

SEC. 40. *Expenses of work incentive programs*—(a) *General rule.* There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under Subpart C of this part.

(b) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section and Subpart C.

(Sec. 40 as added by sec. 601(a), Rev. Act 1971 (85 Stat. 553))

§ 1.40–1 Expenses of work incentive program.

Section 1.50A–1 through 1.50B–6, inclusive, are prescribed under the authority granted the Secretary or his delegate by section 40(b) of the Code to prescribe such regulations as may be necessary to carry out the purposes of section 40 and Subpart C, Part IV, Subchapter A, Chapter 1 of the Code.

§ 1.42 Statutory provisions; overpayments of tax.

SEC. 42. *Overpayments of tax.* For credit against the tax imposed by this subtitle for overpayments of tax, see section 6401.

[Sec. 42 as renumbered by sec. 601(a), Rev. Act 1971 (85 Stat. 553); as previously renumbered as sec. 39 by sec. 2(a), Rev. Act 1962 (76 Stat. 962); and as previously renumbered as sec. 40 by sec. 809(c), Excise Tax Reduction Act 1965 (79 Stat. 167)]

PAR. 2. There are inserted immediately after § 1.50–1 the following new sections:

RULES FOR COMPUTING CREDIT FOR EXPENSES OF WORK INCENTIVE PROGRAMS

§ 1.50A Statutory provisions; amount of credit.

SEC. 50A. *Amount of credit*—(a) *Determination of amount*—(1) *General rule.* The amount of the credit allowed by section 40 for the taxable year shall be equal to 20 percent of the work incentive program expenses (as defined in section 50B(a)).

(2) *Limitation based on amount of tax.* Notwithstanding paragraph (1), the credit allowed by section 40 for the taxable year shall not exceed—

(A) So much of the liability for tax for the taxable year as does not exceed $25,000, plus

(B) 50 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

(3) *Liability for tax.* For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

(A) Section 33 (relating to foreign tax credit),

(B) Section 35 (relating to partially tax exempt interest),

(C) Section 37 (relating to retirement income),

(D) Section 38 (relating to investment in certain depreciable property), and

(E) Section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of Subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

(4) *Married individuals.* In the case of a husband or wife who files a separate return, the amount specified under subparagraph (A) and (B) of paragraph (2) shall be $12,500 in lieu of $25,000. This paragraph shall not apply if the spouse of the taxpayer has no work incentive program expenses for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(5) *Controlled groups.* In the case of a controlled group, the $25,000 amount specified under paragraph (2) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning assigned to such term by section 1563(a).

(b) *Carryback and carryover of unused credit*—(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) A work incentive program credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) A work incentive program 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 40 for such years, except that such excess may be a carryback only to a taxable year beginning after December 31, 1971. 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.

(2) *Limitation.* The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a)(2) for such taxable year exceeds the sum of—

(A) The credit allowable under subsection (a)(1) for such taxable year, and

(B) The amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

(c) *Early termination of employment by employer, etc.*—(1) *General rule.* Under regulations prescribed by the Secretary or his delegate—

(A) *Work incentive program expenses.* If the employment of any employee with respect to whom work incentive program expenses are taken into account under subsection (a) is terminated by the taxpayer at any time during the first 12 months of such employment (whether or not consecutive) or before the close of the 12th calendar month after the calendar month in which such employee completes 12 months of employment with the taxpayer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee.

(B) *Carrybacks and carryovers adjusted.* In the case of any termination of employment to which subparagraph (A) applies, the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) *Subsection not to apply in certain cases*—(A) *In general.* Paragraph (1) shall not apply to—

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1)(A), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

(iii) A termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

(B) *Change in form of business, etc.* For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

(i) By a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

(3) *Special rule.* Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

(d) *Failure to pay comparable wages*—(1) *General rule.* Under regulations prescribed by the Secretary or his delegate, if during the period described in subsection (c)(1)(A), the taxpayer pays wages (as defined in section 50B(b)) to an employee with respect to whom work incentive program expenses are taken into account under subsection (a) which are less than the wages paid to other employees who perform comparable services, the tax under this chapter for the taxable year in which such wages are so paid shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee, and the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) *Special rule.* Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under Subpart A.

(Sec. 50A as added by sec. 601(b), Rev. Act 1971 (85 Stat. 554))

§ 1.50A–1 Determination of amount.

(a) *In general.* Except as otherwise provided in this section and in § 1.50A–2, the amount of the work incentive program (WIN) credit allowed by section 40 for the taxable year is equal to 20 percent of the taxpayer's WIN expenses (as determined under paragraph (a) of § 1.50B–1). The amount equal to 20 percent of the WIN expenses shall be referred to in this section and §§ 1.50A–2 through 1.50B–6 as the "credit earned."

(b) *Limitation based on amount of tax.* Notwithstanding the amount of the credit earned for the taxable year, under section 50A(a)(2) the credit allowed by section 40 for the taxable year is limited to—

(1) If the liability for tax (as defined in paragraph (c) of this section) is $25,000 or less, the liability for tax; or

(2) If the liability for tax is more than $25,000, then, the first $25,000 of the liability for tax plus 50 percent of the liability for tax in excess of $25,000.

However, such $25,000 amount may be reduced in the case of certain married individuals filing separate returns (see paragraph (e) of this section); corporations which are members of a controlled group (see paragraph (f) of this section); estates and trusts (see paragraph (c) of § 1.50B–3); and organizations to which section 593 applies, regulated investment companies or real estate investment trusts subject to taxation under Subchapter M, Chapter 1 of the Code, and cooperative organizations described

in section 1381(a) (see § 1.50B–6). The excess of the credit earned for the taxable year over the limitations described in this paragraph for such taxable year is an unused credit which may be carried back or forward to other taxable years in accordance with § 1.50A–2.

(c) *Liability for tax.* For the purpose of computing the limitation based on amount of tax, section 50A(a)(3) defines the liability for tax as the income tax imposed for the taxable year by Chapter 1 of the Code (including the 6 percent additional tax imposed by section 1562(b)), reduced by the sum of the credits allowable under—

(1) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(2) Section 35 (relating to partially tax-exempt interest received by individuals),

(3) Section 37 (relating to retirement income),

(4) Section 38 (relating to investment in certain depreciable property), and

(5) Section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, the tax imposed for the taxable year by section 56 (relating to imposition of minimum tax for tax preferences), section 531(relating to imposition of accumulated earnings tax), section 541 (relating to imposition of personal holding company tax), or section 1378 (relating to tax on certain capital gains of Subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by Chapter 1 of the Code for such year. Thus, the liability for tax for purposes of computing the limitation based on amount of tax for the taxable year is determined without regard to any tax imposed by section 56, 531, 541, 1351(d)(1) or 1378 of the Code. In addition, any increase in tax resulting from the application of section 50A (c) and (d) and § 1.50A–3 (relating to recomputation of credit allowed due to early termination of employment by employer, or failure to pay comparable wages) shall not be treated as tax imposed by Chapter 1 of the Code for purposes of computing the liability for tax. See section 50A (c)(3) and (d)(2).

(d) *Example.* The application of paragraphs (a), (b), and (c) of this section may be illustrated by the following example:

Example. X Corporation's WIN expenses for its taxable year ending December 31, 1973, are $500,000. X's credit earned for its taxable year is $100,000 (20 percent of $500,000). X's income tax for such year, computed without regard to credits against tax and without regard to any tax imposed by section 56, 531, 541, 1351(d)(1) or 1378, is $190,000. That amount includes $5,000 resulting from the application of section 50A(c)(3) and § 1.50 A–3. X is allowed under section 33 a foreign tax credit of $50,000. X's liability for tax is comptued as follows:

Income tax (including increase in tax under section 50A(c)(3), but before any credits and without regard to any tax imposed by section 56, 531, 541, 1351(d)(1) or 1378)		$190,000
Less:		
Increase in tax resulting from application of section 50A(c)(3)	$5,000	
Foreign tax credit	50,000	
	55,000	
Liability for tax		135,000

Under section 50A(a)(2) and paragraph (b) of this section, X's limitation based on amount of tax for the taxable year is $80,000 ($25,000 plus 50 percent of $110,000). X Corporation's credit allowed by section 40 for the taxable year therefore is $80,000. X has an unused credit for the year of $20,000 ($100,000 less $80,000) which it may carry back or forward to other taxable years in accordance with § 1.50A–2.

(e) *Married individuals.* If a separate return is filed by a husband or wife, the limitation based on amount of tax under paragraph (b) of this section shall be computed by substituting a $12,500 amount for the $25,000 amount in applying such paragraph (b). However, this reduction of the $25,000 amount to $12,500 applies only if the taxpayer's spouse is entitled to a credit under section 40 for the taxable year of such spouse which ends with, or within, the taxpayer's taxable year. The taxpayer's spouse is entitled to a credit under section 40 either because of incurring WIN expenses for such taxable year of the spouse (whether directly incurred by such spouse or whether apportioned to such spouse, for example, from an electing small business corporation, as defined in section 1371(b)), or because of a credit carryback or carryover to such taxable year under § 1.50A–2. The determination of whether an individual is married shall be made under the principles of section 143 and the regulations thereunder.

(f) *Apportionment of $25,000 amount among component members of a controlled group*—(1) *In general.* In determining the limitation based on amount of tax under section 50A(a)(2) in the case of corporations which are component members of a controlled group of corporations on a December 31, only one $25,000 amount is available to such component members for their taxable years that include such December 31. See subparagraph (2) of this paragraph for apportionment of such amount among such component members. See subparagraph (3) of this paragraph for the definition of "component member."

(2) *Manner of apportionment.* (i) In the case of corporations which are component members of a controlled group on a particular December 31, the $25,000 amount may be apportioned among such members for their taxable years that include such December 31 in any manner the component members may select, provided that each such member less than 100 percent of whose stock is owned, in the aggregate, by the other component members of the group on such December 31 consents to an apportionment plan. The consent of a component member to an apportionment plan with respect to a particular December 31 shall be made by means of a statement signed by a person duly authorized to act on behalf of the consenting member, stating that such member consents to the apportionment plan with respect to such December 31. The statement shall set forth the name, address, employer identification number, and taxable year of each component member of the group on such December 31, the amount apportioned to each such member under the plan, and the location of the Internal Revenue Service center where the statement is to be filed. The consent of more than one component member may be incorporated in a single statement. The statement shall be timely filed with the Internal Revenue Service center where the component member having the taxable year first ending on or after such December 31 files its return for such taxable year and shall be irrevocable after such filing. If two or more component members have the same such taxable year, a statement of consent may be filed by any one of such members. Such statement shall be considered as timely filed if filed on or before the due date (including any extensions of time) of such member's income tax return which includes such December 31. However, if the due date (including any extensions of time) of the return of such member is on or before December 15, 1972, the required statement shall be considered as timely filed if filed on or before March 15, 1973. Each component member of the group on such December 31 shall keep as a part of its records a copy of the statement containing all the required consents.

(ii) An apportionment plan adopted by a controlled group with respect to a particular December 31 shall be valid only for the taxable year of each member of the group which includes such December 31. Thus, a controlled group must file a separate consent to an apportionment plan with respect to each taxable year which includes a December 31 as to which an apportionment plan is desired.

(iii) If an apportionment plan is not timely filed, the $25,000 amount specified in section 50A(a)(2) shall be reduced for each component member of the controlled group, for its taxable year which includes a December 31, to an amount equal to $25,000 divided by the number of component members of each group on such December 31.

(iv) If a component member of the controlled group makes its income tax return on the basis of a 52–53 week taxable year, the principles of section 441(f)(2)(A)(ii) and paragraph (b)(1) of § 1.441–2 apply in determining the last day of such taxable year.

(3) *Definitions of controlled group of corporations and component member of controlled groups.* For the purpose of this paragraph, the terms "controlled group of corporations" and "component member" of a controlled group of corpora-

tions shall have the same meaning assigned to those terms in section 1563 (a) and (b) and the regulations thereunder. For purposes of applying § 1.1563–1(b)(2)(ii)(c), an electing small business corporation shall be treated as an excluded member whether or not it is subject to the tax imposed by section 1378.

(4) *Members of a controlled group filing a consolidated return.* If some component members of a controlled group join in filing a consolidated return pursuant to § 1.1502–3(a)(3), and other component members do not join, then, unless a consent is timely filed apportioning the $25,000 amount among the group filing the consolidated return and the other component members of the controlled group, each component member of the controlled group (including each component member which joins in filing the consolidated return) shall be treated as a separate corporation for purposes of equally apportioning the $25,000 amount under subparagraph (2)(iii) of this paragraph. In such case, the limitation based on the amount of tax for the group filing the consolidated return shall be computed by substituting for the $25,0000 amount the total of the amount apportioned to each component member which joins in filing the consolidated return. If the affiliated group, filing the consolidated return and the other component members of the controlled group adopt an apportionment plan, the affiliated group shall be treated as a single member for the purpose of applying subparagraph (2)(i) of this paragraph. Thus, for example, only one consent executed by the common parent to the apportionment plan is required for the group filing the consolidated return. If any component member of the controlled group which joins in the filing of the consolidated return is an organization to which section 593 applies or a cooperative organization described in section 1381(a), rules similar to the rules contained in paragraph (a)(3)(ii) of § 1.1502–3 are applicable.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). At all times during 1972 Smith, an individual, owns all the stock of corporations X, Y, and Z. Corporation X files an income tax return on a calendar year basis. Corporation Y files an income tax return on the basis of a fiscal year ending June 30. Corporation Z files an income tax return on the basis of a fiscal year ending September 30. On December 31, 1972, X, Y, and Z are component members of the same controlled group. X, Y, and Z all consent to an apportionment plan in which the $25,000 amount is apportioned entirely to Y for its taxable year ending June 30, 1973 (Y's taxable year which includes December 31, 1972). Such consent is timely filed. For purposes of computing the credit under section 40, Y's limitation based on amount of tax for its taxable year ending June 30, 1973, is so much of Y's liability for tax as does not exceed $25,000, plus 50 percent of Y's liability for tax in excess of $25,000. X's and Z's limitations for their taxable years ending December 31, 1972, and September 30, 1973, respectively, are equal to 50 percent of X's liability for tax and 50 percent of Z's liability for tax. On the other hand, if an apportionment plan is not timely filed, X's limitation would be so much of X's liability for tax as does not exceed $8,333.33, plus 50 percent of X's liability in excess of $8,333.33, and Y's and Z's limitations would be computed similarly.

Example (2). At all times during 1972, Jones, an individual, owns all the outstanding stock of corporations P, Q, and R. Corporations Q and R both file returns for taxable years ending December 31, 1972. P files a consolidated return as a common parent for its fiscal year ending June 30, 1973, with its wholly owned subsidiaries N and O. On December 31, 1972, N, O, P, Q, and R are component members of the same controlled group. No consent to an apportionment plan is filed. Therefore, each member is apportioned $5,000 of the $25,000 amount ($25,000 divided equally among the five members). The limitation based on the amount of tax for the group filing the consolidated return (P, N, and O) for the year ending June 30, 1973 (the consolidated taxable year within which December 31, 1972, falls), is computed by using $15,000 instead of the $25,000 amount. The $15,000 is arrived at by adding together the $5,000 amounts apportioned to P, N, and O.

§ 1.50A–2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as carryback or carryover*—(1) *In general,* Section 50A(b)(1) provides for carrybacks and carryovers of any unused credit. An unused credit is the excess of the credit earned for the taxable year (as determined under paragraph (a) of § 1.50A–1) over the limitation based on amount of tax for such taxable year (as determined under paragraph (b) of § 1.50A–1). Subject to the limitation contained in paragraph (b) of this section, an unused credit shall be added to the amount allowable as a credit under section 40 for the years to which the unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year."

(2) *Taxable years to which unused credit may be carried.* An unused credit shall be a work incentive program (WIN) credit carryback to each of the 3 taxable yeas preceding the unused credit year and a WIN credit carryover to each of the 7 taxable years succeeding the unused credit year, except that an unused credit shall be a carryback only to taxable years beginning after December 31, 1971. An unused credit must be carried first to the earliest of the 10 taxable years to which it may be carried, and then to each of the other 9 taxable years (in order of time) to the extent that the unused credit may not be added (because of the limitation contained in paragraph (b) of this section) to the amount allowable as a credit under section 40 for a prior taxable year.

(b) *Limitation on allowance of unused credit.* The amount of the unused credit from any particular unused credit year which may be added to the amount allowable as a credit under section 40 for any of the 3 preceding or 7 succeeding taxable years to which such credit may be carried shall not exceed the amount by which the limitation based on amount of tax for such preceding or succeeding taxable year exceeds the sum of (1) the credit earned for such preceding or succeeding year, and (2) other unused credits carried to such preceding or succeeding year which are attributable to unused credit years prior to the particular unused credit year.

(c) *Corporate acquisitions.* For the carryover of unused credits in the case of certain corporate acquisitions, see section 381(c)(24) and § 1.381(c)(24)–1.

(d) *Periods of less than 12 months.* A fractional part of a year which is considered as a taxable year under sections 441(b) and 7701(a)(23) shall be treated as a preceding or a succeeding taxable year for the purpose of determining under section 50A(b) and this section the taxable years to which an unused credit may be carried.

(e) *Example.* The provisions of paragraphs (a) through (d) of this section may be illustrated by the following example:

Example. Corporation X files its income tax return on the basis of the calendar year. X's credit earned and its limitation based on amount of tax for each of its taxable years 1972 through 1978 are as follows:

	Credit earned	*Limitation based on amount of tax*
1972	$175,000	$200,000
1973	250,000	160,000
1974	200,000	210,000
1975	210,000	230,000
1976	220,000	260,000
1977	260,000	220,000
1978	270,000	280,000

(i) Corporation X's credit earned for 1972, $175,000, is allowable in full as a credit under section 40 for 1972 since such amount is less than the limitation based on amount of tax for such year, $200,000. Since the limitation based on amount of tax for 1973 is $160,000, only $160,000 of the $250,000 credit earned for such year is allowable under section 40 as a credit for 1973. The unused credit for 1973 of $90,000 ($250,000 less $160,000) is a WIN credit carryback to 1972 and a WIN credit carryover to 1974 and subsequent years up to and including 1980. The portion of the $90,000 unused credit which shall be added to the amount allowable as a credit under section 40 for 1972 and 1974 and subsequent years is computed as follows:

(a) 1972. The portion of the unused credit for 1973 ($90,000) which is allowable as a credit for 1972 is $25,000. This amount shall be added to the amount allowable as a credit for 1972. The balance of the unused credit for 1973 to be carried to 1974 is $65,000. These amounts are computed as follows:

Carryback to 1972		$90,000
1972 limitation based on tax	$200,000	
Less: Credit earned for 1972	$175,000	
Unused credits attributable to years preceding 1973	0	
	175,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1972		25,000
Balance of 1973 unused credit to be carried to 1974		65,000

(b) 1974. The portion of the balance of the unused credit for 1973 ($65,000) allowable as a credit for 1974 is $10,000. This amount shall be added to the amount allowable as a credit for 1974. The balance of the unused credit for 1973 to be carried to 1975 is $55,000. These amounts are computed as follows:

Carryover to 1974		$65,000
1974 limitation based on tax	$210,000	
Less: Credit earned for 1974	$200,000	
Unused credits attributable to years preceding 1973	0	
	200,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1974		10,000
Balance of 1973 unused credit to be carried to 1975		55,000

(c) 1975. The portion of the balance of the unused credit for 1973 ($55,000) allowable as a credit for 1975 is $20,000. This amount shall be added to the amount allowable as a credi tfor 1975. The balance of the unused credit for 1973 to be carried to 1976 is $35,000. These amounts are computed as follows:

Carryover to 1975		$55,000
1975 limitation based on tax	$230,000	
Less: Credit earned for 1975	$210,000	
Unused credits attributable to years preceding 1973	0	
	210,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1975		20,000
Balance of 1973 unused credit to be carried to 1976		35,000

(d) *1976.* The entire balance of the unused credit for 1973 ($35,000) is allowable as a credit for 1976, since the limitation based on amount of tax for 1976 exceeds the sum of the credit earned for 1976 and unused credits attributable to years prior to 1973 by an amount in excess of $35,000. Since the balance of the unused credit for 1973 has been fully allowed, no portion thereof remains to be carried to subsequent taxable years. This is illustrated as follows:

Carryover to 1976		$35,000
1976 limitation based on tax	$260,000	
Less: Credit earned for 1976	$220,000	
Unused credits attributable to years preceding 1973	0	
	220,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1976		40,000
Balance of 1973 unused credit to be carried to 1977		0

(ii) Since the limitation based on amount of tax for 1977 is $220,000, only $220,000 of the $260,000 credit earned for such year is allowable as a credit for 1977. The unused credit for 1977 of $40,000 ($260,000 less $220,000) is a WIN credit carryback to 1974, 1975, and 1976 and a WIN credit carryover to 1978 and subsequent years. The portions of the $40,000 unused credit which shall be added to the amount allowable as a credit for such years are computed as follows:

(a) *1974.* The portion of the unused credit for 1977 ($40,000) allowable as a credit for 1974 is zero. The balance of the unused credit for 1977 to be carried to 1975 is $40,000. These amounts are computed as follows:

Carryback to 1974		$40,000
1974 limitation based on tax	$210,000	
Less: Credit earned for 1974	$200,000	
Unused credits attributable to years preceding 1977 (unused credit from 1973)	10,000	
	210,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1974		0
Balance of 1977 unused credit to be carried to 1975		40,000

(b) *1975.* The portion of the unused credit for 1977 ($40,000) allowable as a credit for 1975 is zero. The balance of the unused credit for 1977 to be carried to 1976 is $40,000. These amounts are computed as follows:

Carryback to 1975		$40,000
1975 limitation based on tax	$230,000	
Less: Credit earned for 1975	$210,000	
Unused credits attributable to years preceding 1977 (unused credit from 1973)	20,000	
	230,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1975		0
Balance of 1977 unused credit to be carried to 1976		40,000

(c) *1976.* The portion of the unused credit for 1977 ($40,000) allowable as a credit for 1976 is $5,000. This amount shall be added to the amount allowable as a credit for 1976. The balance of the unused credit for 1977 to be carried to 1978 is $35,000. These amounts are computed as follows:

Carryback to 1976		$40,000
1976 limitation based on tax	$260,000	
Less: Credit earned for 1976	$220,000	
Unused credits attributable to years preceding 1977 (unused credit from 1973)	35,000	
	255,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1976		5,000
Balance of 1977 unused credit to be carried to 1978		35,000

(d) *1978.* The portion of the balance of the unused credit for 1977 ($35,000) allowable as a credit for 1978 is $10,000. This amount shall be added to the amount allowable as a credit for 1978. The balance of the unused credit for 1977 to be carried to 1979 and subsequent years is $25,000. These amounts are computed as follows:

Carryover to 1978		$35,000
1978 limitation based on tax	$280,000	
Less: Credit earned for 1978	$270,000	
Unused credits attributable to years preceding 1977	0	
	270,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1978		10,000
Balance of 1977 unused credit to be carried to 1979		25,000

(f) *Electing small business corporation.* An unused credit of a corporation which arises in an unused credit year for which the corporation is not an electing small business corporation (as defined in section 1371(b)) and which is a carryback or carryover to a taxable year for which the corporation is an electing small business corporation shall not be added to the amount allowable as a credit under section 40 to the shareholders of such corporation for any taxable year. However, a taxable year for which the corporation is an electing small business corporation shall be counted as a taxable year for purposes of determining the taxable years to which such unused credit may be carried.

§ 1.50A–3 Recomputation of credit allowed by section 40.

(a) *General rule*—(1) *Early termination of employment by employer*—(i) *In general.* If the employment of any employee, with respect to whom work incentive program (WIN) expenses (as defined in paragraph (a) of § 1.50B–1) are taken into account under paragraph (a) of § 1.50A–1, is terminated by the taxpayer at any time during the first 12 months of such employment (whether or not consecutive) or before the close of the 12th calendar month after the calendar month in which such employee completes the first 12 months of employment (whether or not consecutive) with the taxpayer, then subparagraph (3) of this paragraph shall apply. See paragraph (c) of this section for rules relating to the determination of the first 12 months of employment (whether or not consecutive). See § 1.50A–4 for rules relating to other circumstances under which a termination of employment will not be treated as a termination of employment to which the provisions of subparagraph (3) of this paragraph are applicable.

(ii) *Rules for determining whether a termination of employment has occurred.* For purposes of this section, the taxpayer is deemed to have terminated the employment of any WIN employee (as defined in paragraph (h) of § 1.50B–1) if the employment relationship (as determined under common law principles) has terminated. A layoff for any reason is considered a termination of employment for purposes of the preceding sentence. However, a temporary suspension of employment (such as for a model changeover in the automobile industry) shall not be deemed to be a termination of employment if such suspension is for a period of time not longer than 60 days and is required by the circumstances in the particular industry. For purposes of this section, the death of the taxpayer is considered a termination of the employment relationship between the taxpayer and any WIN employee.

(2) *Failure to pay comparable wages*—(i) *In general.* If, at any time during the period described in subparagraph (1)(i) of this paragraph, the taxpayer pays wages (as defined in section 50B(b) and paragraph (b) of § 1.50B–1) to an employee, with respect to whom WIN expenses are taken into account under paragraph (a) of § 1.50A–1, which are less than the wages paid to other employees of the taxpayer who perform comparable services, then subparagraph (3) of this paragraph shall apply.

(ii) *Comparable services.* (a) For purposes of subdivision (i) of this subparagraph, the term "comparable services" refers to services performed in work positions which require similar education, training, and skills. Comparable services are those associated with other work positions which require similar levels of judgment and responsibility, which make similar physical and mental demands of an employee, and which could easily be performed by the employee without substantial additional training or experience.

(b) If substantial training, skill, or experience are material to the performance of a particular job, a taxpayer may pay wages to a WIN employee which are less than those paid to other employees of the taxpayer who possess such training, skill, or experience. However, there must be a reasonable relationship between the lower wages or salary of such WIN employee and his relative lack of training, skill, or experience.

(3) *Recomputation of credit earned.* (i) If, by reason of subparagraph (1) or (2) of this paragraph, this subparagraph (3) is applicable, then the credit earned for all credit years (as defined in subdivision (ii)(a) of this subparagraph) shall be recomputed under the principles of paragraph (a) of § 1.50A–1 by not taking into account WIN expenses with respect to the employee (or employees) described in subparagraph (1) or (2) of this paragraph. There shall be recomputed under the principles of §§ 1.50A–1 and 1.50A–2 the credit allowed for all credit years and for any other taxable year affected by reason of the reduction in credit earned for such credit year or years, giving effect to such reduction in the computation of carrybacks or carryovers of unused credit from any taxable year. If the recomputation described in the preceding sentence results, in the aggregate, in a decrease (taking into account any recomputation under this paragraph in respect of prior recapture years, as defined in subdivision (ii)(b) of this subparagraph) in the credits allowed for any credit year and for any other taxable year affected by the reduction in credit earned for any credit year, then the income tax for the recapture year

shall be increased by the amount of such decrease in credits allowed. For treatment of such increase in tax, see paragraph (b) of this section. For special rules in the case of an electing small business corporation (as defined in section 1371(b)), an estate or trust, or a partnership, see respectively, § 1.50A–5, § 1.50A–6 or § 1.50A–7.

(ii) For purposes of this section and §§ 1.50A–4 through 1.50B–6—

(a) The term "credit year" means a taxable year in which WIN expenses with respect to the employee described in subparagraph (1) or (2) of this paragraph are taken into account under paragraph (a) of § 1.50A–1.

(b) The term "recapture year" means a taxable year in which a termination of employment (within the meaning of subparagraph (1) of this paragraph) or a failure to pay comparable wages (within the meaning of subparagraph (2) of this paragraph) occurs by reason of which the rule of subparagraph (3) of this paragraph becomes applicable.

(c) The term "recapture determination" means a recomputation made under this paragraph.

(b) *Increase in income tax and reduction of WIN credit carryback and carryover*—(1) *Increase in tax.* Except as provided in subparagraph (2) of this paragraph, any increase in income tax under this section shall be treated as income tax imposed on the taxpayer by Chapter 1 of the Code for the recapture year notwithstanding that without regard to such increase the taxpayer has no income tax liability, has a net operating loss for such taxable year, or no income tax return was otherwise required for such taxable year.

(2) *Special rule.* Any increase in income tax under this section shall not be treated as income tax imposed on the taxpayer by Chapter 1 of the Code for purposes of determining the amount of the credits allowable to such taxpayer under—

(i) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(ii) Section 35 (relating to partially tax-exempt interest received by individuals),

(iii) Section 37 (relating to retirement income),

(iv) Section 38 (relating to investment in certain depreciable property),

(v) Section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil),

(vi) Section 40 (relating to expenses of work incentive programs), and

(vii) Section 41 (relating to contributions to candidates for public office).

(3) *Reduction in credit allowed as a result of a net operating loss carryback.* (i) If a net operating loss carryback from the recapture year or from any taxable year subsequent to the recapture year reduces the amount allowed as a credit under section 40 for any taxable year up to and including the recapture year, then there shall be a new recapture determination under paragraph (a) of this section for each recapture year affected, taking into account the reduced amount of credit allowed after application of the net operating loss carryback.

(ii) Subdivision (i) of this subparagraph may be illustrated by the following example:

Example. (a) X Corporation, which makes its returns on the basis of a calendar year, hired WIN employees on March 1, 1972, and incurred $10,000 in WIN expenses with respect to these employees for the year. For the taxable year 1972, X Corporation's credit earned of $2,000 (20 percent of $10,000) was allowed under section 40 as a credit against its liability for tax of $2,000. In 1973 and 1974 X Corporation had no liability for tax and had no WIN expenses. In January 1974, X Corporation terminated the employees for whom the WIN expenses had been incurred. Since these terminations were not subject to the exceptions provided by § 1.50A–4, there was a recapture determination under paragraph (a) of this section. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1974 was increased by the $2,000 decrease in its credit earned for the taxable year 1972 (that is, the $2,000 original credit earned minus zero recomputed credit earned).

(b) For the taxable year 1975, X Corporation has a net operating loss which is carried back to the taxable year 1972 and reduces its liability for tax, as defined in paragraph (c) of § 1.50A–1, for such taxable year to $800. As a result of such net operating loss carryback, X Corporation's credit allowed under section 40 for the taxable year 1972 is limited to $800 and the excess of $1,200 ($2,000 credit earned minus the $800 limitation based on amount of tax) is a WIN credit carryover to the taxable year 1973.

(c) For 1975 there is a recapture determination under subdivision (i) of this subparagraph for the 1974 recapture year. The $2,000 increase in the income tax imposed on X Corporation for the taxable year 1974 is redetermined to be $800 (that is, the $800 credit allowed after taking into account the 1975 net operating loss minus zero credit which would have been allowed taking into account the 1974 recapture determination). In addition, X Corporation's $1,200 WIN credit carryover to the taxable year 1973 is reduced by $1,200 ($2,000 minus $800) to zero and X Corporation is entitled to a $1,200 refund of the tax paid as a result of the 1974 determination.

(4) *Statement of recomputation.* The taxpayer shall attach to his income tax return for the recapture year a separate statement showing in detail the computation of the increase in income tax imposed on such taxpayer by Chapter 1 of the Code and the reduction in any WIN credit carryovers.

(c) *Period of employment*—(1) *Initial date of employment.* For purposes of this section and §§ 1.50A–4 through 1.50B–6, the initial date of employment (for purposes of applying paragraph (a) (1) and (2) of this section and paragraphs (a) (1) and (f) of § 1.50B–1) is the date the WIN employee reports to the taxpayer (or in the case where the taxpayer is a partner of a partnership, a beneficiary of an estate or trust, or a shareholder of an electing small business corporation, to such partnership, estate, trust, or electing small business corporation) for work.

(2) *Computation of the first 12 months of employment (whether or not consecutive).* For purposes of computing the first 12 months of employment (whether or not consecutive), the first month of employment shall begin with the initial date of employment (as defined in subparagraph (1) of this paragraph) of the WIN employee, the second month of employment shall begin with the corresponding date in the following month, the third month of employment shall begin with the corresponding date in the next following month, and so forth. If the WIN employee performs any services during any such month (as determined under the preceding sentence), that month shall be counted in computing the WIN employee's "first 12 months of employment (whether or not consecutive)". If the WIN employee performs no services during any such month, that month shall not be counted in computing the WIN employee's "first 12 months of employment (whether or not consecutive)". Thus, if the initial date of employment of a WIN employee is June 15, the first month of employment of such employee shall be the period beginning June 15, and ending July 14. The second month of employment is the period beginning July 15 and ending August 14. If during such second month of employment the employee performs no services for the taxpayer, that month is not counted in determining the employee's first 12 months of employment (whether or not consecutive).

§ 1.50A–4 Exceptions to the application of § 1.50A–3.

(a) *In general.* Notwithstanding the provisions of paragraph (a) of § 1.50A–3, a termination of employment shall not be deemed to occur if paragraph (b) (relating to voluntary termination of employment), paragraph (c) (relating to termination of employment due to disability), paragraph (d) (relating to termination of employment due to misconduct), paragraph (f) (relating to transactions to which section 381(a) applies), or paragraph (g) (relating to mere change in form of conducting a trade or business) applies.

(b) *Voluntary termination of employment.* A termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if the employee voluntarily leaves the employment of the taxpayer. If the taxpayer makes the working conditions of the employee so untenable that the employee is, in effect, compelled by the taxpayer to quit, or if the employee is coerced into quitting, the employee will not be deemed to have voluntarily left the employment of the taxpayer. For purposes of the preceding sentence, a substantial reduction in the benefits of employment of an employee (such as a substantial decrease in the hours of the employee's working week) shall constitute untenable working conditions. An employee has voluntarily left the employment of the taxpayer if he leaves for any reason external to his employment, such as sickness or death in the employee's family which the employee feels necessitates his quitting work with the taxpayer to remain at home. Any employee who participates in an authorized strike (as finally determined by a court, labor relations administrative body, or arbiter)

will not be deemed to have voluntarily left the employment of the taxpayer.

(c) *Termination of employment due to death or disability.* A termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if, after the initial date of employment (as defined in paragraph (c) (1) of § 1.50A–3) and before the close of the period referred to in paragraph (a) (1) of § 1.50A–3, the employee becomes disabled (including a disability relating to the employment) to perform the services required by such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such employee. The death of an employee shall not be deemed a termination of employment for purposes of paragraph (a) of § 1.50A–3.

(d) *Termination of employment due to misconduct.* A termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if it is determined by the appropriate State administrative agency or State court that under the applicable State unemployment compensation law such termination was due to the misconduct of the WIN employee. If the WIN employee is not covered by the applicable State unemployment compensation law (or if the employee did not work for the minimum period required to qualify for unemployment compensation), a termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if the taxpayer demonstrates by convincing evidence that, were such employee covered by the applicable State unemployment compensation law (or if the employee had worked for such minimum period), he could reasonably have been found by such administrative agency or court to have been terminated for misconduct.

(e) *Recordkeeping requirement.* A taxpayer who is claiming that a termination of employment falls within the provisions of paragraph (b), (c), or (d) of this section shall maintain sufficient records to support his claim until the expiration of the pertinent period of limitations.

(f) *Transactions to which section 381 (a) applies*—(1) *General rule.* The employment relationship between the taxpayer and a WIN employee (as defined in paragraph (h) of § 1.50B–1) shall not be deemed terminated for purposes of paragraph (a) of § 1.50A–3 in the case of a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies. If there is a termination of employment (within the meaning of paragraph (a) of § 1.50A–3 and this section) by the acquiring corporation with respect to the WIN employee described in the preceding sentence, or if the acquiring corporation fails to pay comparable wages to such employee (within the meaning of paragraph (a) (2) of § 1.50A–3), then paragraph (a) (3) of § 1.50A–3 shall apply to the acquiring corporation with respect to the credit allowed the acquired corporation with respect to such employee. For purposes of the preceding sentence, the initial date of employment, as defined in paragraph (c) (1) of § 1.50A–3) of such employee with respect to the acquired corporation shall be deemed to be the initial date of employment of such employee with respect to the acquiring corporation and employment by the acquired corporation shall be deemed employment by the acquiring corporation.

(2) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, a wholly owned subsidiary of Y Corporation, incurred WIN expenses of $12,000 for its taxable year ending December 31, 1972, with respect to WIN employees hired on March 1, 1972. Both X and Y made their returns on the basis of a calendar year. For the taxable year 1972 X Corporation's credit earned of $2,400 (20 percent of $12,000) was allowed under section 40 as a credit against its liability for tax. On December 15, 1973, X Corporation is liquidated under section 332 and all of its assets and liabilities are transferred to Y Corporation. In addition, Y Corporation continues the employment of the WIN employees which were employed by X Corporation and with respect to which X Corporation was allowed the credit for its taxable year 1972.

(ii) Under subparagraph (1) of this paragraph, a termination of employment of the WIN employees shall not be deemed to occur for purposes of paragraph (a) (1) of § 1.50A–3 due to the liquidation of X Corporation on December 15, 1973. Thus, no recapture determination under paragraph (a) (3) of § 1.50A–3 shall be made with respect to X Corporation.

Example (2). (i) The facts are the same as in Example (1) and, in addition, on February 2, 1974, Y Corporation terminates the employment of the employees with respect to whom X Corporation had incurred WIN expenses. The termination is a termination for purposes of paragraph (a) (1) of § 1.50A–3. For purposes of applying the period described in paragraph (a) (1) of § 1.50A–3, the date the employees reported for work at X Corporation is deemed to be the initial date of employment of the employees with respect to Y Corporation.

(ii) Under subparagraph (1) of this paragraph, a termination of employment of the WIN employees shall not be deemed to occur for purposes of paragraph (a) (1) of § 1.50A–3 due to the liquidation of X Corporation on December 15, 1973. However, a termination of employment of the WIN employees is deemed to occur for purposes of paragraph (a) (1) of § 1.50A–3 on February 2, 1974. Thus, Y Corporation shall make a recapture determination under paragraph (a) of § 1.50A–3 with respect to the credit allowed X Corporation with respect to the WIN employees.

(g) *Mere change in form of conducting a trade or business*—(1) *General rule.* (i) The employment relationship between the taxpayer and a WIN employee (as defined in paragraph (h) of § 1.50B–1) shall not be deemed terminated for purposes of paragraph (a) of § 1.50A–3 in the case of a mere change in the form of conducting the trade or business in which such employment occurs, provided that the conditions set forth in subdivision (ii) of this subparagraph are satisfied.

(ii) The conditions referred to in subdivision (i) of this subparagraph are as follows:

(*a*) The WIN employee described in subdivision (i) of this subparagraph is retained in the same trade or business.

(*b*) The taxpayer retains a substantial ownership interest in such trade or business,

(*c*) Substantially all the assets necessary to operate such trade or business are transferred to the tranferee who continues the employment of the WIN employee described in subdivision (i) of this subparagraph, and

(*d*) The basis of the assets described in (*c*) of this subdivision in the hands of the transferee is determined in whole or in part by reference to the basis of such assets in the hands of the transferor.

This subparagraph shall not apply if paragraph (e) of this section (relating to transactions to which section 381(a) applies) is applicable with respect to such transfer.

(2) *Substantial interest.* For purposes of this paragraph, the taxpayer shall be considered as having retained a substantial ownership interest in the trade or business only if, after the change in form, the ownership interest in such trade or business by such taxpayer—

(i) Is substantial in relation to the total ownership interests of all persons, or

(ii) Is equal to or greater than the ownership interest prior to the change in form.

Thus, where a taxpayer owns a 5-percent interest in a partnership, and, after the incorporation of that partnership, the taxpayer retains at least a 5-percent interest in the corporation, the taxpayer will be considered as having retained a substantial interest in the trade or business as of the date of the change in form because of the application of the rule contained in subdivision (ii) of this subparagraph.

(3) *Termination of employment.* (i) If employment of a WIN employee described in subparagraph (1) (i) of this paragraph is terminated by the transferee, the employment of such employee shall be deemed terminated by the taxpayer for purposes of paragraph (a) of § 1.50A–3. For purposes of determining the period described in paragraph (a) (1) of § 1.50A–3 with respect to such taxpayer employment by the transferee shall be deemed employment by the transferor.

(ii) If in any taxable year the taxpayer does not retain a substantial ownership interest in the trade or business directly or indirectly (through ownership in other entities provided that such other entities' bases in such interest are determined in whole or in part by reference to the basis of such interest in the hands of the taxpayer) then, for purposes of paragraph (a) (1) of § 1.50A–3, there shall be deemed to be a termination of employment of the WIN employees described in subparagraph (1) (i) of this paragraph on the first date on which such taxpayer does not retain a substantial interest in the trade or business. For purposes of determining the period described in paragraph (a) (1) of § 1.50A–3, employment by the transferee shall be deemed employment by the transferor. Any taxpayer who seeks to establish his interest in a trade or busi-

ness under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in such trade or business after any such transfer or transfers.

(iii) Notwithstanding subparagraph (1) of this paragraph and subdivision (ii) of this subparagraph in the case of a mere change in the form of a trade or business, if the interest of a taxpayer in the trade or business is reduced but such taxpayer has retained a substantial interest in such trade or business, paragraph (a)(2) of § 1.50B–2 (relating to electing small business corporations), paragraph (a)(2) of § 1.50B–3 (relating to estates or trusts), or paragraph (a)(2)(ii) of § 1.50B–4 (relating to partnerships) shall apply, as the case may be.

(4) *Failure to pay comparable wages.* If the transferee fails to pay comparable wages (within the meaning of paragraph (a)(2) of § 1.50A–3) to the WIN employee within the period described in paragraph (a)(1) of § 1.50A–3, then such failure shall be deemed to be a failure of the transferor (or in a case where the transferor is a partnership, estate, trust, or electing small business corporation, the partners, beneficiaries, or shareholders), and a recapture determination shall be made with respect to such WIN employee as provided in § 1.50A–3. For purposes of determining the period described in paragraph (a)(1) of § 1.50A–3 with respect to such transferor (or such partners, beneficiaries, or shareholders), employment by the transferee shall be deemed employment by such transferor. For special rules in the case of an electing small business corporation (as defined in section 1371(b)), an estate or trust, or a partnership, see respectively, § 1.50A–5, § 1.50A–6, § 1.50A–7.

(5) *Examples.* This paragraph may be illustrated by the following examples in each of which it is assumed that the transfer satisfies the conditions of subparagraph (1)(ii) (*a*), (*c*) and (*d*) of this paragraph.

Example (*1*). (i) On January 1, 1972, A, an individual, employed WIN employees in his sole proprietorship. A incurred WIN expenses with respect to these employees of $12,000 for the taxable year ending December 31, 1972. For the taxable year 1972 A's credit earned of $2,400 (20 percent of $12,000) was allowed under section 40 as a credit against his liability for tax. On March 15, 1973, A transferred all of the assets used in his sole proprietorship to X Corporation, a newly formed corporation, in exchange for 45 percent of the stock of X Corporation.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.50A–3 does not apply to the March 15, 1973, transfer to X Corporation.

Example (*2*). (i) The facts are the same as in Example (1) and in addition on June 1, 1973, X Corporation terminates the employment of WIN employees with respect to whom 50 percent of the WIN expenses were incurred during A's 1972 taxable year.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.50A–3 does not apply to the March 15, 1973, transfer to X Corporation. However, under subparagraph (3)(i) of this paragraph, paragraph (a) of § 1.50A–3 applies to the June 1, 1973, termination of WIN employees by X Corporation. The actual period of employment of such WIN employees is 1 year and 5 months (that is, the period beginning on January 1, 1972, and ending on June 1, 1973). For taxable year 1972, A's recomputed credit earned is $1,200 (20 percent of $6,000). The income tax imposed by Chapter 1 of the Code on A for the taxable year 1973 is increased by the $1,200 decrease in his credit earned for the taxable year 1972 (that is, $2,400 original credit earned minus $1,200 recomputed credit earned).

Example (*3*). (i) The facts are the same as in Example (1) and in addition on April 1, 1973, X Corporation begins paying wages to the employees referred to in Example (1) which are less than the wages paid to its other employees who perform comparable services.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a)(1) of § 1.50A–3 does not apply to the March 15, 1973, transfer to X Corporation. However, under subparagraph (4) of this paragraph, paragraph (a) of § 1.50A–3 applies to the failure of X Corporation to pay wages to the WIN employees which are equal to the wages paid to its other employees who perform comparable services. For taxable year 1972, A's recomputed credit earned is zero. The income tax imposed by Chapter 1 of the Code on A for the taxable year 1973 is increased by the $2,400 decrease in his credit earned for the taxable year 1972.

Example (*4*). (i) On January 1, 1972, partnership ABC, which makes its returns on the basis of a calendar year, employed WIN employees. Partnership ABC incurred WIN expenses with respect to these employees of $20,000 for the taxable year. Partnership ABC has 10 partners who make their returns on the basis of a calendar year and share partnership profits equally. Each partner's share of the WIN expenses is 10 percent, that is, $2,000. On March 15, 1973, partnership ABC transfers all of the assets used in its trade or business to the X Corporation, a newly formed corporation, and immediately thereafter transfers 10 percent of such stock to each of the 10 partners.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a)(1) of § 1.50A–1 does not apply to the March 15, 1973, transfer by the ABC Partnership to X Corporation.

Example (*5*). (i) The facts are the same as in Example (4) except that partnership ABC transfers 10 percent of the stock in X Corporation to each of eight partners, 20 percent to partner A, and cash to partner B.

(ii) Under subparagraph (1)(i) of this paragraph, with respect to all of the partners (including partner A) except partner B, paragraph (a)(1) of § 1.50A–3 does not apply to the March 15, 1973, transfer by the ABC Partnership. Paragraph (a)(1) of § 1.50A–3 applies with respect to partner B's $2,000 share of the WIN expenses. See paragraph (a)(2) of § 1.50A–7.

Example (*6*). (i) X Corporation operates a manufacturing business and a separate retail sales business. During the month of January 1972, X incurred WIN expenses in its manufacturing business. On February 10, 1973, X transfers all the assets used in its manufacturing business to Partnership XY in exchange for a 50 percent interest in such partnership.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a)(1) of § 1.50A–3 does not apply to the February 10, 1973, transfer to Partnership XY.

§ 1.50A–5 Electing small business corporation.

(a) *In general*—(1) *Termination of employment by a corporation.* If an electing small business corporation (as defined in section 1371(b)) or a former electing small business corporation terminates (in a termination subject to the provisions of paragraph (a) of § 1.50A–3) the employment of any WIN employee with respect to whom WIN expenses have been paid or incurred, a recapture determination shall be made under § 1.50A–3 with respect to each shareholder who is treated, under paragraph (a) of § 1.50B–2 as a taxpayer who paid or incurred such expenses. Each such recapture determination shall be made with respect to the pro rata share of the WIN expenses of such employee which were taken into account by such shareholder under paragraph (a) of § 1.50B–2. For purposes of each such recapture determination the period of employment of such employee or employees shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the electing small business corporation and ending with the date of such employee's termination (as defined in paragraph (a)(1)(ii) of § 1.50A–3). For the definition of the term "recapture determination" see paragraph (a)(3) of § 1.50A–3.

(2) *Disposition of shareholder's interest.* (i) If—

(*a*) WIN expenses are apportioned to a shareholder of an electing small business corporation who takes such expenses into account in computing his WIN expenses, and

(*b*) After the end of the shareholder's taxable year in which such apportionment was taken into account and before the close of the period to which paragraph (a)(1) of § 1.50A–3 applies with respect to the employee to which such WIN expenses relate, such shareholder's proportionate stock interest in such corporation is reduced (for example, by a sale or redemption, or by the issuance of additional shares) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction the employment of such employee shall be deemed terminated with respect to such shareholder to the extent of the actual reduction in such shareholder's proportionate stock interest. (For example, if $100 of WIN expenses were apportioned to a shareholder and if his proportionate stock interest is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then the employment of the employee to which such WIN expenses relate shall be deemed terminated as to that shareholder to the extent of $50.) Accordingly, a recapture determination shall be made with respect to such shareholder. For purposes of such recapture determination the period of employment of any employee or employees with respect to whom WIN expenses were paid or incurred shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the electing small business corporation and ending with the date on which such reduction occurs.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the shareholder's proportionate stock interest in the corporation

on the date of the apportionment under paragraph (a) of § 1.50B–2. However, once employment of an employee has been treated under this subparagraph as having terminated with respect to the shareholder to any extent, the percentage referred to shall be 33⅓ percent of the shareholder's proportionate stock interest in the corporation on the date of apportionment under paragraph (a) of § 1.50B–2.

(iii) In determining a shareholder's proportionate stock interest in a former electing small business corporation for purposes of this subparagraph, the shareholder shall be considered to own stock in such corporation which he owns directly or indirectly (through ownership in other entities provided such other entities' bases in such stock are determined in whole or in part by reference to the basis of such stock in the hands of the shareholder). For example, if A, who owns all of the 100 shares of the outstanding stock of corporation X, a corporation which was formerly an electing small business corporation, transfers on November 1, 1973, 70 shares of X stock to corporation Y in exchange for 90 percent of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own 93 percent of the stock of X, 30 percent directly and 63 percent indirectly (i.e., 90 percent of 70). Any taxpayer who seeks to establish his interest in the stock of a former electing small business corporation under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the corporation after any such transfer or transfers.

(3) *Computation of the first 12 months of employment.* The period described in paragraph (a)(1) of § 1.50A–3 shall not be affected by a change in the shareholders in such corporation and shall not be affected by a reduction in any shareholder's proportionate stock interest in such corporation (for example, by a sale or redemption or by the issuance of additional shares). Thus, the first 12 months of employment (whether or not consecutive) of any WIN employee shall be the same with respect to any shareholder who is allowed a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee. Also, such first 12 months of employment and the period described in section 50B(c)(4) with respect to any WIN employee shall not be deemed to begin again in the case of a corporation making a valid election under section 1372.

(b) *Election of a small business corporation under section 1372*—(1) *General rule.* If a corporation makes a valid election under section 1372 to be an electing small business corporation (as defined in section 1371(b)), then on the last day of the first taxable year immediately preceding the taxable year for which such election is effective, the employment of any WIN employees whose initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) occurred in taxable years prior to the first taxable year for which the election is effective (and whose employment has not been terminated prior to such last day) shall be considered as having been terminated on such last day with respect to the WIN expenses paid or incurred by such corporation and § 1.50A–3 shall apply to such corporation. However, if the corporation and each of the persons who are shareholders of the corporation on the first day of the first taxable year for which the election under section 1372 is to be effective, or on the date of such election, whichever is later, execute the agreement specified in subparagraph (2) of this paragraph, § 1.50A–3 shall not apply with respect to any such WIN expenses by reason of the election by the corporation under section 1372.

(2) *Agreement of shareholders and corporation.* (i) The agreement referred to in subparagraph (1) of this paragraph shall be signed by the shareholders and the corporation, and shall recite that, in the event the employment of any WIN employee described in subparagraph (1) of this paragraph is later terminated (in a termination subject to the rules contained in paragraph (a) of § 1.50A–3) during a taxable year of the corporation for which the election under section 1372 is effective, each such signer agrees (a) to notify the district director of such termination, and (b) to be jointly and severally liable to pay to the district director an amount equal to the increase in tax which would have been imposed by § 1.50A–3 on the corporation but for the agreement under this paragraph. For purposes of computing the period described in paragraph (a)(1) of § 1.50A–3, the period of employment by the corporation before the election under section 1372 shall be added to the period of employment by the electing small business corporation after such election.

(ii) The agreement shall set forth the name, address, and taxpayer account number of each party and the internal revenue district or service center in which each such party files his or its income tax return for the taxable year which includes the last day of the corporation's taxable year immediately preceding the first taxable year for which the election under section 1372 is effective. The agreement may be signed on behalf of the corporation by any person who is duly authorized. The agreement shall be filed with the district director with whom the corporation files its income tax return for its taxable year immediately preceding the first taxable year for which the election under section 1372 is effective and shall be filed on or before the due date (including extensions of time) of such return. For purposes of the preceding sentence, the district director may, if good cause is shown, permit the agreement to be filed on a later date.

(c) *Examples.* This section may be illustrated by the following examples:

Example (1). (i) X Corporation, an electing small business corporation which makes its returns on the basis of the calendar year, hired employees under a WIN program on July 1, 1972, and incurred expenses for such employees during the following 12 months at an initial rate of $10,000 per month. For taxable year 1972, X Corporation had 20 shares of stock outstanding which were owned equally by A and B who make their returns on the basis of a calendar year. Under paragraph (a) of this section, the WIN expenses were apportioned to the shareholders of X Corporation as follows:

Period Ending December 31, 1972

Total WIN expenses for the taxable year	$60,000
Shareholder A (10/20)	30,000
Shareholder B (10/20)	30,000

Assuming that during 1972 shareholders A and B did not directly incur any WIN expenses and that they did not own any interest in other electing small business corporations, partnerships, estates, or trusts incurring WIN expenses, the WIN expenses attributable to each shareholder is $30,000. For the taxable year 1972, each shareholder's credit earned of $6,000 (20 percent of $30,000) was allowed under section 40 as a credit against his liability for tax.

(ii) On January 1, 1973, X Corporation terminates the employment of the employees accounting for 50 percent of its WIN expenses incurred to that date, or $30,000 in salaries and wages. The actual period of employment for these WIN employees was 6 months. For taxable year 1972, each shareholder's recomputed credit is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on each of the shareholders for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

Example (2). (i) The facts are the same as in subdivision (i) of example (1), except that on January 1, 1973, shareholder A sells five of his 10 shares of stock in X Corporation to C. No other changes in stock ownership occurred during 1973. Under paragraph (a)(2) of this section, the WIN expenses of X Corporation were apportioned on December 31, 1973, to the shareholders of X Corporation as follows:

Period Ending December 31, 1973

Total WIN expenses for the taxable year	$60,000
Shareholder A (5/20)	15,000
Shareholder B (10/20)	30,000
Shareholder C (5/20)	15,000

(ii) Under paragraph (a)(2) of this section, on January 1, 1973, the employment of these WIN employees shall be deemed terminated by shareholder A with respect to 50 percent of the WIN expenses allocated to him since immediately after the January 1, 1973, sale A's proportionate stock interest in X Corporation is reduced to 50 percent of the proportionate stock interest in X Corporation which he held for taxable year 1972. The actual period of employment of the WIN employees accounting for the 50 percent of the WIN expenses originally allocated to A is 6 months (that is, the period beginning with July 1, 1972, and ending with January 1, 1973). The income tax imposed by chapter 1 of the Code on shareholder A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

(d) *Termination or revocation of an election under section 1372.* The employment of employees with respect to whom WIN expenses were paid or incurred shall not be considered to have been terminated solely by reason of a termination or revocation of a corporation's election under section 1372.

§ 1.50A–6 . Estates and trusts.

(a) *In general*—(1) *Termination of employment by an estate or trust.* If an estate or trust teminates (in a termination subject to the provisions of paragraph (a) of § 1.50A–3) the employment of any employee with respect to whom WIN expenses have been paid or incurred, a recapture determination shall be made under § 1.50A–3 with respect to the estate or trust, and each beneficiary who is treated, under paragraph (a) of § 1.50B–3 as a taxpayer who paid or incurred such expenses. For purposes of each such recapture determination the period of employment of such employees shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the estate or trust and ending with the date of such employee or employees' termination (as defined in paragraph (a)(1)(ii) of § 150A–3). For definition of "recapture determination" see paragraph (a)(3) of § 1.50A–3.

(2) *Disposition of interest.* (i) If—

(*a*) WIN expenses are apportioned to an estate or trust, or to a beneficiary of an estate or trust who takes such expenses into account in computing his WIN expenses, and

(*b*) After the end of the estate's, trust's, or beneficiary's taxable year in which such apportionment was taken into account and before the close of the period to which paragraph (a)(1) of § 1.50A–3 applies with respect to the employees to which such WIN expenses relate, such estate's, trust's, or such beneficiary's proportionate interest in the income of the estate or trust is reduced (for example, by a sale, or by the terms of the estate or trust instrument) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction, the employment of such employee shall be deemed terminated with respect to such estate, trust, or beneficiary to the extent of the actual reduction in such estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust. (For example, if $100 of WIN expenses were apportioned to a beneficiary and if his proportionate interest in the income of the estate or trust is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then the employment of the employee to which such WIN expenses relates shall be deemed terminated as to that beneficiary to the extent of $50.) Accordingly, a recapture determination shall be made with respect to such estate, trust, or beneficiary. For purposes of such recapture determination the period of employment of any employee or employees with respect to whom WIN expenses were paid or incurred shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the estate or trust and ending with the date on which such reduction occurs.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under paragraph (a) of § 1.50B–3. However, once employment of an employee has been treated under this subparagraph as having terminated with respect to the estate, trust, or beneficiary to any extent, the percentage referred to shall be 33⅓ percent of the estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under paragraph (a) of § 1.50B–3.

(iii) In determining a beneficiary's proportionate interest in the income of an estate or trust for purposes of this subparagraph, the beneficiary shall be considered to own any interest in such an estate or trust which he owns directly or indirectly (through ownership in other entities provided such other entities' bases in such interests are determined in whole or in part by reference to the basis of such interest in the hands of the beneficiary). For example, if A, whose proportionate interest in the income of trust X is 30 percent, transfers all of such interest to corporation Y in exchange for all of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own a 30-percent interest in trust X. Any taxpayer who seeks to establish his interest in an estate or trust under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the estate or trust after any such transfer or transfers.

(b) *Computation of the first 12 months of employment.* The period described in paragraph (a)(1) of § 1.50A–3 shall not be affected by a change in the beneficiaries of an estate or trust and shall not be affected by a reduction or a termination of a beneficiary's interest in the income of such estate or trust. Thus, the period described in paragraph (a)(1) of § 1.50A–3 of any WIN employee shall be the same with respect to any trust, estate, or beneficiary who is allowed a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee. Also, such period with respect to any WIN employee shall not be deemed to begin again as the result of the acquisition of the interest by another.

(c) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). (i) XYZ Trust, which makes its returns on the basis of the calendar year, hired employees under the WIN program on July 1, 1972, and incurred expenses for such employees during the following 12 months at an initial rate of $10,000 per month. For the taxable year 1972 the income of XYZ Trust is $60,000, which is allocated equally to XYZ Trust and beneficiary A. Beneficiary A makes his returns on the basis of a calendar year. Under paragraph (a) of this section, the WIN expenses were apportioned to XYZ Trust and to beneficiary A as follows:

	Period ending December 31, 1972
Total WIN expenses for the taxable year	$60,000
XYZ Trust ($30,000/$60,000)	30,000
Beneficiary A ($30,000/$60,000)	30,000

Assuming that during 1972 beneficiary A did not directly incur any WIN expenses and that he did not own any interest in other estates, trusts, electing small business corporations, or partnerships incurring WIN expenses, the WIN expenses incurred by XYZ Trust and by beneficiary A are $30,000 each. For the taxable year 1972, XYZ Trust and beneficiary A each had a credit earned of $6,000. Each credit earned was allowed under section 40 as a credit against the liability for tax.

(ii) On January 1, 1973, XYZ Trust terminates the employment of its employees accounting for 50 percent of its WIN expenses incurred to that date, or $30,000 in salaries and wages. The actual period of employment for these WIN employees was 6 months. For the taxable year 1972, XYZ Trust's and beneficiary A's recomputed credit is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on XYZ Trust and on beneficiary A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

Example (2). (i) The facts are the same as in subdivision (i) of example (1), except that on January 1, 1973, beneficiary A sells 50 percent of his interest in the income of XYZ Trust to B. No other changes in income interest occurred during 1973. Under paragraph (a)(2) of § 1.50B–4, each beneficiary's share and the trust's share of the WIN expenses are apportioned as follows:

	Period ending December 31, 1973
Total WIN expenses for the taxable year	$60,000
XYZ Trust ($30,000/$60,000)	30,000
Beneficiary A ($15,000/$60,000)	15.000
Beneficiary B ($15,000/$60,000)	15.000

(ii) Under paragraph (a)(2) of this section, on January 1, 1973, the employment of these WIN employees shall be deemed terminated by beneficiary A with respect to 50 percent of the WIN expenses allocated to him since immediately after the January 1, 1973, sale A's proportionate interest in the income of XYZ Trust is reduced to 50 percent of his proportionate interest in the income of XYZ Trust for the taxable year 1972. The period of employment of the WIN employees accounting for the 50 percent of the WIN expense originally allocated to A is 6 months (that is, the period beginning with July 1, 1972, and ending with December 31, 1972). For the taxable year 1972 beneficiary A's recomputed credit earned is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on beneficiary A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

§ 1.50A–7 Partnerships.

(a) *In general*—(1) *Termination of employment by a partnership.* If a partnership terminates (in a termination subject to the provisions of paragraph (a) of § 1.50A–3) the employment of any WIN employee with respect to whom WIN expenses have been paid or incurred, a recapture determination shall be made under § 1.50A–3 with respect to each partner who is treated, under paragraph (a) of § 1.50B–4, as a taxpayer with respect to such expenses. Each such recapture determination shall be made with respect to the share of the WIN expenses with respect to such employee

which were taken into account by such partner under paragraph (a) of § 1.50B–4. For purposes of each such recapture determination the period of employment of any such employee shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the partnership and ending with the date of such employee's termination (as defined in paragraph (a)(1)(ii) of § 1.50A–3). For the definition of "recapture determination" see paragraph (a)(3) of § 1.50A–3.

(2) *Disposition of partner's interest.* (i) If—

(*a*) WIN expenses are allocated to a partner of a partnership who takes such expenses into account in computing his WIN expenses, and

(*b*) After the end of the partner's taxable year in which such allocation was taken into account and before the close of the period to which paragraph (a)(1) of § 1.50A–3 applies with respect to the employee to which such WIN expenses relate, such partner's proportionate interest in the general profits of the partnership (or in the particular expenses) is reduced (for example, by a sale, by a change in the partnership agreement, or by the admission of a new partner) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction the employment of such employee shall be deemed terminated with respect to such partner to the extent of the actual reduction in such partners' proportionate interest in the general profits (or in the particular expenses) of the partnership. (For example, if $100 of WIN expenses were taken into account by a partner and if his proportionate interest in the general profits of the partnership is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then the employment of the employee to which such WIN expenses relate shall be deemed terminated as to that partner to the extent of $50). Accordingly, a recapture determination shall be made with respect to such partner. For purposes of such recapture determination the period of employment of any employee or employees with respect to whom WIN expenses were paid or incurred shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the partnership and ending with the date on which such reduction occurs.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the partner's proportionate interest in the general profits of the partnership for the year of the apportionment under § 1.50B–4(a). However, once employment of an employee has been treated under this subparagraph as having terminated with respect to the partner to any extent, the percentage referred to shall be 33⅓ percent of the partner's proportionate interest in the general profits of the partnership for the taxable year of the apportionment under paragraph (a) of § 1.50B–4.

(iii) In determining a partner's proportionate interest in the general profits of a partnership for purposes of this subparagraph, the partner shall be considered to own any interest in such a partnership which he owns directly or indirectly (through ownership in other entities provided the other entities' bases in such interests are determined in whole or in part by reference to the basis of such interest in the hands of the partner). For example, if A, whose proportionate interest in the general profits of partnership X is 20 percent, transfers all of such interest to Corporation Y in exchange for all of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own a 20 percent interest in partnership X. Any taxpayer who seeks to establish his interest in a partnership under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the partnership after any such transfer or transfers.

(3) *Computation of the first 12 months of employment.* The period described in paragraph (a)(1) of § 1.50A–3 shall not be affected by a change in the partners of such partnership and shall not be affected by a change in the ratio in which the partners divide the general profits of the partnership. Thus, such period for any WIN employee shall be the same with respect to any partner claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). (i) AB partnership, which makes its returns on the basis of the calendar year, hired employees under the WIN program on July 1, 1972, and incurred expenses for such employees during the following 12 months at an initial rate of $10,000 per month. Partners A and B, who make their return on the basis of a calendar year, share the profits and losses of AB partnership equally. Under paragraph (a)(2) of this section, each partner's share of the WIN expenses was apportioned as follows:

	Period ending December 31, 1972
Total WIN expenses for the taxable year	$60,000
Partner A's share (50 percent)	30,000
Partner B's share (50 percent)	30,000

Assuming that during 1972 A and B did not directly incur any WIN expenses and that they did not own any interest in other partnerships, electing small business corporations, estates, or trusts incurring WIN expenses, each partner's share of the WIN expenses is $30,000. For the taxable year 1972, each partner's credit earned of $6,000 (20 percent of $30,000) was allowed under section 40 as a credit against his liability for tax.

(ii) On January 1, 1973, AB partnership terminates the employment of its employees accounting for 50 percent of its WIN expenses incurred to that date, or $30,000 in salaries and wages. The actual period of employment for these WIN employees was 6 months. For the taxable year 1972, each partner's recomputed credit earned is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on each of the partners for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

Example (2). (i) The facts are the same as in subdivision (i) of example (1), except that on January 1, 1973, partner A sells one-half of his 50 percent interest in AB partnership to C, to form the ABC partnership. No other changes in the partners' proportionate interest in the general profits of the partnership occurred during 1973. Under paragraph (a)(2) of this section, each partner's share of the WIN expenses was apportioned on December 31, 1973, as follows:

	Period ending December 31, 1973
Total WIN expenses for the taxable year	$60,000
Partner A's share (25 percent)	15,000
Partner B's share (50 percent)	30,000
Partner C's share (25 percent)	15,000

(ii) Under paragraph (a)(2) of this section, on January 1, 1973, the employment of these WIN employees shall be deemed terminated by partner A with respect to 50 percent of the WIN expenses allocated to him since immediately after the January 1, 1973, sale. A's proportionate interest in the general profits of ABC partnership is reduced to 50 percent of his proportionate interest in the general profits of AB partnership for 1972. The period of employment of the WIN employees accounting for the 50 percent of the WIN expenses originally allocated to A is 6 months (that is, the period beginning with July 1, 1972, and ending with December 31, 1972). For the taxable year 1972 partner A's recomputed credit earned is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on partner A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

§ 1.50B Statutory provisions; definitions; special rules.

SEC. 50B. *Definitions; special rules*—(a) *Work incentive program expenses.* For purposes of this subpart, the term "work incentive program expenses" means the wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) of employees who are certified by the Secretary of Labor as—

(1) Having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act, and

(2) Not having displaced any individual from employment.

(b) *Wages.* For purposes of subsection (a), the term "wages" means only cash remuneration (including amounts deducted and withheld).

(c) *Limitations*—(1) *Trade or business expenses.* No item shall be taken into account under subsection (a) unless such item is incurred in a trade or business of the taxpayer.

(2) *Reimbursed expenses.* No item shall be taken into account under subsection (a) to the extent that the taxpayer is reimbursed for such item.

(3) *Geographical limitation.* No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer with respect to employment outside the United States.

(4) *Maximum period of training or instruction.* No item with respect to any employee shall be taken into account under subsection (a) after the end of the 24-month

period beginning with the date of initial employment of such employee by the taxpayer.

(5) *Ineligible individuals.* No item shall be taken into account under subsection (a) with respect to an individual who—

(A) Bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)),

(B) If the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) Is a dependant (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) *Subchapter S corporations.* In case of an electing small business corporation (as defined in section 1371)—

(1) The work incentive program expenses for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) Any person to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

(e) *Estates and trusts.* In the case of an estate or trust—

(1) The work incentive program expenses for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

(2) Any beneficiary to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses, and

(3) The $25,000 amount specified under subparagraphs (A) and (B) of section 50A(a)(2) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $25,000 as the amount of the expenses allocated to the trust under paragraph (1) bears to the entire amount of such expenses.

(f) *Limitations with respect to certain persons.* In the case of—

(1) An organization to which section 593 applies,

(2) A regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) A cooperative organization described in section 1381(a),

rules similar to the rules provided in section 46(d) shall apply under regulations prescribed by the Secretary or his delegate.

(g) *Cross reference.* For application of this subpart to certain acquiring corporations, see section 381(c)(24).

[Sec. 50B as added by sec. 601(b), Rev. Act 1971 (85 Stat. 556)]

§ 1.50B–1 Definitions of WIN expenses and WIN employees.

(a) *WIN expenses—(1) In general.* Except as otherwise provided in paragraphs (b)–(g) of this section, for purposes of §§ 1.50A–1 through 1.50B–6, the term "work incentive program expenses" (referred to in §§ 1.50A–1 through 1.50B–6 as "WIN expenses") means the salaries and wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) by an employee who is certified by the Secretary of Labor as—

(i) Having been placed in employment by the taxpayer (or if the taxpayer is a partner of a partnership, beneficiary of an estate or trust, or a shareholder of an electing small business corporation, by such partnership, estate, trust, or electing small business corporation) under a work incentive (WIN) program established under section 432(b)(1) of the Social Security Act (42 U.S.C. 632(b)(1)), and

(ii) Not having displaced any individual from employment.

The term "WIN expenses" includes only salaries and wages paid or incurred in taxable years beginning after December 31, 1971. See paragraph (c)(3) of § 1.50A–3 for rules relating to the determination of the first 12 months of employment (whether or not consecutive).

(2) *Examples.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). X Corporation, an accrual basis taxpayer which files its return on the basis of the calendar year, hired an employee on July 1, 1971, who was certified by the Secretary of Labor under this paragraph. The first 12 months of employment were continuous. X is entitled to the credit provided by section 40 with respect to the salaries or wages incurred during its taxable year beginning January 1, 1972, for services rendered by that employee during the period beginning July 1, 1971, and ending June 30, 1972.

Example (2). Y, a cash basis taxpayer who files its return on the basis of the calendar year, employed A, an employee certified by the Secretary of Labor under this paragraph, on July 1, 1971. A's first 12 months of employment were continuous. Y paid A on the basis of a semimonthly payroll period, but paid its payroll 2 days after the close of the payroll period during which the wages were earned. Thus, Y paid A on January 2, 1972, for services rendered between December 16, 1971, and December 31, 1971. Y is entitled to the credit provided by section 40 with respect to the wages paid for services rendered by A during the period beginning December 16, 1971, and ending June 30, 1972, because those wages were paid by Y in a taxable year beginning after December 31, 1971.

(b) *Salaries and wages.* For purposes of this section, the term "salaries and wages" means only cash remuneration including a check. Amounts deducted and withheld from the employee's pay (for example, taxes and contributions to health and retirement plans) shall be deemed to be cash remuneration even though not actually paid directly to the employee.

(c) *Trade or business expenses.* The term "WIN expenses" includes only salaries and wages which are paid or incurred in a trade or business of the taxpayer and which are deductible in computing taxable income. Thus, salaries and wages paid to domestic employees in a private home are not "WIN expenses".

(d) *Reimbursed expenses—(1) In general.* The term "WIN expenses" does not include salaries and wages to the extent that the taxpayer is reimbursed for such salaries or wages from any source.

(2) *Example.* Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. X Company, which makes its return on the basis of the calendar year, hired WIN employees on January 1, 1972. X Company has a cost-plus construction contract with the Federal Government. The fact that X has a construction contract with the Federal Government or anyone else does not change its character from a normal business transaction in which there has been a sale of materials and services. Thus, the salaries or wages paid or incurred for services rendered by these WIN employees would not be reimbursed expenses, and X would be entitled to the credit provided by section 40.

(e) *Geographical limitation—(1) In general.* The term "WIN expenses" does not include salaries and wages paid or incurred for services rendered outside the United States (as defined in sections 638 (relating to Continental Shelf areas) and 7701(a)(9)). However, services rendered by any WIN employee outside the United States (as defined in sections 638 (relating to Continental Shelf areas) and 7701(a)(9)) shall contribute to such employee's first 12 months of employment (whether or not consecutive) for purposes of paragraph (a) of § 1.50A–3 and paragraph (a) of this section.

(2) *Example.* Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. X Corporation, which files its return on the basis of the calendar year, hired A, a WIN employee, on January 1, 1972, and continuously employed him for the following 24-month period. During January and February of 1972, X paid A's wages while he received training conducted in Puerto Rico. For the remainder of the calendar year A performed services for X within the United States. For purposes of paragraph (a) of § 1.50A–3 and paragraph (a) of this section, A's first 12 months of employment are January 1, 1972, to December 31, 1972. Under subparagraph (1) of this paragraph no wages paid to A for services rendered during the months of January and February of 1972 may be taken into account by X under paragraph (a) of this section as WIN expenses because the services were rendered outside the United States. However, X may take into account wages he has incurred with respect to A for the period March 1, 1972, to December 31, 1972.

(f) *Maximum period of training or instruction.* The term "WIN expenses" does not include salaries and wages paid or incurred for services rendered by a WIN employee after the end of the 24-month period beginning with the date of initial employment (as defined in paragraph (c)(1) of § 1.50A–3) of the WIN employee.

(g) *Ineligible individuals.* The term "WIN expenses" does not include salaries and wages paid or incurred for services rendered by a WIN employee who—

(1) Bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the Code to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly

or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c) of the Code),

(2) If the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the Code to a grantor, beneficiary, or fiduciary of the estate or trust, or

(3) Is a dependent (described in section 152(a)(9) of the Code) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (1), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(h) *WIN employee.* For purposes of §§ 1.50A–1—1.50B–6 the term "WIN employee" means an employee who is certified by the Secretary of Labor as meeting the requirements of paragraph (a)(1) (i) and (ii) of this section.

(j) *Special rule applicable to transactions to which section 381(a) applies and transactions involving a mere change in form of conducting a trade or business.* The first 12 months of employment (whether or not consecutive) and the period described in section 50B(c)(4) of any WIN employee, for purposes of determining the amount of WIN expenses (as defined in paragraph (a) of § 1.50B–1), shall not be affected by transactions to which the rule contained in paragraph (f) (relating to transaction to which section 381(a) (relating to certain corporate acquisitions) applies), or paragraph (g) (relating to a mere change in form of conducting a trade or business) of § 1.50A–4 applies.

§ 1.50B–2 Electing small business corporations.

(a) *General rule*—(1) *In general.* In the case of an electing small business corporation (as defined in section 1371(b)), WIN expenses (as defined in paragraph (a) of § 1.50B–1) shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such corporation's taxable year, and shall be taken into account for the taxable years of such shareholders within which or with which the taxable year of such corporation ends. The WIN expenses for each employee shall be apportioned separately. In determining who are shareholders of an electing small business corporation on the last day of its taxable year, the rules of paragraph (d)(1) of § 1.1371–1 and of paragraph (a)(2) of § 1.1373–1 shall apply.

(2) *Shareholder as taxpayer.* A shareholder to whom WIN expenses are apportioned shall, for purposes of the credit allowed by section 40, be treated as the taxpayer who paid or incurred the expenses allocated to him. If a shareholder takes into account in determining his WIN expenses any WIN expenses with respect to an employee of an electing small business corporation, and if the employment of such employee is terminated in a termination subject to the rules contained in paragraph (a) of § 1.50A–3, or if the electing small business corporation fails to pay comparable wages and such failure is subject to the rules contained in paragraph (a) (2) and (3) of § 1.50A–3, then such shareholder shall make a recapture determination under the provisions of section 50A(c) and (d) of the Code and § 1.50A–3.

(3) *Computation of the first 12 months of employment.* The first 12 months of employment (whether or not consecutive) and the period described in section 50B(c)(4) of any WIN employee for purposes of determining the amount of WIN expenses (as defined in paragraph (a) of § 1.50B–1), shall not be affected by a change in the shareholders in such corporation and shall not be affected by a reduction in any shareholder's proportionate stock interest in such corporation (for example, by a sale or redemption or by the issuance of additional shares). Thus, the first 12 months of employment (whether or not consecutive) of any WIN employee shall be the same with respect to any shareholder claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee. Also, such first 12 months of employment and the period described in section 50B(c)(4), with respect to any WIN employee, shall not be deemed to begin again because of the making of a valid election under section 1372.

(b) *Summary statement.* An electing small business corporation shall attach to its return a statement showing the apportionment to each shareholder of its WIN expenses with respect to each WIN employee.

(c) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). (i) X Corporation, an electing small business corporation which files its returns on the basis of the calendar year, hired WIN employees on July 1, 1972, whose employment was continuous for the next 24 months. A, a shareholder, has a 10 percent interest in X Corporation. X Corporation incurred $24,000 in wages with respect to these WIN employees in calendar year 1972, and $48,000 in calendar year 1973. Assuming that during 1972 shareholder A did not directly incur any other WIN expenses and did not own any other interest in other electing small business corporations, partnerships, estates, or trusts that incurred WIN expenses, for taxable year 1972 shareholder A's credit earned of $480 (10 percent (A's ownership interest) multiplied by $24,000 of WIN expenses multiplied by 20 percent) was allowed under section 40 as a credit against his liability for tax.

(ii) On March 1, 1973, shareholder A sold all of his interest to B, a new shareholder. Therefore, the employment of the WIN employees is deemed terminated for purposes of paragraph (a) of § 1.50A–3 with respect to shareholder A. For taxable year 1972, A's recomputed credit is zero because the termination occurred before the end of the period described in paragraph (a)(1) of § 1.50A–3. The income tax imposed by chapter 1 of the Code on A for the taxable year 1973 is increased by the $480 decrease in his credit earned for the taxable year 1972 (that is, $480 original credit earned minus zero recomputed credit earned). Under paragraph (a) of this section A has no credit earned for 1973.

(iii) Under subparagraph (3) of this paragraph, assuming that during 1973 shareholder B did not directly incur any other WIN expenses and that he did not own any interest in other electing small business corporations, partnerships, estates, or trusts that incurred WIN expenses, shareholder B's credit earned is $960 (10 percent (B's ownership interest) multiplied by $48,000 of WIN expenses multiplied by 20 percent) and is allowable under section 40 as a credit against his liability for tax. Under paragraph (a)(3) for purposes of determining the period of employment that may be taken into account by B the initial date of employment of these WIN employees relates back to the date they were first employed, *i.e.*, July 1, 1972.

Example (2). (i) Y Corporation, an electing small business corporation which files its return on the basis of the calendar year, hires five WIN employees in 1972. The WIN expenses incurred with respect to each employee are as follows:

WIN employee number	*WIN expenses*
1	$6,000
2	5,000
3	4,000
4	4,000
5	3,000
Total	22,000

On December 31, 1972, Y Corporation has 10 shares of stock outstanding which are owned as follows: A owns 3 shares, B owns 2 shares, and C owns 5 shares.

(ii) Under this section, the WIN expenses are apportioned to the shareholders of Y Corporation as follows:

WIN employees	1	2	3	4	5	Total
Total WIN expenses	$6,000	$5,000	$4,000	$4,000	$3,000	
Shareholder A (3/10)	1,800	1,500	1,200	1,200	900	6,600
Shareholder B (2/10)	1,200	1,000	800	800	600	4,400
Shareholder C (5/10)	3,000	2,500	2,000	2,000	1,500	11,000

Assume that shareholders A, B, and C did not directly incur any other WIN expenses during their taxable year in which falls December 31, 1972 (the last day of Y Corporation's taxable year), and that such shareholders did not own any interest in other electing small business corporations, partnerships, estates or trust that incurred WIN expenses. The total WIN expenses of shareholder A are $6,600, of shareholder B are $4,400, and of shareholder C are $11,000.

§ 1.50B–3 Estates and trusts.

(a) *General rule*—(1) *In general.* In the case of an estate or trust, WIN expenses (as defined in paragraph (a) of § 1.50B–1) shall be apportioned among the estate or trust and its beneficiaries on the basis of the income of such estate or trust allocable to each. There shall be apportioned to the estate or trust for its taxable year, and to each beneficiary of such estate or trust for his taxable year in which or with which the taxable year of such estate or trust ends, his share (as determined under paragraph (b) of this section) of the total WIN expenses allocated to him. If a benefi-

employee shall be apportioned separately.

(2) *Beneficiary as taxpayer.* A beneficiary to whom WIN expenses are apportioned shall, for purposes of the credit allowed by section 40, be treated as the taxpayer who paid or incurred such WIN expenses allocated to him. If a beneficiary takes into account in determining his WIN expenses any portion of the WIN expenses paid or incurred by an estate or trust and if the employee with respect to which the WIN expenses were paid or incurred is terminated in a termination subject to the rules in paragraph (a) of § 1.50A–3, or if there is a failure to pay such employee comparable wages (such failure which is subject to the rules in paragraph (a) (2) and (3) of § 1.50A–3), then such beneficiary shall make a recapture determination under the provisions of section 50A (c) and (d) of the Code and § 1.50A–3.

(3) For purposes of this section, the term "beneficiary" includes heir, legatee, and devisee.

(4) If during the taxable year of an estate or trust a beneficiary's interest in the income of such estate or trust terminates, WIN expenses paid or incurred by such estate or trust after such termination shall not be apportioned to such beneficiary.

(b) *Share.* A trust's, estate's, or beneficiary's share of the WIN expenses with respect to each employee shall be:

(1) The total WIN expenses incurred in the taxable year of the estate or trust with respect to such employee, multiplied by

(2) The amount of income allocable to such estate or trust or to such beneficiary for such taxable year, divided by

(3) The sum of the amounts of income allocable to such estate or trust and all its beneficiaries taken into account under subparagraph (2) of this paragraph.

(c) *Limitation based on amount of tax.* In the case of an estate or trust, the $25,000 amount specified in section 50A(a)(2), relating to limitation based on amount of tax, shall be reduced for the taxable year to—

(1) $25,000, multiplied by

(2) The WIN expenses apportioned to such estate or trust under paragraph (a) of this section, divided by

(3) The WIN expenses apportioned among such estate or trust and its beneficiaries.

(d) *Computation of the first 12 months of employment.* The first 12 months of employment (whether or not consecutive) and the period described in section 50B(c)(4) of any WIN employee for purposes of determining the amount of WIN expenses (as defined in paragraph (a) of § 1.50B–1) shall not be affected by a change in the beneficiaries of an estate or trust and shall not be affected by a reduction or a termination of a beneficiary's interest in the income of such estate or trust. Thus, the first 12 months of employment (whether or not consecutive) of any WIN employee shall be the same with respect to any trust, estate, or beneficiary claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee.

(e) *Summary statement.* An estate or trust shall attach to its return a statement showing the apportionment of WIN expenses with respect to each employee to such estate or trust and to each beneficiary.

(f) *Examples.* This section may be illustrated by the following examples:

Example (1). (1) XYZ trust, which makes its return on the basis of the calendar year, hires five WIN employees in 1972. The WIN expenses incurred with respect to each employee are as follows:

WIN employee number	*WIN expenses*
1	$6,000
2	5,000
3	4,000
4	4,000
5	3,000
Total	22,000

For the taxable year 1972 the income of XYZ trust is $10,000 which is allocable as follows: $5,000 to XYZ trust, $2,000 to beneficiary A, and $3,000 to beneficiary B. Beneficiaries A and B make their returns on the basis of a calendar year.

(2) Under this section, the WIN expenses are apportioned to XYZ trust and to its beneficiaries as follows:

WIN employees	1	2	3	4	5	Total
Total WIN expenses	$6,000	$5,000	$4,000	$4,000	$3,000	
XYZ Trust: $5,000/10,000	3,000	2,500	2,000	2,000	1,500	$11,000
Beneficiary A: $2,000/10,000	1,200	1,000	800	800	600	4,400
Beneficiary B: $3,000/10,000	1,800	1,500	1,200	1,200	900	6,600

Assume that beneficiary A hired a WIN employee during his taxable year 1972 and incurred $6,000 in wages. Also, assume that beneficiary B did not hire WIN employees during his taxable year 1972 and that beneficiaries A and B did not own any interests in other trusts, estates, partnerships, or electing small business corporations that hired WIN employees. The WIN expenses of XYZ trust are $11,000, of beneficiary A are $10,400, and of beneficiary B are $6,600.

(3) In the case of XYZ trust, the $25,000 amount specified in section 50A(a)(2) is reduced to $12,500, computed as follows: (i) $25,000 multiplied by (ii) $11,000 (WIN expense apportioned to the trust), divided by (iii) $22,000 (total WIN expenses apportioned among such trust ($11,000), beneficiary A ($4,400), and beneficiary B ($6,600)).

Example (2). The facts are the same as in example (1) except that beneficiary A's interest is reduced to zero. Under paragraph (a)(3) for purposes of determining the period of employment that may be taken into account by XYZ trust and by beneficiary B, the initial date of employment of the WIN employees relates back to the date they were first employed.

§ 1.50B–4 Partnerships.

(a) *General rule*—(1) *In general.* In the case of a partnership, each partner shall take into account separately, for his taxable year with or within which the partnership taxable year ends, his share (as determined under subparagraph (3) of this paragraph) of the WIN expenses (as defined in paragraph (a) of § 1.50B–1) of employees employed by the partnership during such partnership's taxable year. The WIN expenses for each employee shall be allocated separately.

(2) *Partner as taxpayer.* Each partner shall be treated as the taxpayer who paid or incurred the share of the WIN expenses allocated to him. If a partner takes into account in determining his WIN expenses the WIN expenses of an employee of a partnership, and if the employment of such employee is terminated in a termination subject to the rules contained in paragraph (a) of § 1.50A–3, or if the partnership fails to pay comparable wages and such failure is subject to the rules contained in paragraph (a) (2) and (3) of § 1.50A–3, then such shareholder shall make a recapture determination under the provisions of section 50A (c) and (d) of the Code and § 1.50A–3.

(3) *Determination of partner's share.* (i) Each partner's share of the WIN expenses shall be determined in accordance with the ratio in which the partners divide the general profits of the partnership (that is, the taxable income of the partnership as described in section 702 (a)(9)) regardless of whether the partnership has a profit or a loss for the taxable year during which the WIN expenses are paid or incurred. However, if the ratio in which the partners divide the general profits of the partnership changes during the taxable year of the partnership, the ratio effective for the date on which the WIN expenses are paid or incurred shall apply.

(ii) Notwithstanding subdivision (i) of this subparagraph, if the deduction with respect to any WIN expenses is specially allocated and if such special allocation is recognized under section 704 (a) and (b) and paragraph (b) of § 1.704–1, then each partner's share of the WIN expenses shall be determined by reference to such special allocation effective for the date on which the WIN expenses are paid or incurred.

(4) *Computation of the first 12 months of employment.* The first 12 months of employment (whether or not consecutive) and the period described in section 50B(c)(4) with respect to any WIN employee for purposes of determining the amount of WIN expenses (as defined in paragraph (a) of § 1.50B–1) shall not be affected by a change in the partners of such partnership and shall not be affected by a change in the ratio in which the partners divide the general profits of the partnership. Thus, the first 12 months of employment (whether or not consecutive) and the 24-month period described in section 50B(c)(4) of any WIN employee shall be the same with respect to any partner claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee.

(b) *Summary statement.* A partnership shall attach to its return a statement showing the allocation to each partner of its WIN expenses with respect to each WIN employee.

(c) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). Partnership ABCD hires a WIN employee on January 1, 1972, and hires a second WIN employee on September 1, 1972. The ABCD partnership and each of its partners reports income on the basis of the calendar year. Partners A, B, C, and D share partnership profits equally. Each partner's share of the WIN expenses incurred with respect to these employees is 25 percent.

Example (2). Assume the same facts as in example (1) and the following additional facts: A dies on June 30, 1972, and B purchases A's interest as of such date. Each partner's share of the profits from January 1 to June 30 is 25 percent. From July 1 to December 31, B's share of the profits is 50 percent, and C and D's share of the profits is 25 percent each. B shall take into account 25 percent of the WIN expenses incurred during the period beginning January 1 and ending June 30 and 50 percent of the WIN expenses incurred during the remainder of the year with respect to the employee hired on January 1, 1972. Also, B shall take into account 50 percent of the WIN expenses incurred with respect to the employee hired on September 1, C and D shall each take into account 25 percent of the WIN expenses incurred with respect to the employees employed by the partnership in 1972. Under paragraph (a)(3), for purposes of determining the period of employment that may be taken into account by B, the initial date of employment of the WIN employee hired on January 1 relates back to the date he was first employed, *i.e.*, January 1, 1972.

Example (3). Partnership SH is engaged in manufacturing. Under the terms of the partnership agreements deductions attributable to the employment of WIN employees are specially allocated 70 percent to partner S and 30 percent to partner H. In all other respects S and H share profits and losses equally. If the special allocation with respect to the WIN expenses is recognized under section 704 (a) and (b) and paragraph (b) of § 1.704–1, the WIN expenses shall be taken into account, 70 percent by S and 30 percent by H.

Example (4). (i) LMN partnership, which files its return on the basis of the calendar year, hires five WIN employees in 1973. The WIN expenses incurred with respect to each employee are as follows:

WIN employee number	*WIN expenses*
1	$6,000
2	5,000
3	4,000
4	4,000
5	3,000
Total	22,000

On December 31, 1973, the ratio in which the partners divide the general profits of the RMN partnership is as follows: L receives three-tenths of the general profits, M receives two-tenths of the general profits, and N receives five-tenths of the general profits.

(ii) Under this section the WIN expenses are apportioned to the partners of LMN partnership as follows:

WIN employees	1	2	3	4	5	Total
Total WIN expenses	$6,000	$5,000	$4,000	$4,000	$3,000	$22,000
Partner L (3/10)	1,800	1,500	1,200	1,200	900	6,600
Partner M (2/10)	1,200	1,000	800	800	600	4,400
Partner N (5/10)	3,000	2,500	2,000	2,000	1,500	11,000

Assume that partners L, M, and N did not directly incur any other WIN expenses during their taxable year in which falls December 31, 1973 (the last day of LMN partnership's taxable year) and that such partners did not own any interest in other partnerships, electing small business corporations, estates, or trusts that incurred WIN expenses. The total WIN expenses of partner L are $6,600, of partner M are $4,400, and of partner N are $11,000.

§ 1.50B–5 Limitations with respect to certain persons.

(a) *Mutual savings institutions.* In the case of an organization to which section 593 applies (that is, a mutual savings bank, a cooperative bank, or a domestic building and loan association)—

(1) WIN expenses shall be 50 percent of the amount otherwise determined under paragraph (a) of § 1.50B–1, and

(2) The $25,000 amount specified in section 50A(a)(2), relating to limitation based on amount of tax, shall be reduced by 50 percent of such amount.

For example, a domestic building and loan association incurs $30,000 in WIN expenses (as determined under paragraph (a) of § 1.50B–1) during its taxable year. However, under this paragraph such amount is reduced to $15,000 (50 percent of $30,000). If an organization to which section 593 applies is a member of a controlled group (as defined in section 50A(a)(5)), the $25,000 amount specified in section 50A(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.50A–1 before such amount is further reduced under this paragraph.

(b) *Regulated investment companies and real estate investment trusts.* (1) In the case of a regulated investment company or a real estate investment trust subject to taxation under subchapter M, chapter 1 of the Code—

(i) The WIN expenses determined under paragraph (a) of § 1.50B–1, and

(ii) The $25,000 amount specified in section 50A(a)(2), relating to limitation based on amount of tax,

shall be reduced to such person's ratable share of each such amount. If a regulated investment company or a real estate investment trust is a member of a controlled group (as defined in section 50A(a)(5)), the $25,000 amount specified in section 50A(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.50A–1 before such amount is further reduced under this paragraph.

(2) A person's ratable share of the amount described in subparagraph (1)(i) and the amount described in subparagraph (1)(ii) of this paragraph shall be the ratio which—

(i) Taxable income for the taxable year, bears to,

(ii) Taxable income for the taxable year plus the amount of the deduction for dividends paid taken into account under section 852(b)(2)(D) in computing investment company taxable income, or under section 857(b)(2)(C) in computing real estate investment trust taxable income, as the case may be.

For purposes of the preceding sentence, the term "taxable income" means, in the case of a regulated investment company its investment company taxable income (within the meaning of section 852(b)(2)), and in the case of a real estate investment trust its real estate investment trust taxable income (within the meaning of section 857(b)(2)).

(3) This paragraph may be illustrated by the following example:

Example. (i) Corporation X, a regulated investment company subject to taxation under section 852 of the Code, which makes its return on the basis of the calendar year, incurs WIN expenses of $30,000 during the year 1974. Corporation X's investment company taxable income under section 852(b)(2) is $10,000 after taking into account a deduction for dividends paid of $90,000.

(ii) Under this paragraph, Corporation X's WIN expenses for the taxable year 1974 is $3,000, computed as follows: (*a*) $30,000 (WIN expenses), multiplied by (*b*) $10,000 (taxable income), divided by (*c*) $100,000 (taxable income plus the deduction for dividends paid). For 1974, the $25,000 amount specified in section 50A(a)(2) is reduced to $2,500.

(c) *Cooperatives.* (1) In the case of a cooperative organization described in section 1381(a)—

(i) The WIN expenses determined under paragraph (a) of § 1.50B–1, and

(ii) The $25,000 amount specified in section 50A(a)(2), relating to limitation based on amount of tax,

shall be reduced to such cooperative's ratable share of each such amount (as determined under subparagraph (2) of this paragraph). If a cooperative organization described in section 1381(a) is a member of a controlled group (as defined in section 50A(a)(5)), the $25,000 amount specified in section 50A(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.50A–1 before such amount is further reduced under this paragraph.

(2) A cooperative's ratable share of the amount described in subparagraph (1)(i) and the amount described in subparagraph (1)(ii) of this paragraph shall be the ratio which—

(i) Taxable income for the taxable year, bears to

(ii) Taxable income for the taxable year plus the sum of (*a*) the amount of the deductions allowed under section 1382(b), and (*b*) the amount of the deductions allowed under section 1382(c), and (*c*) amounts similar to the amounts described in (*a*) and (*b*) of this subdivision the tax treatment of which is determined without regard to subchapter T, chapter 1 of the Code and the regulations thereunder.

(3) This paragraph may be illustrated by the following example:

Example. (i) Cooperative X, an organization described in section 1381(a) which makes its return on the basis of the calendar year, incurs WIN expenses of $30,000 for the taxable year 1972. Cooperative X's taxable income is $10,000 after taking into account deductions of $30,000 allowed under section 1382(b), and deductions of $60,000 allowed under section 1382(c).

(ii) Under this paragraph, Cooperative X's WIN expenses for the taxable year 1972 are $3,000, computed as follows: (*a*) $30,000 (WIN expenses), multiplied by (*b*) $10,000 (taxable income), divided by (*c*) $100,000 (taxable income plus the sum of deductions allowed under sections 1382(b) and 1382(c)). For 1972, the $25,000 amount specified in section 50A(a)(2) is reduced to $2,500.

PAR. 3. Section 1.6411 is amended by revising so much of subsection (a) as precedes paragraph (2), by revising subsections (b) and (c), and by revising the historical note. These revised provisions read as follows:

§ 1.6411 Statutory provisions; tentative carryback adjustments.

SEC. 6411. *Tentative carryback adjustments.* (a) *Application for adjustment.* A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback, provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback or a work incentive program carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit;

* * * * *

(b) *Allowance of adjustments.* Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary of his delegate may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) *Consolidated returns.* If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

[Sec. 6411 as amended by sec. 2 (a), (b), (c), (d), and (e), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1150); sec. 2(b), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 512(d), Tax Reform Act 1969 (83 Stat. 639); sec. 601(e)(1), Rev. Act 1971 (85 Stat. 560)]

PAR. 4. Section 1.6411–1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.6411–1 Tentative carryback adjustments.

(a) *In general.* Any taxpayer who has a net operating loss under section 172, a net capital loss under section 1211(a) which is a carryback under section 1212, an unused investment credit under section 46, or an unused work incentive program (WIN) credit under section 50A, may file an application under section 6411 for a tentative carryback adjustment of the taxes for taxable years prior to the taxable year of the net operating or capital loss or the unused credit, whichever is applicable, which are affected by the net operating loss carryback, the capital loss carryback, the unused investment credit carryback, or the unused WIN credit carryback, resulting from such loss or unused credit. The regulations under section 6411 shall apply with respect to investment credit carrybacks for taxable years ending after December 31, 1961, but only with respect to applications for tentative carryback adjustments for investment credit carrybacks filed after November 2, 1966. The regulations under section 6411 shall apply with respect to WIN credit carrybacks for taxable years beginning after December 31, 1971. The right to file an application for a tentative carryback adjustment is not limited to corporations, but is available to any taxpayer otherwise entitled to carry back a loss or unused credit. A corporation may file an application for a tentative carryback adjustment even though it has not extended the time for payment of tax under section 6164. In determining any decrease in tax under §§ 1.6411–1 through 1.6411–4, the decrease in tax is determined net of any increase in the tax imposed by section 56 (relating to the minimum tax for tax preferences).

* * * * *

(c) *Time and place for filing application.* Except as otherwise provided in this paragraph the application for a tentative carryback adjustment shall be filed on or after the date of the filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused WIN credit and shall be filed within a period of 12 months from the end of such taxable year. With respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the 12-month period shall be measured from the end of such subsequent taxable year. In the case of an application for a tentative carryback adjustment attributable to the carryback of an unused investment credit, the 12-month period for filing shall not expire before the close of December 31, 1966. Any application filed prior to the date on which the return for the taxable year of the loss or unused credit is filed shall be considered to have been filed on the date such return is filed. In the case of an application filed before April 15, 1968, the application shall be filed with the internal revenue officer to whom the tax was paid or by whom the assessment was made. Except as provided in paragraph (b) of § 301.6091–1 (relating to hand-carried documents), in the case of an application filed after April 14, 1968, if the tax was paid to the Director of International Operations, the application shall be filed with him; otherwise the application shall be filed with the internal revenue office with which the return was filed.

* * * * *

PAR. 5. Section 1.6411–2 is amended by revising paragraph (a) to read as follows:

§ 1.6411–2 Computation of tentative carryback adjustment.

(a) *Tax previously determined.* The taxpayer is to determine the amount of decrease, attributable to the carryback, in tax previously determined for each taxable year before the taxable year of the net operating loss, net capital loss, unused investment credit, or unused WIN credit. The tax previously determined is to be ascertained in accordance with the method prescribed in section 1314(a). Thus, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies before the date of the filing of the application for a tentative carryback adjustment, and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to such date. Any items as to which the Internal Revenue Service and the taxpayer are in disagreement at the time of the filing of

the application shall be taken into account in ascertaining the tax previously determined only if, and to the extent that, they were reported in the return, or were reflected in any amounts assessed (or collected without assessment) as deficiencies, or in any amounts abated, credited, refunded, or otherwise repaid, before the date of filing the application. The tax previously determined, therefore, will reflect the foreign tax credit and the credit for tax withheld at source provided in section 32.

* * * * *

PAR. 6. Section 1.6411–3 is amended by revising paragraphs (a)(2), (b), and (d)(2) to read as follows:

§ 1.6411–3 Allowance of adjustments.

(a) *Time prescribed.* * * *

(2) The last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused WIN credit from which the carryback results.

(b) *Examination.* Within the 90-day period described in paragraph (a) of this section, the district director or director of a service center shall make, to the extent he deems practicable in such period, an examination of the application to discover omissions and errors of computation. He shall determine within such period the decrease in tax previously determined, affected by the carryback or any related adjustments, upon the basis of the application and such examination. Such decrease shall be determined in the same manner as that provided in section 1314(a) for the determination by the taxpayer of the decrease in taxes previously determined which must be set forth in the application for a tentative carryback adjustment. Such internal revenue officer, however, may correct any errors of computation or omissions he may discover upon examination of the application. In determining the decrease in tax previously determined which is affected by the carryback or any related adjustment, he accordingly may correct any mathematical error appearing on the application and he may likewise correct any modification required by the law incorrectly made by the taxpayer in computing the net operating loss, net capital loss, unused investment credit, or unused WIN credit, the resulting carrybacks, or the net operating loss deduction, capital loss deduction, investment credit or WIN credit allowable. If the required modification has not been made by the taxpayer and such internal revenue officer has available the necessary information to make such modification within the 90-day period, he may, in his discretion, make such modification. In determining such decrease, however, such internal revenue officer will not, for example, change the amount claimed on the return as a deduction for depreciation because he believes that the taxpayer has claimed an excessive amount; likewise, he will not include in gross income any amount not so included by the taxpayer, even though such officer believes that such amount is subject to tax and properly should be included in gross income.

* * * * *

(d) *Application of decrease.* * * *

(2) In case the unpaid amount of tax includes more than one of such amounts, the district director, or director of a service center in his discretion, shall determine against which amount or amounts, and in what proportion the decrease is to be applied. In general, however, the decrease will be applied against any amounts described in subparagraph (1) (i), (ii), and (iii) of this paragraph in the order named. If there are several amounts of the type described in subparagraph (1)(iii) of this paragraph, any amount of the decrease which is to be applied against such amount will be applied by assuming that the tax previously determined minus the amount of the decrease to be so applied is "the tax" and that the taxpayer had elected to pay such tax in installments. The unpaid amount of tax against which a decrease may be applied under subparagraph (1) of this paragraph may not include any amount of tax for any taxable year other than the year of the decrease. After making such application, such internal revenue officer will credit any remainder of the decrease against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, capital loss, unused investment credit, or unused WIN credit, the time for payment of which has been extended under section 6164.

* * * * *

PAR. 7. Section 301.6411 is amended by revising so much of subsection (a) as precedes paragraph (2), by revising subsections (b) and (c), and by revising the historical note. These revised provisions read as follows:

§ 301.6411 Statutory provisions; tentative carryback adjustments.

SEC. 6411. *Tentative carryback adjustments*—(a) *Application for adjustment.* A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback or a work incentive program carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit;

* * * * *

(b) *Allowance of adjustments.* Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary or his delegate may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) *Consolidated returns.* If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

[Sec. 6411 as amended by sec. 2 (a), (b) (c), (d), and (e), Act of Nov. 2, 1966 (Public Law 89–721, 80 Stat. 1150); sec. 2(b), Act of Dec. 27, 1967 (Public Law 90–225, 81 Stat. 731); sec. 512(d), Tax Reform Act 1969 (83 Stat. 639); sec. 601(e)(1), Rev. Act 1971 (85 Stat. 560)]

PAR. 8. Section 301.6501(m) is amended by revising section 6501(m) and the historical note to read as follows:

§ 301.6501(m) Statutory provisions; limitations on assessment and collections; tentative carryback adjustment period.

SEC. 6501. *Limitations on assessment and collection.* * * *

(m) *Tentative carryback adjustment assessment period.* In a case where an amount has been applied, credited, or refunded under section 6411 (relating to tentative carryback adjustments) by reason of a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a work incentive program carryback to a prior taxable year, the period described in subsection (a) of this section for assessing a defi-

ciency for such prior taxable year shall be extended to include the period described in subsection (h), (j), or (o), whichever is applicable; except that the amount which may be assessed solely by reason of this subsection shall not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of subsection (h), (j), or (o), as the case may be.

[Sec. 6501(m) as added by sec. 3(a), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1151); and as amended by sec. 512(e)(1)(F), Tax Reform Act 1969 (83 Stat. 640); sec. 601(e)(2), Rev. Act 1971 (85 Stat. 560)]

PAR. 9. Section 301.6501(m)-1 is amended by revising paragraph (a)(1) thereof to read as follows:

§ 301.6501(m)-1 Tentative carryback adjustment assessment period.

(a) *Period of limitation after tentative carryback adjustment.* (1) Under section 6501(m), in a case where an amount has been applied, credited, or refunded under section 6411, by reason of a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a work incentive program credit carryback to a prior taxable year, the period described in section 6501(a) of the Code for assessing a deficiency for such prior taxable year is extended to include the period described in section 6501 (h), (j), or (o), whichever is applicable; except that the amount which may be assessed solely by reason of section 6501(m) may not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of section 6501 (h), (j), or (o), as the case may be.

* * * * *

PAR. 10. There is inserted immediately after section 301.6501(m)-1 the following new sections:

§ 301.6501(o) Statutory provisions; limitation on assessment and collection; work incentive program credit carrybacks.

SEC. 6501. *Limitation on assessment and collection.* * * *

(o) *Work incentive program credit carrybacks.* In the case of a deficiency attributable to the application to the taxpayer of a work incentive program credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused work incentive program credit which results in such carryback may be assessed, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

[Sec. 6501(o) as added by sec. 601(d)(1), Rev. Act 1971 (85 Stat. 558)]

§ 301.6501(o)-1 Work incentive program credit carrybacks, taxable years beginning after December 31, 1971.

With respect to taxable years beginning after December 31, 1971, a deficiency attributable to the application to the taxpayer of a work incentive program credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)) may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused work incentive program credit which results in such carryback may be assessed, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss or capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

PAR. 11. Section 301.6511 is amended by adding a new paragraph (7) to subsection (d) and by revising the historical note. These added and revised provisions read as follows:

§ 301.6511 Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.

SEC. 6511. *Limitation on credit or refund.* * * *

(d) *Special rules applicable to income taxes.* * * *

(7) *Special period of limitation with respect to work incentive program credit carrybacks*—(A) *Period of limitation.* If the claim for credit or refund relates to an overpayment attributable to a work incentive program credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused work incentive program credit which results in such carryback (or, with respect to any portion of a work incentive program credit carryback from a taxpayer year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the year of such taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) *Applicable rules.* If the allowance of a credit or refund of an overpayment of tax attributable to a work incentive program credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the work incentive program credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

[Sec. 6511(d) as amended by sec. 82(d), Technical Amendments Act 1958 (72 Stat. 1663); sec. 1(a), Act of Sept. 16, 1959 (Public Law 86-280, 73 Stat. 563); sec. 317(d), Trade Expansion Act 1962 (76 Stat. 891); sec. 2(e)(2), Rev. Act 1962 (76 Stat. 971); sec. 232(d) and sec. 239, Rev. Act 1964 (78 Stat. 111, 128); sec. 3(c), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 858); sec. 2(d), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 311(d)(3) and sec. 512(e)(2), Tax Reform Act 1969 (83 Stat. 588, 640); sec. 601(d)(2), Rev. Act 1971 (85 Stat. 558)]

PAR. 12. There is inserted immediately after § 301.6511(d)-6 the following new section:

§ 301.6511(d)-7 Overpayment of income tax on account of work incentive program credit carryback.

(a) *Special period of limitation.* (1) If the claim for credit or refund related to an overpayment of income tax attributable to a work incentive program (WIN) credit carryback, provided in section 50A, then in lieu of the 3-year period from the time the return was filed in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following two periods expires later:

(i) The period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused WIN credit which resulted in the carryback (or, with respect to any portion of a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period which ends with the expiration of the 15th day of the 40th month (or 39th month in the case of a corporation) following the end of such subsequent taxable year); or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the unused WIN credit which resulted in the carryback.

(2) In the case of a claim for credit or refund involving a WIN credit carryback described in subparagraph (1) of this paragraph, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the carryback. If the claim involves an overpayment based not only on a WIN credit carryback described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the WIN credit carryback, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b)(2) or (c), or within the period provided in any other applicable provision of law.

(3) If the claim involves an overpayment based not only on a WIN credit carryback described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of

any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611(f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of tax attributable to a WIN credit carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511(d)(7)(B) if a claim therefor is filed within the period provided by section 6511(d)(7)(A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. In the case of a claim for credit or refund of an overpayment attributable to a carryback, the determination of any court, including the Tax Court, in any proceeding in which the decision of the courts has become final, shall not be conclusive with respect to the WIN credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

PAR. 13. Section 301.6601 is amended by adding a new paragraph (4) to subsection (e), and by revising the historical note. These added and revised provisions read as follows:

§ 301.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.

SEC. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax.* * * *

(e) *Income tax reduced by carryback.* * * *

(4) *Work incentive program credit carryback.* If the credit allowed by section 40 for any taxable year is increased by reason of a work incentive program credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the work incentive program credit carryback arises, or, with respect to any portion of a work incentive program carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year.

[Sec. 6601 as amended by sec. 66(c), 83(a)(1), 84(a), Technical Amendments Act 1958 (72 Stat. 1658, 1663, 1664); sec. 206(e), Small Business Tax Revision Act 1958 (72 Stat. 1685); sec. 203(c)(2), Federal-Aid Highway Act 1961 (75 Stat. 126); sec. 2(e)(3), Rev. Act 1962 (76 Stat. 972); sec. 3(d), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 857); sec. 1(f), Act of Apr. 8, 1966 (Public Law 89-384, 80 Stat. 104); sec. 2(e), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 2(e), Act of Aug. 7, 1969 (Public Law 91-53, 83 Stat. 92); sec. 512(e)(3), Tax Reform Act 1969 (83 Stat. 641); sec. 601(d)(3), Rev. Act 1971 (85 Stat. 558)]

PAR. 14. Section 301.6601-1 is amended by revising subparagraphs (1) and (3) of paragraph (e) to read as follows:

§ 301.6601-1 Interest on underpayments.

* * * * *

(e) *Income tax reduced by carryback.* (1) The carryback of a net operating loss, net capital loss, an investment credit, or a work incentive program (WIN) credit shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of the taxable year in which the loss or credit arises. For example, if the carryback of a net operating loss, net capital loss, an investment credit, or a WIN credit to a prior taxable period eliminates or reduces a deficiency in income tax for that period, the full amount of the deficiency will nevertheless bear interest at the rate of 6 percent per annum from the last date prescribed for payment of such tax until the last day of the taxable year in which the loss or credit arose. Interest will continue to run beyond such last day on any portion of the deficiency which is not eliminated by the carryback. With respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such investment credit carryback or WIN credit carryback shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of such subsequent taxable year.

* * * * *

(3) Where there has been an allowance of an overpayment attributable to a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a WIN credit carryback and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of the year in which the net operating loss, net capital loss, investment credit, or WIN credit arose until the date on which the repayment of such excessive amount is received. Where there has been an allowance of an overpayment with respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of such subsequent taxable year until the date on which the repayment of such excessive amount is received.

* * * * *

PAR. 15. Section 301.6611 is amended by adding a new paragraph (4) to subsection (f), and by revising the historical note. These added and devised provisions read as follows:

§ 301.6611 Statutory provisions; interest on overpayments.

SEC. 6611. *Interest on overpayments.* * * *

(f) *Refund of income tax caused by carryback or adjustment for certain unused deductions.* * * *

(4) *Work incentive program credit carryback.* For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a work incentive program credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such work incentive program credit carryback arises, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

* * * * *

[Sec. 6611 as amended by sec. 42(b), 83(b) and (c), Technical Amendments Act 1958 (72 Stat. 1640, 1664); sec. 2(e)(4), Rev. Act 1962 (76 Stat. 972); sec. 3(e), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 858); sec. 1(a), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1150); sec. 2(f), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 732); sec. 512(e)(4), Tax Reform Act 1969 (83 Stat. 641); sec. 601(d)(4), Rev. Act 1971 (85 Stat. 559)]

PAR. 16. Section 301.6611-1 is amended by revising paragraph (e) to read as follows:

§ 301.6611-1 Interest on overpayments.

* * * * *

(e) *Refund of income tax caused by carryback.* If any overpayment of tax imposed by subtitle A of the Code results from the carryback of a net operating loss, a net capital loss, an investment credit, or a work incentive program (WIN) credit, such overpayment, for purposes of this section, shall be deemed not to have been made prior to the end of the taxable year in which the loss or credit arises, or, with respect to any portion of an investment credit or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

* * * * *

[FR Doc.72-16627 Filed 10-2-72;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Intercompany Pricing Rules for DISC's

Correction

In F.R. Doc. 72-16139 appearing at page 19625 of the issue for Thursday, September 21, 1972, the following changes are to be made:

1. The 13th line of § 1.994-1(d)(3)(i) should read "DISC, the income from such services is" instead of "DISC may derive for any taxable year.".

2. In the eighth line of § 1.994-1(d)(3)(ii), "from" should read "for".

3. In § 1.994-1(f)(5)(i), "age) for export whether or not the pack-" should be inserted following the fourth line.

[26 CFR Part 1]

INCOME TAX

Capital Expenditures

On December 31, 1970, notice of proposed rule making under section 263(e) of the Internal Revenue Code of 1954, relating to expenditures in connection with certain railroad rolling stock, was published in the FEDERAL REGISTER (35 F.R. 20003). Notice is hereby given that the proposed regulations contained therein are withdrawn. Further, 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 November 3, 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 November 3, 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 section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the income tax regulations (26 CFR Part 1) to the provisions of section 263 of the Internal Revenue Code of 1954 as amended by section 4 of the Interest Equalization Tax Act (78 Stat. 845), section 4(p) of the Interest Equalization Tax Extension Act of 1965 (79 Stat. 964), section 706 of the Tax Reform Act of 1969 (83 Stat. 674), and section 109 (c) and (d)(3) of the Revenue Act of 1971 (85 Stat. 509), such regulations are amended as follows:

1. Section 1.263(a) is amended by adding a new subparagraph (3) and by amending the historical note. These added and amended provisions read as follows:

§ 1.263(a) Statutory provisions; capital expenditures; general rule.

SEC. 263 *Capital expenditures*—(a) *General rule.* No deduction shall be allowed for—* * *

(3) Except as provided in subsection (d), any amount paid as tax under section 4911 (relating to imposition of interest equalization tax).

[Sec. 263 as amended by sec. 6, Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1001); sec. 21(b), Rev. Act 1962 (76 Stat. 1064); sec. 4, Interest Equalization Tax Act (78 Stat. 845); sec. 4(p)1), Interest Equalization Tax Extension Act 1965 (79 Stat. 964)]

2. The following new sections are added immediately after § 1.263(c)-1:

§ 1.263(d) Statutory provisions; capital expenditures; reimbursement of interest equalization tax.

SEC. 263. *Capital expenditures.* * * *

(d) *Reimbursement of interest equalization tax.* The deduction allowed by section 162(a) or 212 (whichever is appropriate) shall include any amount paid or accrued in the taxable year or a preceding taxable year as tax under section 4911 (relating to imposition of interest equalization tax) to the extent that any amount attributable to the amount paid or accrued as tax is included in gross income for the taxable year. Under regulations prescribed by the Secretary or his delegate, the preceding sentence shall not apply with respect to any amount attributable to that part of the tax so paid or accrued which is attributable to an amount for which a deduction has been claimed for the taxable year or a preceding taxable year under section 171 (relating to amortization of bond premium).

[Sec. 263(d) added by sec. 4(p)(2), Interest Equalization Tax Extension Act 1965 (79 Stat. 964]

§ 1.263(d)-1 [Reserved]

§ 1.263(e) Statutory provisions; capital expenditures in connection with certain railroad rolling stock.

SEC. 263. *Capital expenditures.* * * *

(e) *Expenditures in connection with certain railroad rolling stock.* In the case of expenditures in connection with the rehabilitation of a unit of railroad rolling stock (except a locomotive) used by a domestic common carrier by railroad which would, but for this subsection, be properly chargeable to capital account, such expenditures, if during any 12-month period they do not exceed an amount equal to 20 percent of the basis of such unit in the hands of the taxpayer, shall, at the election of the taxpayer, be treated (notwithstanding subsection (a)) as deductible repairs under section 162 or 212. An election under this subsection shall be made for any taxable year at such time and in such manner as the Secretary or his delegate prescribes by regulations. An election may not be made under this subsection for any taxable year to which an election under subsection (f) applies to railroad rolling stock (other than locomotives).

[Sec. 263(e) added by sec. 706, Tax Reform Act 1969 (83 Stat. 674); as amended by sec. 109 (c) and (d)(3), Rev. Act 1971 (85 Stat. 509)]

§ 1.263(e)-1 Expenditures in connection with certain railroad rolling stock.

(a) *Allowance of deduction*—(1) *Election.* Under section 263(e), for any taxable year beginning after December 31, 1969, a taxpayer may elect to treat certain expenditures paid or incurred during such taxable year as deductible repairs under section 162 or 212. This election applies only to expenditures described in paragraph (c) of this section in connection with the rehabilitation of a unit of railroad rolling stock (as defined in paragraph (b)(2) of this section) used by a domestic common carrier by railroad (as defined in paragraph (b)(3) and (4) of this section). However, an election under section 263(e) may not be made with respect to expenditures in connection with any unit of railroad rolling stock for which an election under section 263(f) and the regulations thereunder is in effect. An election made under section 263(e) is an annual election which may be made with respect to one or more of the units of railroad rolling stock owned by the taxpayer.

(2) *Special 20 percent rule.* Section 263(e) shall not apply if, under paragraph (d) of this section, expenditures paid or incurred during any period of 12 calendar months in connection with the rehabilitation of a unit exceed 20 percent of the basis (as defined in paragraph (b)(1) of this section) of such unit in the hands of the taxpayer.

(3) *Time and manner of making election.* (i) An election by a taxpayer under section 263(e) shall be made by a statement to that effect attached to its income tax return or amended income tax return for the taxable year for which the election is made if such return or amended return is filed no later than the time prescribed by law (including extensions thereof) for filing the return for the taxable year of election. An election under section 263(e) may be made with respect to one or more of the units of railroad rolling stock owned by the taxpayer. If an election is not made within the time and in the manner prescribed in this subparagraph, no election may be made (by the filing of an amended return or in any other manner) with respect to the taxable year.

(ii) If the taxpayer has filed a return on or before [the 30th day after the date of publication in the FEDERAL REGISTER of final regulations under section 263(e)] and has claimed a deduction under section 162 or 212 by reason of section 263(e), and if the taxpayer does not desire to make an election under section 263(e) for the taxable year with respect to which such return was filed, the taxpayer shall file an amended return for such taxable year on or before [the 90th day after such date of publication], and shall pay any additional tax due for such year. The taxpayer shall also file an amended return for each taxable year which is affected by the filing of an amended return under the preceding sentence and shall pay any additional tax due for such year. Nothing in this subdivision shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(iii) If an election under section 263(e) was not made at the time the return for a taxable year was filed, and it is subsequently determined that an expenditure was erroneously treated as an expenditure which was not in connection with rehabilitation (as determined under paragraph (c) of this section), an election under section 263(e) may be made with respect to the unit of railroad rolling stock for which such expenditure was made for such taxable year, notwithstanding any provision in this subparagraph (3) to the contrary. Nothing in this subdivision shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(iv) The statement required by subdivision (i) of this subparagraph shall include the following information:

(*a*) The total number of units of railroad rolling stock with respect to which an election is being made under section 263(e).

(*b*) The aggregate basis (as defined in paragraph (b)(1) of this section) of the units described in (*a*) of this subdivision (iv), and

(*c*) The total deduction being claimed under section 263(e) for the taxable year.

(b) *Definitions*—(1) *Basis.* (i) In general, for purposes of section 263(e) the basis of a unit of railroad rolling stock shall be the adjusted basis of such unit determined without regard to the adjustments provided in paragraphs (1), (2), and (3) of section 1016(a). Thus, the basis of property would generally be its cost without regard to adjustments to basis such as for depreciation or for capital improvements. If the basis of a unit in the hands of a transferee is determined in whole or in part by reference to its basis in the hands of the transferor, for example, by reason of the application of section 362 (relating to basis to corporations), 374 (relating to gain or loss not recognized in certain railroad reorganizations), or 723 (relating to the basis of property contributed to a partnership), then the basis of such unit in the hands of the transferor for purposes of section 263(e) shall be its basis for purposes of section 263(e) in the hands of the transferee. Similarly, when the basis of a unit of railroad rolling stock in the hands of the taxpayer is determined in whole or in part by reference to the basis of another unit, for example, by reason of the application of the first sentence of section 1033(c) (relating to involuntary conversions), then the basis of the latter unit for purposes of section 263(e) shall be the basis for purposes of section 263(e) of the former unit. The question whether a capital expenditure in connection with a unit of railroad rolling stock results in the retirement of such unit and the creation of another unit of railroad rolling stock shall be determined without regard to rules under the uniform system of accounts prescribed by the Interstate Commerce Commission.

(ii) For example, if a unit of railroad rolling stock has a cost to M of $10,000 and because of depreciation adjustments of $4,000 and capital expenditures of $3,000, such unit has an adjusted basis in the hands of M of $9,000, the basis for purposes of section 263(e) of such unit in the hands of M is $10,000. Further, if M transfers such unit to N in a transaction in which no gain or loss is recognized such as, for example, a transaction to which section 351(a) (relating to a transfer to a corporation controlled by the transferor) applies, the basis of such unit for purposes of section 263(e) is $10,000 in the hands of N.

(2) *Railroad rolling stock.* For purposes of this section, the term "unit" or "unit of railroad rolling stock" means a unit of transportation equipment the expenditures for which are of a type chargeable (or in the case of property leased to a domestic common carrier by railroad, would be chargeable) to the equipment investment accounts in the uniform system of accounts for railroad companies prescribed by the Interstate Commerce Commission (49 CFR Part 1201), but only if (i) such unit exclusively moves on, moves under, or is guided by rail, and (ii) such unit is not a locomotive. Thus, for example, a unit of railroad rolling stock includes a box car, a gondola car, a passenger car, a car designed to carry truck trailers and containerized freight, a wreck crane, and a bunk car. However, such term does not include equipment which does not exclusively move on, move under, or is not exclusively guided by rail such as, for example, a barge, a tugboat, a container which is used on cars designed to carry containerized freight, a truck trailer, or an automobile. A locomotive is self-propelled equipment, the sole function of which is to push or pull railroad rolling stock. Thus, a self-propelled passenger or freight car is not a locomotive.

(3) *Domestic common carrier by railroad.* The term "domestic common carrier by railroad" means a railroad subject to regulation under Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or a railroad which would be subject to regulation under Part I of the Interstate Commerce Act if it were engaged in interstate commerce.

(4) *Use.* For purposes of this section, a unit of railroad rolling stock is not used by a domestic common carrier by railroad if it is owned by a person other than a domestic common carrier by railroad and (i) is exclusively used for transportation by the owner or (ii) is exclusively used for transportation by another person which is not a domestic common carrier by railroad. Thus, for example, a unit of railroad rolling stock which is owned by a person which is not a domestic common carrier by railroad and is leased to a manufacturing company by the owner is not a unit of railroad rolling stock used by a domestic common carrier by railroad.

(c) *Expenditures considered in connection with rehabilitation.* For purposes of section 263(e) and this section, only expenditures which would be properly chargeable to capital account but for the application of section 263(e) or (f) shall be considered to be expenditures in connection with the rehabilitation of a unit of railroad rolling stock. Expenditures which are paid or incurred in connection with incidental repairs or maintenance of a unit of railroad rolling stock and which are deductible without regard to section 263(e) or (f) shall not be included in any determination or computation under section 263(e) and shall not be treated as paid or incurred in connection with the rehabilitation of a unit of railroad rolling stock for purposes of section 263(e). The determination of whether an item would be, but for section 263(e) or (f), properly chargeable to capital account shall be made in a manner consistent with the principles for classification of expenditures as between capital and expenses under the Internal Revenue Code. See, for example, §§ 1.162-4, 1.263(a)-1, 1.263(a)-2, and paragraph (a)(4)(ii) and (iii) of § 1.446-1. An expenditure shall be classified as capital or as expense without regard to its classification under the uniform system of accounts prescribed by the Interstate Commerce Commission.

(d) *20-percent limitation*—(1) *In general.* No expenditures in connection with the rehabilitation of a unit of railroad rolling stock shall be treated as a deductible repair by reason of an election under section 263(e) if, during any period of 12 calendar months in which the month the expenditure is included falls, all such expenditures exceed an amount equal to 20 percent of the basis (as defined in paragraph (b)(1) of this section) of such unit in the hands of the taxpayer. All such expenditures shall be included in the computation of the 20-percent limitation even if such expenditures were deducted under section 263(f) in either the preceding or succeeding taxable year. Solely for purposes of the 20-percent limitation in this paragraph, such expenditures shall be deemed to be included in the month in which a rehabilitation of the unit of railroad rolling stock is completed. For the requirement that expenditures treated as repairs solely by reason of an election under section 263(e) be deducted in the taxable year paid or incurred, see paragraph (a) of this section.

(2) *12-month period.* For purposes of this section, any period of 12 calendar

months shall consist of any 12 consecutive calendar months except that calendar months prior to the calendar month of January 1970 shall not be included in determining such period.

(3) *Period for certain corporate acquisitions.* If a unit of railroad rolling stock to which section 263(e) applies is sold, exchanged, or otherwise disposed of in a transaction in which its basis in the hands of the transferee is determined in whole or in part by reference to its basis in the hands of the transferor (see paragraph (b)(1) of this section), calendar months during which such unit is in the hands of the transferor and in the hands of such transferee shall both be included in the calendar months used by the transferor and the transferee to determine any period of 12 calendar months for purposes of section 263(e).

(4) *Deduction allowed in year paid or incurred.* If, based on the information available when the income tax return for a taxable year is filed, an expenditure paid or incurred in such taxable year would be deductible by reason of the application of section 263(e) but for the fact that it cannot be established whether the 20-percent limitation in subparagraph (1) of this paragraph will be exceeded, the expenditure shall be deducted for such taxable year. If by reason of the application of such 20-percent limitation it is subsequently determined that such expenditure is not deductible as a repair, an amended return shall be filed for the year in which such deduction was treated as a deductible repair and additional tax, if any, for such year shall be paid. Appropriate adjustment with respect to the taxpayer's tax liability for any other affected year shall be made. Nothing in this subparagraph shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(e) *Recordkeeping requirements*—(1) *In general.* Such records as will enable the accurate determinaton of the expenditures which may be subject to the treatment provided in section 263(e) shall be maintained. No deduction shall be allowed under section 162 or 212 by reason of section 263(e) with respect to a unit unless the taxpayer substantiates by adequate records that expenditures in connection with such unit of railroad rolling stock meet the requirements and limitations of this section.

(2) *Separate records.* A separate section 263(e) record shall be maintained for each unit with respect to which an election under section 263(e) is made. Such record shall—

(i) Identify the unit,

(ii) State the basis (as defined in paragraph (b)(1) of this section) and the date of acquisition of the unit,

(iii) Enumerate for each unit the amount of all expenditures incurred in connection with rehabilitation of such unit which would, but for section 263 (e) or (f), be properly chargeable to capital account (including expenditures incurred by the taxpayer in connection with rehabilitation of such unit undertaken by a person other than the taxpayer) regardless of whether such expenditures during any 12-month period exceed 20 percent of the basis of such unit,

(iv) Describe the nature of the work in connection with each expenditure, and

(v) Specify the calendar month in which the rehabilitation is completed and the taxable year in which each expenditure is paid or incurred.

A section 263(e) record need only be prepared for a unit of railroad rolling stock for the period beginning on the first day of the eleventh calendar month immediately preceding the month in which the rehabilitation of such unit is completed and ending on the last day of the eleventh calendar month immediately succeeding such month. No section 263(e) record need be prepared for calendar months before January 1970.

(3) *Itemization of certain expenditures.* Expenditures determined to be incidental repairs and maintenance (referred to in paragraph (c) of this section) shall not be entered in the section 263(e) record. However, each taxpayer shall maintain records to reflect that such expenditures are properly deductible.

(4) *Convenience rule.* In general, expenditures and information maintained in compliance with subparagraphs (1) and (2) of this paragraph shall be recorded in the section 263(e) record of the specific unit with respect to which such expenditures are incurred. However, when a group of units of the same type are rehabilitated in a single project and the expenditure for each unit in the project will approximate the average expenditure per unit for the project, expenditures for the project may be aggregated without regard to the unit in the project with respect to which each expenditure is connected, and an amount equal to the aggregate expenditures for the project divided by the number of units in the project may be entered in the section 263(e) account of each unit in the project.

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

Example (1). M Corporation, a domestic common carrier by railroad, uses the calendar year as its taxable year. M owns and uses several gondola cars to which an election under section 263(e) applies for its taxable years 1970–1972. Gondola car #1 has a basis (defined in paragraph (b)(1) of this section) of $10,000. No expenditures properly chargeable to the section 263(e) record are made on gondola car #1 in 1970 and 1971, except in January 1971. In January 1971, M at a cost of $1,500 replaced the side sheets and ends on gondola car #1. Such amount was properly entered in the section 263(e) record for gondola car #1. Since the expenditures in such record do not exceed an amount equal to 20 percent of the basis of gondola car #1 ($2,000) during any period of 12 calendar months in which January 1971 falls, the expenditures during January 1971 shall be treated as a deductible expense regardless of what the treatment would have been if section 263(e) had not been enacted.

Example (2). Assume the same facts as in example (1). Assume further that for 1970, 1971, and 1972, only the following expenditures in connection with rehabilitation which would, but for section 263(e), be properly chargeable to capital account were deemed included for gondola car #2:

(a) December 1970	$1,500
(b) November 1971	600
(c) December 1971	400
(d) January 1972	1,050

Assume further that gondola car #2 has a basis (as defined in paragraph (b)(1) of this section) equal to $10,000, that M files its tax return by September 15 following each taxable year, and that each rehabilitation was completed in the month in which expenditures in connection with it were incurred. Any expenditures in connection with each gondola car (#1 or #2) have no effect on the treatment of expenditures in connection with the other gondola car. With respect to gondola car #2, the expenditures of December 1970 are treated as deductible repairs at the time M's income tax return for 1970 is filed because, based on the information available when the income tax return for 1970 is filed, such expenditure would be deductible by reason of application of section 263(e) but for the fact that it cannot be established whether the 20-percent limitation in paragraph (d)(1) of this section will be exceeded. Nevertheless, because such expenditures during the period of 12 calendar months including calendar months December 1970 and November 1971 exceed $2,000, the December 1970 rehabilitation expenditures are not subject to the provisions of section 263(e). Because such rehabilitation expenditures during the period of 12 calendar months including calendar months February 1971 and January 1972 exceed $2,000, rehabilitation expenditures in 1971 are not subject to the provisions of section 263(e). Similarly, the 1972 rehabilitation expenditures are not subject to the provisions of section 263(e).

[FR Doc.72–16830 Filed 10–2–72;8:55 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

EXTRA LONG STAPLE AND UPLAND COTTON

Marketing Quota Regulations for 1972 and Succeeding Crops and Recordkeeping Requirements

Notice is hereby given that pursuant to applicable provisions of the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.), the Department proposes to reissue the regulations governing marketing quotas for extra long staple cotton and the recordkeeping requirements for upland cotton currently in the Subpart—Marketing Quotas for the 1966 and Succeeding Crops of Upland Cotton and Extra Long Staple Cotton (31 F.R. 6573, 9445, 13035, 15791, 32 F.R. 9298, 33 F.R. 6701, 9387, 34 F.R. 11082, 35 F.R. 10495, and 36 F.R. 13979). Such reissued regulations would supersede the current regulations which would remain applicable for the 1966 through the 1971 cotton programs. Such reissued regulations would apply to the 1972 and succeeding crops of extra long staple cotton and to the recordkeeping requirements for

the 1972 and succeeding crops of upland cotton. Such reissued regulations would delete inapplicable provisions and consolidate all current provisions in a rewritten text and would also establish the 1972 penalty rate for extra long staple cotton.

Prior to the issuance of the regulations, any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration. To be sure of consideration, such submissions should be postmarked not later than 15 days from the 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 such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

It is proposed that the Marketing Quota Regulations for the 1972 and Succeeding Crops of Extra Long Staple Cotton and Recordkeeping Requirements for Extra Long Staple and Upland Cotton be published as follows:

GENERAL

ELS FARM MARKETING QUOTA AND FARM MARKETING EXCESS

PENALTY

IDENTIFICATION OF COTTON

RECORDS AND REPORTS

GENERAL

§ 722.61 Applicability.

(a) The provisions §§ 722.61 to 722.95 apply to extra long staple cotton (referred to as "ELS cotton") produced in 1972 and succeeding years when marketing quotas are in effect for ELS cotton and to any carryover ELS cotton which is marketed by producers in the 1972–73 and succeeding marketing years.

(b) The provisions §§ 722.63, 722.64, 722.81–722.95 apply to upland cotton produced in 1972 and succeeding years.

(c) The term "cotton" includes upland cotton and ELS cotton. However, upland and ELS cotton are separate commodities.

(d) The marketing quota provisions of this subpart shall not apply to upland cotton produced in 1971, 1972, and 1973, since marketing quotas are not in effect for those years under the statutory authority amendments contained in the Agricultural Act of 1970 (Public Law 91–524, 84 Stat. 1358, et seq., approved November 30, 1970.

(e) The regulations in this subpart supersede the marketing quota regulations for the 1966 and succeeding crops of upland cotton and extra long staple cotton (31 F.R. 6573, as amended), which applied to the 1966–71 crops of cotton.

§ 722.62 Extent of calculations and rule of fractions.

The rate of penalty under § 722.73 shall be computed to the nearest tenth of a cent. In making all other computations under §§ 722.61 to 722.95, the amount of lint cotton shall be rounded to the nearest whole pound and the amount of penalties or refunds for a farm shall be rounded to the nearest whole cent. The basic rule of fractions in Part 793 of this chapter shall be applicable.

§ 722.63 Expiration of time limitations.

The provisions of Part 720 of this chapter concerning the expiration of time limitations shall apply to this subpart.

§ 722.64 Definitions.

(a) *General terms.* In determining the meaning of §§ 722.61 to 722.95, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. Definitions in Part 719 of this chapter shall apply to this subpart.

(b) *Cotton program terms.* The following terms shall have the following meanings:

(1) Acreage planted to cotton on the farm in the current year (for use in determining compliance with the farm allotment) shall be:

(i) The acreage seeded to cotton plus stub cotton acreage on the farm in the current year, excluding any acreage in excess of the farm allotment which is destroyed or disposed of in accordance with the requirements of Part 718 of this chapter.

(ii) If the farm operator fails to file a certification of acreage in a certification county, any cotton produced on the farm shall be considered as excess cotton in accordance with Part 718 of this chapter in lieu of the rule prescribed in subdivision (i) of this subparagraph.

(2) Act—Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

(3) Actual production on the farm—Number of pounds of lint cotton determined to have been produced on the farm in the current year.

(4) Actual yield per acre—Number of pounds of lint cotton determined by dividing the actual production on the farm by the number of acres of cotton harvested on the farm.

(5) Barter or exchange—The transfer of title to cotton by a producer to another person in exchange for cotton or any other commodity, service, property, or for use of land.

(6) Buyer—Person who acquires cotton from a producer by purchase, barter, and exchange, gift inter vivos and an agricultural cooperative association which makes agreements with producers under which title to the cotton passes upon delivery of the cotton by the producer and the association is authorized to deal with such cotton as owner.

(7) Carryover cotton—Unmarketed cotton from any previous crop which the producer has on hand as of August 1 of the current year.

(8) Extra long staple cotton—American-Pima, Sea Island, Sealand, and all other varieties of the Barbadense species of cotton and any hybrid thereof, and any other cotton in which one or more of these varieties predominate, produced in an area designated under section 347(a) of the act.

(9) Farm allotment—Cotton acreage allotment established for a farm pursuant to section 344 of the Act.

(10) Farm marketing excess—Normal production of the acreage planted to ELS cotton in excess of the farm allotment subject to any downward adjustment where the actual ELS production is established to be less than such normal ELS production.

(11) Farm marketing quota—Actual ELS production of the acreage planted to ELS cotton on the farm less the farm marketing excess.

(12) Gift inter vivos—Transfer of title to cotton, accompanied by delivery, by a producer to another person which

takes effect immediately and irrevocably and is made without any consideration or compensation therefor.

(13) Ginner—Person engaged in the business of ginning cotton.

(14) Ginning—Process by which lint cotton is removed from the cotton seed.

(15) Harvest—Act of extracting seed cotton from the cotton plant by manual or mechanical means.

(16) Lint cotton—Fiber taken from seed cotton by ginning.

(17) Market—To dispose of cotton in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(18) Marketing year—Period beginning August 1 of a crop year and ending July 31 of the following year, both dates inclusive.

(19) Normal production on the farm—The number of pounds of lint cotton determined by multiplying the normal yield of lint ELS cotton for the farm by the number of acres planted to ELS cotton on the farm.

(20) Normal yield—Average yield per harvested acre of ELS cotton on the farm during each of the 3 calendar years immediately preceding the year in which such normal yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices. If, for one or more of the years, the farm had no production the county committee shall appraise a yield based on actual yield for similar farms.

(21) Penalty—Amount payable with respect to the farm marketing excess.

(22) Sale—Transfer of title to cotton by a producer to another person by any means other than barter or exchange or gift inter vivos.

(23) Seed cotton—Harvested fruit of the cotton plant before ginning.

(24) Upland cotton—Any cotton other than extra long staple cotton.

ELS FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 722.65 Cotton subject to marketing quotas.

If marketing quotas are in effect for a crop of ELS cotton, all ELS cotton produced from such crop of ELS cotton shall be subject to marketing quotas, including ELS cotton of such crop available for marketing prior to the beginning or after the ending of the marketing year which begins in the year when such crop of ELS cotton is planted.

§ 722.66 Farm marketing quota and farm marketing excess.

The county committee shall establish the farm marketing quota and farm marketing excess for each farm on which the acreage planted to ELS cotton in the current year exceeds the farm allotment. Where it is established to the satisfaction of the county committee by any producer on the farm in accordance with § 722.68 that the actual production of ELS cotton on the farm in the current year is less than the normal production of the acreage planted to ELS cotton on the farm of such year, the farm marketing excess shall be adjusted downward to the amount by which such actual production exceeds the normal production of the farm allotment.

§ 722.67 Notice of farm marketing excess and farm marketing quota.

The county committee shall mail to the farm operator a written notice of farm marketing excess and farm marketing quota for any farm with a farm marketing excess. The notice shall contain substantially the following statement: "To all persons who as operator, landlord, tenant or sharecropper, for the crop year shown, are interested in the cotton described herein and produced on this farm." Notice so given shall constitute notice to all such persons. Such notice shall also contain a brief statement of the procedure whereby application for review of the marketing quota may be made under section 363 of the Act. A copy of each notice containing a notation thereon of the date of mailing the notice to the operator of the farm shall be kept among the permanent records of the county committee and, upon request, a copy thereof, duly certified as a true and correct copy shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper, is interested in the ELS cotton produced in the current year on the farm for which the notice is given.

§ 722.68 Farm marketing excess adjustment.

(a) *Application for adjustment in the farm marketing excess.* Any producer having an interest in the ELS cotton produced in the current year on a farm with a farm marketing excess may apply in writing to the county committee for a downward adjustment of the farm marketing excess on the basis of the amount of ELS cotton produced in such year on the farm. Any such application shall be filed with the county committee not later than January 15 of the year following the year the crop was planted or 30 days after mailing notice of excess as provided in § 722.67. Upon a recommendation by the county committee the State committee may extend such date for producers failing to timely apply for such adjustment due to circumstances beyond his control. The county committee shall notify the applicant of the time and place of the hearing regarding his application. Unless application for an adjustment in the farm marketing excess is made within the period of time provided for in this paragraph, the farm marketing excess as determined pursuant to § 722.66 shall be final as to the producers on the farm.

(b) *County committee action on an application for adjustment in the farm marketing excess.* The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of such evidence as may be presented to it by the applicant. The ELS cotton acreage on the farm for the crop year in question shall be determined by official measurement, or such other method of ascertaining acreage as may be authorized for the farm under section 374(a) of the act (79 Stat. 1210), before the county committee approves a determination of the actual production of ELS cotton on the farm. The actual production of ELS cotton in such crop year on any farm shall be determined in view of the relevant facts, including the acreage planted to ELS cotton in such crop year on the farm, the past production on the farm, the actual yields per acre in such crop year for other farms which are similar with regard to farming practices followed, type of soil and productivity; the harvesting, ginning and sales of the ELS cotton produced on the farm in such crop year; and weather conditions and other factors in such crop year affecting the production of ELS cotton on the farm and in the locality in which the farm is situated. In the consideration of any application for adjustment in the farm marketing excess the producer shall have the burden of proof. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant and the application may be disposed of upon the basis of such statement or evidence, together with any other information bearing on or establishing the facts, which is available to the county committee, unless the applicant appears before the county committee at the time fixed for consideration of the application and requests a hearing for the purpose of offering additional documentary evidence or oral testimony, in support of the application. Every such hearing shall be open to the public.

(c) *Notification of county committee's determination.* The county committee shall make its determination in connection with each application not later than 5 calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county committee shall be in writing and shall contain (1) a concise statement of the grounds upon which the applicant sought an adjustment in the amount of the farm marketing excess, (2) a concise statement of the findings of the county committee upon the question of fact and (3) the determination of the county committee as to the farm marketing quota, the actual production of ELS cotton on the farm, the farm marketing excess, and the penalty due on the farm marketing excess. The determination made by the county committee under this paragraph shall be subject to approval by a representative of the State committee. A notice showing the result of the determination made as aforesaid, shall be mailed to the operator of the farm and also to the applicant if he is not such operator.

§ 722.69 Publication of the farm allotment, normal yield, marketing quota, and marketing excess.

A record of the farm allotment, normal yield, farm marketing quota, and farm marketing excess established for farms in the county shall be kept readily available in the office of the county committee for public inspection for a period of not less than 30 calendar days. At the end of such period, the records shall be filed in the office of the county committee and remain readily available for further public inspection. Copies of notices, or other compilations upon which the pertinent data are shown may be used for this purpose.

§ 722.70 Successors-in-interest.

Any person who succeeds to the interest of a producer in a farm, or in an ELS cotton crop produced on a farm, for which a farm marketing quota and farm marketing excess were established, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the penalty on the farm marketing excess and to the lien on the entire crop of ELS cotton and to the restrictions on the marketing of ELS cotton. However, a successor to a deceased producer shall not be personally liable for an unpaid marketing quota penalty incurred by the producer prior to his death, but a suit may be brought to enforce the lien for the penalty against the ELS cotton.

§ 722.71 Review of quotas.

Any producer who is dissatisfied with the farm marketing quota and farm marketing excess determined for his farm, may, by making application in writing within 15 days after the mailing to him of the notice provided in § 722.67 or § 722.68, have such farm marketing quota and farm marketing excess reviewed by a review committee pursuant to section 363 of the Act and the Marketing Quota Review Regulations set forth in Part 711 of this chapter, a copy of which may be obtained from the county committee.

§ 722.72 Exemption for publicly owned agricultural experiment stations.

The farm marketing quota and penalty shall not apply to the marketing of any ELS cotton grown for experimental purposes only on a farm (a) operated by a publicly-owned agricultural experiment station and produced at public expense by employees of the experiment station or (b) operated by a person under a written agreement with a publicly owned agricultural experiment station, approved by the State committee, whereby the experiment station bears the costs and risks of production of the ELS cotton and the proceeds of the crop inure to the benefit of the experiment station. Farm marketing quotas shall apply to any other ELS cotton produced by a publicly owned agricultural experiment station which is not produced for experimental purposes only.

PENALTY

§ 722.73 Rate of penalty.

(a) Upland cotton is not subject to marketing quotas, and no penalty rate is established.

(b) The rate of penalty for ELS lint cotton is the higher of 50 percent of parity price for ELS cotton as of June 15 of the year in which the ELS cotton is planted, or 50 percent of the support price for such crop of ELS cotton as provided in sections 346(a) and 347(c) of the Act.

(c) This section will be amended annually by adding a new subparagraph to this paragraph to set forth the exact rate of the penalty.

(1) 1972 ELS cotton penalty rate is 40.2 cents per pound.

§ 722.74 Lien for the penalty.

Until the penalty on any farm marketing excess of ELS cotton for any crop year is paid, all ELS cotton produced on the farm in such crop year and marketed shall be subject to the penalty at the rate prescribed in § 722.73 for ELS cotton and a lien on such entire crop of ELS cotton produced on the farm shall be in effect in favor of the United States. Notwithstanding the definition of ELS cotton in § 722.64(b)(8), the lien in favor of the United States under this paragraph applies to the varieties of ELS cotton named in such definition wherever grown in the United States.

§ 722.75 Payment of penalty by producers.

(a) *Producer liable for payment of penalty.* Each producer having an interest in the crop of ELS cotton on any farm produced in a crop year for which a farm marketing excess has been determined shall be liable for the entire amount of the penalty on the farm marketing excess. The amount of the penalty which any producer shall pay shall nevertheless be reduced by the amount of the penalty which is paid by another producer or a buyer of ELS cotton produced on the farm.

(b) *Time when penalty becomes due and payable.* The penalty for the farm marketing excess shall be due the earlier of the date of marketing or January 15 of the year following the year the crop was planted. Notwithstanding the foregoing, if the notice was not mailed prior to December 15 of the year the crop was planted, the January 15 date may be extended to 30 days after the notice was mailed.

(c) *Interest on penalty not paid when due.* If the penalty is not paid when due the producer is liable for interest at a rate of 6 percent per annum until the penalty is collected by the county committee or the buyer.

§ 722.76 Payment of penalty by buyers.

(a) *Buyers liable for payment of penalty.* Each person within the United States who buys or acquires from the producer any ELS cotton subject to the lien for the penalty shall be liable for and shall pay the amount of the penalty and interest, if any, on each pound thereof in satisfaction of the lien thereon.

(b) *Time when penalty becomes due.* The penalty to be paid by any buyer pursuant to paragraph (a) of this section shall become due at the time the ELS cotton is marketed and shall be remitted to the county where the excess farm is located. If the penalty (plus interest collected from the producer, if applicable) is not received by the county committee by the 10th day following the date the penalty was collected by the buyer, the buyer shall be liable for the penalty plus interest at a rate of 6 percent per annum from the 11th day until the penalty is received by the county. ELS cotton shall be deemed to be sold when either title to or actual or constructive possession of the ELS cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. ELS cotton shall be deemed to have been marketed by barter or exchange when it is delivered to another person by actual or constructive delivery or such person has received any part of the property, goods, or services for which the ELS cotton is being bartered or exchanged. ELS cotton shall be deemed to have been marketed by gift inter vivos when there is actual or constructive delivery of the ELS cotton to another person during the lifetime of the producer. ELS cotton shall be deemed to have been marketed in processed form when the producer, or some person on his behalf, converts ELS cotton into an article of trade and thereby causes the ELS cotton to lose its identity as lint ELS cotton. An article of trade is any article made in whole or in part from ELS cotton for the purpose of marketing such article.

(c) *Manner of deducting penalty and issuance of receipts.* The buyer may deduct from the price paid for any ELS cotton an amount equivalent to the amount of the penalty to be paid by the buyer pursuant to paragraph (a) of this section. Any buyer who deducts an amount equivalent to the penalty shall issue to the person from whom the ELS cotton was purchased a receipt for the amount so deducted.

§ 722.77 Remittance of penalty to the county executive director.

The county executive director of the county where the farm is located for and on behalf of the Secretary shall receive the penalty and any interest due thereon and issue a receipt therefor to the person remitting the penalty as required by established fiscal procedure. The penalty and interest shall be remitted only in legal tender or by check, draft, or money order drawn payable to the order of Agricultural Stabilization and Conservation Service, USDA. All checks, drafts, or money orders tendered in payment of the penalty and interest shall be received by the county executive director subject to collection and payment at par.

§ 722.78 Refunds of money in excess of the penalty.

(a) *Determination of refunds.* The county committee and the county ex-

ecutive director, upon their own motion or upon the request of any interested person, shall review the amount of money received in connection with the penalty for any farm to determine for each producer the amount thereof, if any, which is in excess of the penalty incurred. The excess amount shall be refunded. Any refund shall be made only to persons who bore the burden of the payment and who have not been reimbursed therefor. The excess sum shall be first applied, insofar as the sum will permit, so as to make refunds to eligible persons other than producers and the remainder, if any, shall be applied so as to make refunds to the eligible producers. No refund shall be made to any buyer of any amount which he collected from the producer, deducted from the price or other consideration for the ELS cotton or for which he was liable.

(b) *Certification of refunds.* A member of the county committee, or the county executive director, shall notify the State committee of the amount which the county committee determines may be refunded to each person with respect to the farm and the State committee shall cause to be certified to the appropriate Disbursing Officer of the Treasury Department for payment such amounts as are approved by it. No refund of money shall be certified under this section unless the money has been collected and transmitted to the Federal Reserve Bank and held in a budget clearing account.

§ 722.79 Refund of penalty erroneously, illegally, or wrongfully collected.

Whenever a claim for refund of any sum of money erroneously, illegally, or wrongfully collected as a penalty with respect to ELS cotton is duly filed in accordance with section 372 of the Act and Part 714 of this chapter, as amended, and a determination is duly made that a part or all of the penalty was erroneously, illegally, or wrongfully collected, a refund of such penalty or part thereof shall be made as provided in the regulations pertaining to refunds of penalties (Part 714 of this chapter, as amended).

§ 722.80 Report of violations and court proceedings to collect penalty.

The county executive director shall report in writing to the State executive director each case of failure or refusal to pay the penalty or to remit the same to the county executive director when collected. The State executive director shall report each such case in writing to the Office of the General Counsel of the U.S. Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the U.S. Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties as provided in section 376 of the act.

IDENTIFICATION OF COTTON

§ 722.81 Identification of cotton by producer.

Each producer of cotton shall, at the time he markets any cotton, identify the cotton to the buyer as being (a) not subject to the penalty provided under this subpart and not subject to the lien for such penalty, or (b) subject to the penalty provided under this subpart and subject to the lien for such penalty. The producer shall furnish to the buyer in connection with such identification of the cotton the following:

(1) Name and address of producer.

(2) County and State where farm on which the cotton was produced is located.

(3) Farm number.

(4) Whether the cotton is current year's crop or carryover cotton.

§ 722.82 Identification of cotton by buyer.

Each buyer of cotton from a producer shall obtain from such producer the identification of cotton required under § 722.81. In addition, before acquiring any cotton, each buyer of cotton shall obtain from the county committee of each county where the cotton being offered to him was produced, or from the State executive director, a list showing the names and addresses of producers and the farm number for each farm in the county on which such producers are subject to the penalty for the current year's crop and any unpaid penalty for a previous crop. If there are no farms in such county subject to the penalty for the current year's crop or a previous crop, the list shall so state. The county committee or the State executive director shall furnish such list to any buyer of cotton upon request. The buyer shall determine whether the name of the prodcer and farm number furnished him by the producer who identifies cotton under § 722.81 appear on the list obtained for the applicable county. If the name of the producer and farm number so furnished appear on such list, or if the producer identifies the cotton as subject to penalty, the buyer shall take the cotton as subject to penalty at the applicable rate and to the lien for the penalty.

§ 722.83 Marketing of penalty free cotton.

Each buyer of cotton which is identified in accordance with §§ 722.81 and 722.82 as not subject to the penalty provided under this subpart and not subject to the lien for such penalty, may purchase the cotton so identified without collection, deduction, or payment of the penalty.

§ 722.84 Marketing of penalty cotton.

Each buyer of cotton which is identified in accordance with § 722.81 or § 722.82 as being subject to the penalty and the lien for such penalty shall take such cotton as subject to penalty at the applicable rate and to the lien for the penalty and such buyer shall collect the required penalty or deduct the required penalty from the purchase price of the cotton and remit the amount thereof to the county committee. In addition, each buyer of cotton shall collect penalty at the applicable rate or deduct such penalty from the purchase price of the cotton and remit the amount thereof to the county committee in each case where such buyer has not obtained the applicable list as required under § 722.82. § 722.82.

RECORDS AND REPORTS

§ 722.85 Records to be kept and reports to be made by ginners.

(a) *Necessity for records and reports.* Each ginner shall in conformity with section 373(a) of the act, keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act.

(b) *Ginner's record of cotton ginned.* Each ginner shall keep, for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record showing with respect to each bale, and each lot of cotton less than a bale, ginned by him the following information: (1) the date of ginning; (2) the name of the operator of the farm on which the cotton was produced; (3) the name of the producer of the cotton; (4) the name and address of the person who delivered the cotton to the gin in those cases where the ginner has doubt as to the accuracy of the name of the farm operator or producer of the cotton as furnished; (5) the farm number of the farm where the cotton was grown or some other information which will identify the farm on which the cotton was produced; (6) the county and State in which the farm on which the cotton was produced is located; (7) the gin bale number or mark or other identification; and (8) the net weight of each bale of cotton and (the net weight of) each lot of lint cotton less than a bale ginned by the ginner.

(c) *Requests for reports.* Each ginner, upon written request of the State committee, State executive director, or county committee, shall make a report showing the information provided for in this section or any part thereof as specified in the request, with respect to cotton ginned for the person or persons specified in the request or for the period of time specified in the request. This report shall be filed not later than the date designated by the State committee, State executive director, or county committee in the written request for such report.

(d) *Manner of submitting reports.* The county executive director designated in the request for such report, or his successor in office, is hereby authorized and empowered to receive each such report on behalf of the Secretary. Each report shall be mailed or delivered directly to the said county executive director.

§ 722.86 Records to be kept and reports to be made by buyers.

(a) *Necessity for records and reports.* Each person who buys or acquires seed cotton or lint cotton from the producer thereof, in conformity with section 373 (a) of the act, shall keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out with respect to cotton, the provisions of the act.

(b) *Nature of records.* Each buyer shall keep for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to each bale of cotton, and each lot of cotton less than a bale, which is purchased by him from the producer thereof the following information: (1) The name and address of the producer from whom the cotton was purchased; (2) State and county in which farm is located; (3) the date on which the cotton was purchased; (4) the original gin bale number and warehouse receipt number; or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and in the case of seed cotton purchased, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (5) the number of pounds of lint cotton in each bale, and each lot of lint cotton less than a bale, purchased from the producer; and (6) the amount of penalty collected in connection with the cotton purchased from the producer.

(c) *Buyer's record and report.* In the event the county committee, the State committee, or State executive director has reason to believe that any buyer failed or refused to collect or to remit the penalty required to be collected by him for any cotton which he purchased, or otherwise in any manner failed or refused to comply with the provisions of these regulations, the buyer shall, within 15 days after a written request therefor by either the county committee, State committee, or State executive director is sent to him by certified mail at his last known address, make a report verified as true and correct, to the designated county executive director with respect to cotton purchased or acquired by him from the person or persons specified in the request or purchased or acquired by him during the period of time specified in the request. Such report shall include the information required to be kept under paragraph (b) of this section for each bale of cotton, and each lot of cotton less than a bale, purchased by such buyer.

(d) *Manner of submitting report.* The county executive director for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to the said county executive director.

§ 722.87 Records to be kept by warehousemen, processors, and others.

Each warehouseman, processor (including compressman), common carrier, or other person, as defined in section 373(a) of the act, who stores, processes (including compressing), transports as a common carrier or otherwise deals with cotton from, for, or on behalf of the producer thereof, shall for each crop year keep the records relating to such cotton which are normally kept by persons engaged in the same or similar business. The Secretary hereby finds such records to be necessary to enable him to carry out with respect to cotton, the provisions of the act.

§ 722.88 Availability of records kept by ginners, buyers, warehousemen, and others.

Each ginner, buyer, warehouseman, processor (including compressman), common carrier, or other person as defined in section 373(a) of the act, who gins, buys, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof, shall make available for examination and inspection by the Secretary or by any authorized representative of the Secretary, the records kept in his business concerning such cotton, for the purpose of ascertaining the correctness of any report made or record kept pursuant to §§ 722.61 to 722.95, or of obtaining the information required to be furnished in any report pursuant to §§ 722.61 to 722.95, but not so furnished. The records to be kept pursuant to the provisions of §§ 722.85, 722.86, and 722.87 shall be kept available for examination and inspection by the Secretary, or by any authorized representative of the Secretary, until December 31 of the second year following the year in which the cotton is planted. Such records shall be kept for such longer period of time as may be requested in writing by the State executive director or by the director.

§ 722.89 Penalty for failure or refusal to keep records or make reports.

Any ginner, buyer, warehouseman, processor (including compressman), common carrier, or other person, as defined in section 373(a) of the act who gins, buys, acquires, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof who fails to keep the records, make the reports as required by § 722.85, § 722.86, or § 722.87, or who makes any false report or false record shall, as provided for in section 373(a) of the act, be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine or not more than $500 for each such offense.

§ 722.90 Records to be kept and reports to be made by producers.

(a) *Necessity for records and reports.* Each person who produces or who has produced in any crop year, cotton which is subject to the provisions of §§ 722.61 to 722.95 shall, in conformity with section 373(b) of the act, keep the records and make the reports prescribed by this section, which records and reports the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act. The records required to be kept pursuant to this section shall be kept until December 31 of the second year following the year in which cotton is planted, or for such longer period of time as may be requested in writing by the State executive director or by the director.

(b) *Cotton marketed to persons not within the United States.* In each case where cotton is marketed to any person not within the United States the producer shall furnish to the county committee within 15 days next succeeding the day on which the cotton was marketed, the name and address of the buyer or transferee, the amount of cotton, and indicate that such person is not within the United States.

(c) *Farm operator's report.* The operator of the farm shall file with the county executive director for the county in which the farm is located a farm operator's report on Form MQ–98–Cotton in the following cases: (1) Where the producer is making an application for a downward adjustment in the farm marketing excess pursuant to § 722.68 except that the county committee may waive this requirement in case it determines that the evidence otherwise submitted by the producer is satisfactory evidence of the actual production of cotton on the farm; (2) where a farm marketing excess is determined for the farm but an application for downward adjustment in the farm marketing excess has not been filed and the county executive director or the State executive director requests the report in writing; and (3) where a farm marketing excess is not established but the county executive director or the State executive director determines that a farm operator's report is necessary for proper administration of §§ 722.61 to 722.95 and requests such report in writing. Upon written request by the county executive director or the State executive director for a farm operator's report on Form MQ–98–Cotton, the operator of the farm shall make the report in the manner specified in this paragraph not later than the date designated in the request. Form MQ–98–Cotton shall show for the farm the following information or any part thereof as specified in such request for a specified crop year: (i) The date harvesting of the crop of cotton was completed on the farm, the date of the last ginning of cotton produced on the farm, and the acreage of cotton on the farm; (ii) the total number of pounds of lint cotton ginned from the crop of cotton; (iii) the name and address of each ginner who ginned such cotton and the number of and net weight of bales or lots less than a bale ginned by him; (iv) the total amount of seed cotton of the crop marketed; (v) the total amount of lint cotton of the crop marketed; (vi) the amount of unmarketed cotton of the crop on hand; (vii) the total number of pounds of lint cotton produced from such crop; (viii) the name and address of each buyer of such crop lint or seed cotton and the amount thereof marketed to him; and (ix) the amount of penalty paid by the producer or collected by the buyer.

(d) *Manner of submitting reports.* The county executive director for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive, for and on behalf of the Secretary, each report re-

quired pursuant to this section. Each report shall be mailed or delivered directly to such county executive director.

§ 722.91 Enforcement.

The county executive director shall report in writing to the State executive director each case of failure or refusal to make any report or keep any record as required by §§ 722.61 to 722.95 and so to report each case of making any false report or record. The State executive director shall report each such case in writing to the Office of the General Counsel of the U.S. Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the U.S. Attorney for the appropriate district under the direction of the Attorney General of the United States, to enforce the provisions of the act.

§ 722.92 Revision of county committee determinations and erroneous notices.

(a) *Revision of determinations.* In any case where a determination of the county committee under §§ 722.61 to 722.95 is found to be in error, the county committee on its own motion or upon request of a representative of the State committee, shall revise such determinations.

(b) *Erroneous notices of cotton allotment and planted acreage.* In any case where an erroneous notice of cotton allotment or an erroneous notice of planted acreage is issued, the county committee shall follow the applicable upland or ELS cotton acreage allotment regulations and the provisions of Part 718 of this chapter.

§ 722.93 Supervisory authority of State committee.

The State committee may take any action required to be taken by the county committee which the county committee fails to take and the State committee may correct or require the county committee to correct any action taken by such county committee which is not in accordance with §§ 722.61 to 722.95. The State committee may also require the county committee to withhold taking any action which is not in accordance with §§ 722.61 to 722.95. A copy of each notice issued by the State committee hereunder shall be kept among the permanent records of the appropriate county committee and copies thereof shall be made available in accordance with the provisions of §§ 722.61 to 722.95 to any person who as operator, landlord, tenant, or sharecropper, is interested in the cotton produced on the farm for which the notice is given.

§ 722.94 Availability of records.

The State and county committees shall make available for inspection by owners or operators of farms receiving cotton allotments all records pertaining to cotton allotments and marketing quotas. The provisions of Part 798 of this chapter concerning the availability of information to the public shall be applicable to cotton program records.

§ 722.95 Designation of representatives of the Secretary to examine records.

(a) *Designation of representatives.* In order to carry out the provisions of §§ 722.85 to 722.88, relating to the examination of records, the deputy administrator is hereby authorized and directed to designate in writing with the counter signature of the State executive director, an appropriate number of persons from the officers or employees of the Department of Agriculture to act as the authorized representatives of the Secretary for the purposes of such provisions. In addition, Auditors and Special Agents, Office of the Inspector General, U.S. Department of Agriculture, are hereby designated as authorized representatives of the Secretary for the purposes of such provisions.

(b) *Authorization to administer oaths and affirmations.* Each person designated pursuant to this section to act as the authorized representative of the Secretary is hereby authorized and empowered under 5 U.S.C. 303 (80 Stat. 379) to administer oaths and affirmations to any person giving a statement or affidavit in connection with any authorized investigation.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to, the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on September 21, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-16770 Filed 10-2-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69-SW-43]

FEDERAL AIRWAYS

Withdrawal of Proposed Designation

On March 10, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 4306) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would redesignate segments of VOR Federal airway Nos. 20 and 163 and designate VOR Federal airway No. 261.

Subsequent to publication of the notice, the FAA has determined that additional review and coordination of the proposed airway alignments for V-20 and V-163W will have to be made.

In consideration of the foregoing, notice is hereby given that the proposal contained in Airspace Docket No. 69-SW-43 (35 F.R. 4306) is withdrawn. The withdrawal of this notice, however, does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

This withdrawal of notice of proposed rule making is made under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on Septem 26, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 72-16762 Filed 10-2-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-RM-24]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Missoula, Mont., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station Post Office Box 7213, Denver, Colo. 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

The Federal Aviation Administration plans to alter existing instrument approach procedures and establish new holding procedures for Johnson-Bell Field Airport, Missoula, Mont. These changes require alteration of the Missoula, Mont. transition area in order to provide controlled airspace protection for aircraft executing these procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (37 F.R. 2143) the description of the Missoula, Mont. transition area is amended to read as follows:

That airspace extending upward from 700 feet above the surface within 8 miles south-

west of the Missoula, Mont. VORTAC 296° radial extending from the VORTAC to 21 miles northwest; and within 8.5 miles southwest and 5.5 miles northeast of the Missoula VORTAC 311° radial extending from the VORTAC to 38 miles northwest; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Missoula, Mont. VORTAC (latitude 46°-54'29" N., longitude 114°04'58" W.); within a 32-mile radius of the Missoula, Mont. VORTAC extending clockwise from the 256° radial to the 357° radial; within 9.5 miles southwest of the Missoula, Mont. VORTAC 238° radial extending from the VORTAC to 38 miles northwest; and within 9 miles southwest and 6 miles northeast of the Missoula, Mont. VORTAC 113° radial extending from the VORTAC to 19 miles southeast.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on September 25, 1972.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc.72-16763 Filed 10-2-72;8:47 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1902]

STATE PLANS ON OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Temporary Orders

Notice is hereby given that the Occupational Safety and Health Administration, U.S. Department of Labor, has under consideration a proposed rule permitting the issuance of temporary orders which would preserve State authority to enforce standards covering occupational safety and health issues contained in a proposed plan submitted to the Assistant Secretary of Labor for Occupational Safety and Health for approval under Part 1902 of Title 29, Code of Federal Regulations. These temporary orders would be valid until the Assistant Secretary takes final action on the proposed plan under sections 18(c) and (d) of the Act or for one year, whichever period is shorter.

The basic policy of the Occupational Safety and Health Act is to provide a continuing and growing program of protection for worker safety and health. As recognized by Congress, the fullest possible State participation under Federal guidance is essential to this goal.

It was also recognized that States could not uniformly and immediately enter into full and effective partnership with OSHA and that an orderly transition to such full partnership was required. Congress, therefore, provided in section 18 of the Occupational Safety and Health Act a method for approval of State plans, under which State worker safety and health programs could make on orderly progression in developmental States toward the Act's requirements. Federal concurrent jurisdiction, adjustable to this progression was provided. To assist States in identifying their needs and responsibilities and in developing their plans, planning grants were provided under section 23 of the Act. Recognizing the need for continuing ongoing State activity as an adjunct to implementing this policy until plans for meeting the Federal requirements could be approved, section 18(h) preserves such activities from Federal preemption until December 28, 1972.

Virtually all States now have agreements with the U.S. Department of Labor under section 18(h) of the Act and Part 1901 of Title 29, Code of Federal Regulations. Under the agreements, States have been permitted to continue to enforce one or more job health and safety standards. The agreements contemplate the submission of plans to the Secretary under section 18(b) of the Act, and provide generally for the development and enforcement of State standards which are at least as effective as the Federal standards applied under section 6 of the Act. Some plans have already been submitted and many more are expected to be submitted by December 28, 1972.

It now appears an unforeseen gap could occur in this process of transition to full Federal-State participation in providing worker safety and health. The interruption would arise from the fact that few State plans are likely to receive approval before December 28, at which time protection of State jurisdiction under agreements under section 18(h) of the Act and Part 1901 of this chapter will lapse. During the period between this date and plan approval, ongoing State programs would be under a legal disability to provide worker protection. Such a lapse in State authority would frustrate the goals of an orderly transition to full Federal-State partnership and maximum worker protection, and thus be inconsistent with the clear legislative intent.

To be eligible for a temporary order, the proposed State plan would have to meet the submission requirements of § 1902.10(a), including clearance and approval by the Governor of the State as required in OMB Circular No. A-95. Further, the proposed plan would have to address itself either in complete or developmental form to each of the criteria and indices of effectiveness of Part 1902. If the proposed plan on its face failed to meet these requirements, no temporary order would be issued. The order would be subject to revocation by the Assistant Secretary upon thirty days' notice.

The temporary order would have the effect of preserving State authority to enforce, in accordance with State law, existing standards covering issues contained in the proposed State plan. Further, the order would allow the States to enforce any additional such standards promulgated in accordance with the provisions of the proposed plan and to utilize any additional enforcement authority which becomes effective within the scope of the plan.

Temporary orders would be issued only for proposed plans submitted by December 28, 1972. No order would be issued for proposed plans submitted after that date.

Within 20 days following publication of this notice in the FEDERAL REGISTER, interested persons may submit written data, views, or arguments concerning the proposed rule to the Director of the Office of State Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210. Comments received will be available for examination by interested persons at the above address.

Section 1902.16 would be amended to read as follows:

§ 1902.16 Temporary orders.

(a) The Assistant Secretary may issue a temporary order permitting a State to enforce in accordance with State law standards covering issues contained in a proposed plan which is submitted for approval under this Subpart C. Any temporary order shall remain in effect only until final action approving or disapproving a proposed plan is taken under section 18(c) and (d) of the Act, or one year from the date of its issuance, whatever is earlier.

(b) To be the subject of a temporary order under this section, a proposed State plan must have been approved by the Governor of the State, as required by OMB Circular No. 8-95, and must meet the submission requirements contained in § 1902.10(a). The proposed plan must also address itself to each of the criteria for State plans and indices of effectiveness prescribed in Subpart B of this Part 1902. The temporary order may be issued ex parte.

(c) No temporary order under this section shall affect in any way any final action approving or disapproving a plan under section 18(c) and (d) of the Act, or eligibility for grants under section 23 of the Act.

(d) Any temporary order issued under this section shall be subject to revocation for cause upon thirty days' notice to the State.

(e) No temporary order shall be issued in the case of proposed plans submitted after December 28, 1972.

(Secs. 8(g), 84 Stat. 1600, 1608; 29 U.S.C. 657(g), 667)

Signed at Washington, D.C., this 27th day of September 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-16797 Filed 10-2-72;8:53 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 81, 83]

[Docket No. 19361; FCC 72-830]

CLASS II PUBLIC COAST STATION IN VICINITY OF PONCE, P.R.

Further Notice of Proposed Rule Making

In the matter of amendment of Parts 81 and 83 of the Commission's rules to provide for a Class II Public Coast Station in the vicinity of Ponce, P.R., Docket No. 19361, RM-1780.

1. Further notice of proposed rule making in the above-entitled matter is hereby given.

2. A notice of proposed rule making in the above-captioned matter was adopted on December 8, 1971 (36 F.R. 24008). The time for filing comments and reply comments has passed.

3. Comments submitted by the Interdepartment Radio Advisory Committee (IRAC) indicate that the use of the frequencies 2198 kHz and 2582 kHz by a Class II Public Coast Station in Ponce, P.R., as proposed in the notice of proposed rule making, could cause harmful interference to Government stations presently operating on these frequencies in the Puerto Rico area.

4. In place of the above-mentioned frequencies the IRAC concurred to the frequency 2086 kHz (for use by ship stations) and the frequency 2585 kHz (for use by the coast station) for assignment for public ship to shore communications in the vicinity of Ponce, P.R. In order to further minimize the possibility of harmful interference, certain technical limitations on emission and power have been incorporated in the proposed amendments.

5. The proposed amendment, as set forth below, is issued pursuant to the authority contained in sections 4(i) and 303 (c), (d), (f), and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the rules, interested persons may file comments on or before November 8, 1972, and reply comments on or before November 17, 1972. Section 1.419 of the rules requires the original and fourteen (14) copies of comments or reply comments to be filed. Comments and reply comments received in response to this notice of proposed rule making will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

Adopted: September 20, 1972.

Released: September 26, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. The table in § 81.304(a) is amended by adding the frequency 2585 kHz after 2582 kHz to read as follows:

§ 81.304 Frequencies available.

(a) * * *

Carrier frequency (kHz)	See section	Conditions of use
* * *	* * *	* * *
2585	81.306(b)	21
* * *	* * *	* * *

* * * * *

[1] Commissioner Robert E. Lee absent.

2. The table in § 81.306(b) is amended by the addition of the following new location and frequencies after the entry for Corpus Christi, Tex.

§ 81.306 Frequencies available below 27.5 MHz.

* * * * *

(b) * * *

Ponce, P.R.	2585	None	2086 None.

* * * * *

3. In § 83.351, the table in paragraph (a) is amended with regard to frequency 2086.0 kHz, and paragraph (b) (20) and (21) is amended to read as follows:

§ 83.351 Frequencies available.

(a) * * *

* * *	* * *	* * *	* * *
2086	83.354	3, 20, 21, 25	
* * *	* * *	* * *	

(b) * * *

(20) Available in accordance with the provisions of § 83.354(b).

(21) Available in accordance with the provisions of § 83.354(c).

* * * * *

4. The table in § 83.354(b) is amended by the addition of the following new location and frequencies after the entry for Corpus Christi, Tex.

§ 83.354 Frequencies below 5000 kHz for public correspondence.

* * * * *

(b) * * *

Ponce, P.R.	2086	None	2585 None.

* * * * *

[FR Doc.72-16718 Filed 10-2-72;8:45 am]

Notices

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority 98]

DEPUTY ADMINISTRATOR AND ASSISTANT ADMINISTRATORS

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 of November 3, 1961, as amended, from the Secretary of State (25 F.R. 10608) and in accordance with the provisions of section 624(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384), it is directed as follows:

In the event of the absence, death, resignation, or disability of the Administrator, the following designated officers of the Agency for International Development shall, in the order of succession indicated, act as Administrator:

(1) Deputy Administrator.

(2) Assistant Administrator for Program and Management Services.

(3) Assistant Administrator, Bureau for Africa.

(4) Assistant Administrator, Bureau for Asia.

(5) Assistant Administrator, Bureau for Latin America.

(6) Assistant Administrator for Supporting Assistance.

This delegation of authority supersedes Delegation of Authority No. 9 (revised) of February 2, 1972 (37 F.R. 2892).

This delegation of authority is effective immediately.

Dated: September 22, 1972.

JOHN A. HANNAH,
Administrator.

[FR Doc.72-16802 Filed 10-2-72;8:50 am]

[Public Notice 366]

NOTICE OF PRESIDENTIAL DETERMINATIONS UNDER THE FOREIGN ASSISTANCE ACT

Pursuant to section 654(c) of the Foreign Assistance Act of 1961, as amended (86 Stat. 29), notice is hereby given that:

(1) The President has made two determinations, both effective August 29, 1972, pursuant to section 614(a) of the Foreign Assistance Act of 1961, as amended (75 Stat. 444, 22 U.S.C. 2364(a)); and

(2) The President has concluded that publication of the said determinations would be harmful to the national security of the United States.

[SEAL] THEODORE L. ELIOT, Jr.,
Executive Secretary.

SEPTEMBER 19, 1972.

[FR Doc.72-16813 Filed 10-2-72;8:50 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-265]

FOREIGN CURRENCIES

Rates of Exchange for the Ceylon Rupee

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which vary by 5 percent or more from the quarterly rate published in Treasury Decision 72-194 for the Ceylon rupee. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon rupee:

Sept. 11, 1972	$0.1565
Sept. 12, 1972	.1560
Sept. 13, 1972	.1565
Sept. 14, 1972	.1560
Sept. 15, 1972	.1560

Rates of exchange certified for the Ceylon rupee which vary by 5 percent or more from the rate $0.1680 during the balance of the calendar quarter ending September 30, 1972, will be published in a Treasury Decision for dates subsequent to September 15, 1972, and before October 1, 1972.

[SEAL] R. N. MARRA,
Acting Assistant Commissioner, Office of Operations.

[FR Doc.72-16792 Filed 10-2-72;8:49 am]

Office of the Secretary

[Treasury Department Order 221-2]

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Designation of Officials

SEPTEMBER 22, 1972.

By virtue of the authority vested in the Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, and by virtue of the authority delegated to me by Treasury Department Order No. 190 (revised), I hereby designate the following named individuals to serve in the Bureau of Alcohol, Tobacco and Firearms in the positions indicated:

Director—Rex D. Davis, Deputy Director—John L. West.

This order shall be effective immediately and thereby amend Treasury Department Order No. 221-1 of June 30, 1972.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-16825 Filed 10-2-72;8:51 am]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[No. 72-1]

PHARMACEUTICAL WHOLESALERS, INC.

Denial of Application for Registration

On March 27, 1972, the Acting Director of the Bureau of Narcotics and Dangerous Drugs issued an order to show cause to Pharmaceutical Wholesalers, Inc., Plainview, N.Y., as to why its Application for Registration (B04501), executed on February 3, 1972, should not be denied for the reason that the Applicant's past record and experience in the distribution of controlled substances, and its failure to maintain controls against the diversion of controlled substances into other than legitimate channels evidenced a direct and continuing violation of the Controlled Substances Act of 1970 and the Administrative Regulations promulgated thereunder (21 U.S.C. 801, et seq., and Title 21, Code of Federal Regulations, Part 300, et seq.).

Thereafter, Pharmaceutical Wholesalers, Inc., requested a hearing in the matter and, on May 22, 1972, that hearing was held before Julius Rich, Administrative Law Judge. Following the hearing, proposed findings of fact and conclusions of law were submitted to Mr. Rich by the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs; none were submitted by counsel for the Applicant. On September 22, 1972, Mr. Rich filed the following recommended decision with the Bureau of Narcotics and Dangerous Drugs:

> Based upon the foregoing recommended findings of fact and conclusions of law, the presiding officer recommends to the Director of the Bureau of Narcotics and Dangerous Drugs that the application executed on February 3, 1972, by Pharmaceutical Wholesalers, Inc., for re-registration as a distributor of controlled substances listed in Schedules II, III, IV, and V of the Controlled Substances Act of 1970, be denied.

After reviewing the transcript of testimony of the hearing, the exhibits introduced, the findings of fact and conclusions of law proposed by counsel, the Director adopts the recommended decision of the Administrative Law Judge, Julius Rich. In accordance with the provisions of 21 CFR 316.66, and in view of the nature of the Applicant's past record and experience in the distribution of controlled substances, it is the Director's opinion that to permit Pharmaceutical Wholesalers, Inc., to continue doing business with controlled substances would not be consistent with the public health and safety.

Therefore, under the authority vested in the Attorney General by section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824), and redelegated to the Director, Bureau of Narcotics and Dangerous

Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Pharmaceutical Wholesalers, Inc.'s Application for Registration (B04501) be denied effective upon publication of this order in the FEDERAL REGISTER (10–3–72).

Dated: September 29, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72–16960 Filed 10–2–72;8:55 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. A 7057]

ARIZONA

Designation of Big Sage Research Natural Area

Pursuant to the authority in 43 CFR Part 2070, and the authorization from the Director, dated September 12, 1972, I hereby designate the following described public lands as the Big Sage Research Natural Area:

T. 40 N., R. 1 E., GSR Meridian, Arizona, Sec. 28, NE¼.

This area aggregates 160 acres of public domain.

These lands will be used as an illustration of the effect adjacent vegetative manipulation projects, as a site for scientific study of a nearly pure big sage stand, and as a control site for Forest Service evaluation of a previous land treatment.

Dated: September 25, 1972.

JOE T. FALLINI,
State Director.

[FR Doc.72–16778 Filed 10–2–72;8:47 am]

[Group 468]

ARIZONA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

SEPTEMBER 25, 1972.

1. Plat of survey of the lands described below will be officially filed in the Arizona State Office, Phoenix, Ariz., effective at 10 a.m., on November 10, 1972:

GILA AND SALT RIVER MERIDIAN

T. 8 S., R. 9 E.,
Sec. 2, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 10;
Sec. 11;
Sec. 14;
Sec. 15;
Sec. 22;
Sec. 23;
Sec. 26;
Sec. 27.

The area described aggregates 6,393.74 acres of public lands.

2. The area surveyed is approximately 6 miles east of Picacho, Ariz. The land is steep and mountainous. The soil is shallow and rocky. Vegetation consists of moderate palo verde, cacti, and scattered cat claw.

3. All rights of the State of Arizona to section 2 have been conveyed to the United States.

4. The lands are classified for multiple-use management and will be opened only to such forms of disposition as are allowed under the provision of the multiple-use classification on the effective date of the filing of this plat.

5. The lands have been and still are subject to the operation of the mining and mineral leasing laws. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management, 3022 Federal Building, Phoenix, Ariz. 85025.

CHARLES G. BAZAN, Jr.,
Chief, Branch of Records and Data Management.

[FR Doc.72–16779 Filed 10–2–72; 8:48 am]

[A 7131]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial Number A 7131, for the withdrawal of lands from location and entry under the General Mining Laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the lands described below under Fools Hollow Lake Recreation Area for expansion of its present recreation facilities to accommodate the growing public needs. The administrative headquarters of the Chevelon Ranger District Office presently occupies the lands described under the subject heading. Plans are to move the headquarters to Winslow and convert the existing improvements on this site to a fieldwork station consisting of storage, workshop, barn, and sewage treatment. Both sites are situated in the Sitgreaves National Forest and are in furtherance of the Department's program.

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, 3022 Federal Building, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

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.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

Fools Hollow Lake Recreation Area

T. 10 N., R. 21 E.,
Sec. 12, SW¼ of lot 4, S½ of lot 5, lot 8, NW¼ and S½ of lot 9, lots 11, 12, 13, N½ of lot 16, N½ of lot 17, and lot 20;
Sec. 13, lots 1 and 2, and lots 5 to 17, inclusive;
Sec. 14, NW¼ of lot 1 and lot 2.

The area described aggregates approximately 209.46 acres.

Chevelon Ranger Station Administrative Site

T. 13 N., R. 13 E.,
Sec. 1, SE¼NE¼, E½SW¼NE¼, N½SE¼, SE¼SE¼, and N½SW¼SE¼.
T. 13 N., R. 14 E.,
Sec. 6, W½ of lot 5, and lot 7.

The area described aggregates approximately 276.41 acres.

The total areas described above aggregate approximately 485.87 acres within the Sitgreaves National Forest.

This proposed withdrawal will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or govern the disposal of their mineral or vegetative resources other than under the mining laws.

Dated: September 22, 1972.

JOE T. FALLINI,
State director.

[FR Doc.72–16777 Filed 10–2–72;8:47 am]

Bureau of Mines

OGLEBAY NORTON CO., ET AL.

Applications for a Variance; Notice of a Public Hearing

Pursuant to the provisions of § 55.24 of Part 55, Title 30 of the Code of Federal Regulations promulgated in accordance with the authority vested in the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89–577, 30 U.S.C. 721 et seq.) on December 8, 1970 (35 F.R. 18587), notice is hereby given that the following companies have filed applications for a variance from mandatory safety standard 55.14–29 to permit changing worn grate castings on slow moving continuous traveling grates:

1. Oglebay Norton Company—Eveleth Taconite Co., Fairlane Plant, Forbes, St. Louis County, Minn.;
2. Hanna Mining Company—
(a) The Butler Taconite Plant, Nashwauk, Itasca County, Minn.;
(b) National Steel Pellet Plant, Keewatin, Itasca County, Minn.;
3. The Cleveland—Cliffs Iron Company—
(a) Empire Pelletizing Plant, Palmer, Marquette County, Mich.;
(b) Republic Pelletizing Plant, Republic, Marquette County, Mich.;
(c) Humboldt Pelletizing Plant, Champion, Marquette County, Mich.;
(d) Pioneer Pellet Plant, Negaunee, Marquette County, Mich.;
4. The United States Steel Corp.—The Minntac Plant, Mountain Iron, St. Louis County, Minn.

Mandatory standard 55.14–29 provides:

Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments.

Generally, the companies contend that when replacement of a traveling grate casting is necessary, two employees provided with safety equipment perform

the work. The work area is illuminated and safety stop cords or stop buttons are strategically located in the area. Usually one employee cuts off the two clamping bolts with an oxygen-acetylene cutting torch, the grate casting is removed and another employee replaces the grate casting and secures it on a thru-rod, grate place clip or prebolted casting by tightening two bolts with an impact wrench. The grate casting may weigh from 18 to 34 pounds and the time required to perform the work may take one or two minutes depending upon the pelletizing or agglomerating process used by the company. The grate castings are moving slowly, from 10 to 16⅔ feet per minute.

The reasons for the requested variances are summarized as follows:

1. The slow speed of the grate casting does not constitute a hazard to personnel involved.

2. The work area is well illuminated and safety stop cords are strategically located thereby providing a safe work environment.

3. There have been no disabling injuries and minor injuries, for the most part burns, which were experienced during the changing of grate castings while the grate was in motion could have been avoided by the proper use of protective clothing and compliance with established safety procedures. The potential for such minor injuries is no greater with the grate motion than if it were stationary and locked out.

4. Grate kiln pelletizing is a continuous thermal process. Frequent shutdowns would be very damaging to furnace refractory materials and could result in the production of substandard quality product.

Copies of the applications for a variance may be obtained upon request from the Deputy Director—Health and Safety, Bureau of Mines, Room 4512, Department of the Interior, Washington, D.C. 20240, telephone 202—343–4041.

Notice is hereby given that a public hearing pursuant to § 55.24–5 of Part 55, Title 30 of the Code of Federal Regulations will be held on November 8 and 9, 1972, beginning at 9 a.m. c.s.t., in the Arrowhead Room, Hotel Duluth, 231 East Superior Street, Duluth, MN for the purpose of receiving relevant evidence on the applications for a variance to permit the changing of worn grate castings on continuous traveling grates. Each application will be considered individually on its own merits with respect to each particular plant. The applications will be considered and heard in the order listed above.

Donald P. Schlick, deputy director, Health and Safety is designated as the chairman. The hearing will be open to the public. The hearing will be conducted in an informal and orderly manner and a verbatim transcript of the hearing will be maintained. Applicants, representatives of organizations, public officials and interested individuals wishing to appear at the hearing should contact the Office of Deputy Director, Health and Safety no later than November 3, 1972. Written comments from those unable to attend, and from those wishing to supplement their oral presentations at the public hearing, should be received by the Deputy Director no later than October 31, 1972. The record will remain open for a period of 20 days following the close of the hearing during which time further written statements, data, and information may be submitted by interested persons. All written statements and letters received pursuant to this notice will be included in the hearing record.

Oral statements at the hearing will be limited to a period of 15 minutes. To the extent that time is available after presentation of oral statements by those who have given advance notice, the chairman will give others present an opportunity to be heard.

E. F. OSBORN,
Director, Bureau of Mines.

SEPTEMBER 27, 1972.

[FR Doc.72–16811 Filed 10–2–72;8:49 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of March 15, 1972, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 7 (pp. 4923–24), April 4 (pp. 6770–72), May 2 (pp. 8890–95), June 6 (pp. 11274–76), July 4 (pp. 13193–96), August 1 (pp. 15390–91), and September 6 (pp. 18043–44). Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following property has been demolished and removed from the Register:

OHIO

Hamilton County

Cincinnati, *Wesley Chapel Methodist Church*, 320 East Fifth Street.

The following properties have been added to the Register since September 6:

ALABAMA

Baldwin County

Tensaw vicinity, *Fort Mims Site*, Sec. 46, R. 2 E., T. 3 N.

Marengo County

Dayton vicinity, *Half-Chance Bridge*, Sec. 32, T. 16 N., R. 4 E.

Mobile County

Mobile, *Georgia Cottage*, 2564 Springhill Avenue.

ARKANSAS

Columbia County

Bussey vicinity, *Frog Level*, SE¼ NW¼ sec. 11, T. 17 S., R. 22 W.

Drew County

Selma, *Selma Methodist Church*, NW¼ SW¼ SE¼ sec. 36, T. 11 S., R. 5 W.

Sebastian County

Fort Smith, *Sparks, James, House*, 201 North 14th Street.

CALIFORNIA

Los Angeles County

Los Angeles, *Hale House*, 3800 North Homer Street.

Los Angeles, *Streetcar Depot (Building No. 66)*, Pershing and Dewey Avenues.

CONNECTICUT

Fairfield County

East Haddam, *Day, Amasa, House*, Plains Road.

Hartford County

New Britain, *Hanna's Block*, 432 Main Street.

Simsbury, *Phelps, Captain Elisha, House*, 800 Hopmeadow Street.

Windsor, *Farmington River Railroad Bridge*, west of Palisado Avenue.

New London County

New London, *Fort Trumbull*, Fort Neck.

New London, *New London Railroad Station*, at the foot of State Street.

DELAWARE

Sussex County

Milford vicinity, *Abbott's Mill*, southwest of Milford on Delaware 442.

FLORIDA

Dade County

Coral Gables, *Douglas Entrance (La Puerta del Sol)*, intersection of Douglas Road and Eighth Street SW.

Duval County

Jacksonville, *Riverside Baptist Church*, 2650 Park Street.

Franklin County

Apalachicola, *Raney, David G., House*, southwest corner of Market Street and Avenue F.

Jefferson County

Monticello, *Perkins Opera House*, Washington Street and Courthouse Square.

Volusia County

Ponce de Leon Inlet vicinity, *Ponce de Leon Inlet Lighthouse*, U.S. Coast Guard Reservation.

GEORGIA

Bibb County

Macon, *First Presbyterian Church*, 690 Mulberry Street.

Chatham County

Savannah, *Davenport, Isaiah, House*, 324 East State Street.

Muscogee County

Columbus, *Peabody-Warner House*, 1445 Second Avenue.

HAWAII

Honolulu County

Kahuku vicinity, *Kahuku Habitation Area*, north of Kahuku and 0.3 mile northeast of Kahuku Airport Road.

Kailua vicinity, *Pahukini Heiau*, southeast of Kailua near Kapaa Quarry.

ILLINOIS

Cook County

Oak Park, *Thomas, Frank, House*, 210 Forest Avenue.
Oak Park, *Wright, Frank Lloyd, Home and Studio*, 428 Forest Avenue (home), 951 Chicago Avenue (studio).

IOWA

Cerro Gordo County

Mason City, *Adams Building (Mason City National Bank)*, 4 South Federal Avenue.
Mason City, *Park Inn Hotel*, 15 West State Street.

Dubuque County

Dubuque, *Dubuque City Hall*, 50 West 13th Street.

KENTUCKY

Boyle County

Danville, *Old Centre, Centre College*, West Walnut Street.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Magnolia Mound Plantation House*, 2161 Nicholson Drive.
Baton Rouge, *Potts House*, 831 North Street.

Orleans Parish

New Orleans, *Lower Garden District*.

MARYLAND

Calvert County

Adelina vicinity, *Taney Place*, south of Adelina on Maryland 508.

Montgomery County

Forest Glen, *National Park Seminary Historic District*, Linden Lane.
Sandy Spring, *Sandy Spring Friends Meetinghouse*, Meeting House Lane.

MASSACHUSETTS

Middlesex County

Cambridge, *Cooper-Frost-Austin House*, 21 Linnaean Street.

MICHIGAN

Berrien County

Three Oaks, *Union Meat Market*, 14 South Elm.

Grand Traverse County

Traverse City, *City Opera House*, 106–112 Front Street.

Huron County

Sebewaing, *The Indian Mission*, 590 East Bay Street.

Ingham County

Lansing, *Dodge Mansion*, 106 East North Street.

Jackson County

Jackson, *Sharp, Ella, House*, 3225 Fourth Street.

Keweenaw County

Central, *Central Mine Methodist Church*, approximately 1 mile north of U.S. 41.
Eagle Harbor, *Eagle Harbor Schoolhouse*.

Lake County

Marlborough and vicinity, *Marlborough Historic District*, James Road, W½SW¼, sec. 14, T. 17 N., R. 13 W.

Oscoda County

Mio, *Oscoda County Courthouse*, Morence Street.

St. Joseph County

Colon, *Farrand Hall*, 451 Farrand Road.

MISSISSIPPI

Adams County

Natchez, *Dunleith*, 84 Homochitto Street.

MISSOURI

Jackson County

Kansas City, *Kelly's Westport Inn*, Westport Road and Pennsylvania Avenue.

Ralls County

New London, *Ralls County Courthouse and Jail/Sheriff's House*, Courthouse Square.

St. Louis County

Florissant, *St. Stanislaus Seminary*, 700 Howdershell Road.

MONTANA

Chouteau County

Fort Benton, *Fort Benton Historic District*.

NEBRASKA

Douglas County

Omaha, *Joslyn, George A., Mansion*, 3902 Davenport Street.

NEW JERSEY

Mercer County

Lawrenceville, *Lawrence Township Historic District*, Lawrenceville and vicinity north including both sides of U.S. 206.

Monmouth County

Colts Neck vicinity, *North American Phalanx*, northeast of Colts Neck on County Route 537.

NEW YORK

Albany County

Albany, *Albany City Hall*, Eagle Street at Maiden Lane.
Albany, *Hun Houses*, 149–149½ Washington Avenue.

Onondaga County

Syracuse, *Third National Bank (Community Chest Building)*, 107 James Street.

NORTH CAROLINA

Anson County

Wadesboro, *Boggan-Hammond House and Alexander Little Wing*, 210 Wade Street.

Craven County

New Bern vicinity, *Bellair*, 0.3 mile north of the junction of North Carolina 1401 and 1419.
New Bern, *Centenary Methodist Church*, 209 New Street.

Lincoln County

Lincoln vicinity, *Rock Springs Camp Meeting Ground*, on North Carolina 1373, 0.5 mile north of the intersection with North Carolina 16.

Mecklenburg County

Charlotte, *Rosedale*, 3427 North Tryon Street.

Rutherford County

Rutherfordton vicinity, *Fox Haven Plantation*, 1.4 miles north of the intersection of North Carolina 1157 and 108.

OREGON

Josephine County

Wolf Creek, *Wolf Creek Tavern*, on U.S. 99.

PENNSYLVANIA

Allegheny County

Pittsburgh, *St. Stanislaus Kostka Roman Catholic Church*, 21st and Smallman Streets.

RHODE ISLAND

Newport County

Newport, *Luce Hall*, U.S. Naval War College.

Providence County

Central Falls, *Jenks Park*, adjoining 580 Broad Street.

SOUTH CAROLINA

Abbeville County

Abbeville, *Town of Abbeville Historic District*.

Charleston County

Charleston, *McCrady's Tavern and Long Room*, 153 East Bay Street.
Charleston vicinity, *Fort Johnson/Powder Magazine*, approximately 3 miles southeast of Charleston.

TENNESSEE

Bradley County

Cleveland vicinity, *Red Clay Council Ground*, 13 miles south of Cleveland.

Madison County

Jackson, *Jones, Casey, Home and Railroad Museum*, 211 West Chester Street.

Moore County

Lynchburg, *Jack Daniel Distillery*, on Tennessee 55.

TEXAS

El Paso County

San Elizario, *Presidio Chapel of San Elizario*, south side of the Plaza.

Goliad County

Goliad vicinity, *Ruins of Mission Nuestra Senora del Rosario de los Cujanes*, approximately 3.8 miles southwest of Goliad on U.S. 59.

Hutchinson County

Fritch vicinity, *Antelope Creek Archeological District*, about 3 miles northeast of Fritch off Texas 136.

Jones County

Abilene vicinity, *Fort Phantom Hill*, 14 miles north of Abilene on Ranch Road 600.

McLennan County

Waco, *McCulloch House*, 406 Columbus Avenue.

Menard County

Menard vicinity, *Presidio San Luis de Las Amarillas*, approximately 1 mile northwest of Menard on Texas 29.

Montague County

Bowie, *Fort Worth and Denver City Depot*, on U.S. 81.

Terrell County

Dryden vicinity, *Meyers Springs Pictograph Site*, 10 miles northeast of Dryden.

UTAH

Salt Lake County

Salt Lake City, *Platts, John, House*, 364 Quince Street.

VERMONT

Franklin County

St. Albans, *Houghton House*, 86 South Main Street.

Cumberland County

Cartersville vicinity, *Cartersville Bridge*, Virginia 45 over the James River (also in Goochland County).

Gloucester County

Gloucester vicinity, *Roaring Spring*, 0.3 mile east of Virginia 616.

Goochland County

Cartersville Bridge (see Cumberland County).

Hanover County

Ashland vicinity, *Slash Church*, on Virginia 656.

King George County

Sealston vicinity, *Lamb's Creek Church*, on Virginia 607.

Lynchburg (independent city), *Garland Hill Historic District*.

Prince Edward County

Worsham, *Debtors' Prison*, On U.S. 15.

Richmond (independent city), *West Franklin Street Historic District*, all properties fronting on West Franklin Street between Laurel and Ryland Streets.

Shenandoah County

New Market, *New Market Historic District*, present-day town limits.

WEST VIRGINIA

Barbour County

Philippi, *Philippi Covered Bridge*, Main Street, at the junction of U.S. 250 and 119.

Wood County

Parkersburg vicinity, *Blennerhassett Island Historic District*, on the Ohio River, 1.7 miles south of Parkersburg.

WISCONSIN

Jefferson County

Fort Atkinson, *May, Eli, House (Site of Fort Koshkonong)*, 407 East Milwaukee Avenue.

ROBERT M. UTLEY,
Director, Office of Archeology and Historic Preservation.

[FR Doc.72-16780 Filed 10-2-72;8:48 am]

Office of the Secretary

[DES 72-91]

PROPOSED WILDERNESS CLASSIFICATION FOR HALEAKALA NATIONAL PARK, HAWAII

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Haleakala National Park, Hawaii, and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Western Region or the Superintendent, Haleakala National Park at the addresses given below.

The draft environmental statement considers the designation of 19,270 acres of Haleakala National as wilderness.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Post Office Box 36063, San Francisco, CA 94102. Haleakala National Park, Post Office Box 456, Kahului, Maui, HI 96732. Hawaii Group, National Park Service, Pacific International Building, 677 Ala Moana Boulevard, Suite 512, Honolulu, HI 96813.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16781 Filed 10-2-72;8:48 am]

[DES 72-92]

PROPOSED WILDERNESS CLASSIFICATION FOR BADLANDS NATIONAL MONUMENT, SOUTH DAKOTA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Badlands National Monument, S. Dak., and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Badlands National Monument at the addresses given below.

The draft environmental statement considers the designation of 58,924 acres of Badlands National Monument as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102. Badlands National Monument, Post Office Box 72, Interior, SD 57750.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16782 Filed 10-2-72;8:48 am]

[DES 72-93]

PROPOSED WILDERNESS CLASSIFICATION FOR THEODORE ROOSEVELT NATIONAL MEMORIAL PARK, N. DAK.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Theodore Roosevelt National Memorial Park, N. Dak., and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Theodore Roosevelt National Memorial Park at the addresses given below.

The draft environmental statement considers the designation of 28,335 acres of Theodore Roosevelt National Memorial Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102. Theodore Roosevelt National Memorial Park, Medora, ND 58645.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16783 Filed 10-2-72;8:48 am]

[DES 72-94]

PROPOSED WILDERNESS CLASSIFICATION FOR YELLOWSTONE NATIONAL PARK, WYO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Yellowstone National Park, Wyo., and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Yellowstone National Park at the addresses given below.

The draft environmental statement considers the designation of 2,016,181 acres of Yellowstone National Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102. Yellowstone National Park, Yellowstone National Park, WY 82190.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16784 Filed 10-2-72;8:48 am]

[DES 72-95]

PROPOSED WILDERNESS CLASSIFICATION FOR CUMBERLAND GAP NATIONAL HISTORICAL PARK, KENTUCKY, TENNESSEE, AND VIRGINIA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Cumberland Gap National Historical Park, Kentucky, Tennessee, and Virginia, and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Southeast Region or to the Superintendent, Cumberland Gap National Historical Park at the addresses given below.

The draft environmental statement considers the designation of 6,375 acres in Cumberland Gap National Historical Park as wilderness.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 3401 Whipple Avenue, Atlanta, GA 30344. Cumberland Gap National Historical Park, Post Office Box 840, Middlesboro, KY 40965.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16785 Filed 10-2-72;8:48 am]

[DES 72-96]

PROPOSED WILDERNESS CLASSIFICATION FOR GRAND TETON NATIONAL PARK, WYO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Grand Teton National Park, Wyo., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Grand Teton National Park at the addresses given below.

The draft environmental statement considers the designation of 115,807 acres of Grand Teton National Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, NE 68102

Grand Teton National Park
Post Office Box 67
Moose, WY 83012

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16786 Filed 10-2-72;8:48 am]

[DES 72-97]

PROPOSED WILDERNESS CLASSIFICATION FOR GRAND TETON NATIONAL PARK, WYO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Grand Teton National Park, Wyo., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Grand Teton National Park at the addresses given below.

The draft environmental statement considers the designation of 115,807 acres of Grand Teton National Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, NE 68102

Grand Teton National Park
Post Office Box 67
Moose, WY 83012

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16787 Filed 10-2-72;8:49 am]

[DES 72-98]

PROPOSED WILDERNESS CLASSIFICATION FOR GREAT SAND DUNES NATIONAL MONUMENT, COLO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Great Sand Dunes National Monument, Colo., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Great Sand Dunes National Monument at the addresses given below.

The draft environmental statement considers the designation of 29,255 acres of Great Sand Dunes National Monument as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, NE 68102

Great Sand Dunes National Monument
Post Office Box 60
Alamosa, CO 81101

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16788 Filed 10-2-72;8:49 am]

[DES 72-99]

PROPOSED WILDERNESS CLASSIFICATION FOR CARLSBAD CAVERNS NATIONAL PARK, N. MEX.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Carlsbad Caverns National Park, N. Mex., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Southwest Region or to the Superintendent, Carlsbad Caverns National Park at the addresses given below.

The draft environmental statement considers the designation of 29,890 acres of Carlsbad Caverns National Park as wilderness.

Copies are available from or for inspection at the following locations:

Southwest Regional Office
National Park Service
Old Santa Fe Trail
Post Office Box 728
Santa Fe, NM 87501

Carlsbad Caverns National Park
Post Office Box 1598
Carlsbad, NM 88220

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16789 Filed 10-2-72;8:49 am]

[DES 72-100]

PROPOSED WILDERNESS CLASSIFICATION FOR GUADALUPE MOUNTAINS NATIONAL PARK, TEX.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Guadalupe Mountains National Park, Tex., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Southwest Region or to the Superintendent, Carlsbad Caverns National Park (who administers Guadalupe Mountains National Park) at the addresses given below.

The draft environmental statement considers the designation of 46,850 acres of Guadalupe Mountains National Park as wilderness.

Copies are available from or for inspection at the following locations:

Southwest Regional Office
National Park Service
Old Santa Fe Trail
Post Office Box 728
Santa Fe, NM 87501

Carlsbad Caverns National Park
Post Office Box 1598
Carlsbad, NM 88220

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16790 Filed 10-2-72;8:49 am]

[DES 72-101]

PROPOSED WILDERNESS CLASSIFICATION FOR YOSEMITE NATIONAL PARK, CALIF.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Yosemite National Park, Calif., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Western Region or to the Superintendent, Yosemite National Park at the addresses given below.

The draft environmental statement considers the designation of 646,700 acres of Yosemite National Park as wilderness.

Copies are available from or for inspection at the following locations:

Western Regional Office
National Park Service
450 Golden Gate Avenue, Box 36063
San Francisco, CA 94102

Yosemite National Park
Post Office Box 577
Yosemite National Park, CA 95389

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16791 Filed 10-2-72;8:49 am]

[INT FES 72-35]

PROPOSED CENTRAL ARIZONA PROJECT, ARIZONA

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the authorized central Arizona project, Arizona-New Mexico.

The environmental statement concerns a proposed water supply for the purpose of furnishing municipal, industrial, and irrigation water to the water-deficient areas of Arizona and western New Mexico.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, DC 20240. Telephone (202) 343-9247.

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, DC 20240. Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E & R Center, Denver Federal Center, Denver, CO 80225. Telephone (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005. Telephone (702) 293-8560.

Arizona Projects Office, Bureau of Reclamation, 135 North Second Avenue, Phoenix, AZ 85003. Telephone (602) 261-3106.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: September 26, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16803 Filed 10-2-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Forest Service

BERGLAND HILL SKI COMPLEX DEVELOPMENT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has perpared a draft environmental statement for the Bergland Hill Ski Complex Development, USDA-FS-DES(Adm) 73-18.

The environmental statement concerns a request for a special use permit by a private developer for the development of a ski complex at the Bergland Hill in Michigan.

This draft environmental statement was filed with CEQ on September 14, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th St. & Independence Ave., SW., Washington, DC 20250.
USDA, Forest Service, Eastern Region, 633 W. Wisconsin Avenue, Milwaukee, WI 53203.
Ottawa National Forest, 104 S. Lowell Street, Ironwood, MI 49938.

A limited number of single copies are available upon request to Joseph H. Harn, Forest Supervisor, Ottawa National Forest, Post Office Box 468, Ironwood, MI 49938.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. Joseph H. Harn, Forest Supervisor, Ottawa National Forest, Post Office Box 468, Ironwood, MI 49938. Comments must be received by October 27, 1972 in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

SEPTEMBER 27, 1972.

[FR Doc.72-16851 Filed 10-2-72;8:50 am]

MOUNT HOOD MEADOWS SKI AREA, CHAIRLIFT NO. 4

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Mount Hood Meadows Ski Area, Chairlift No. 4, USDA-FS-DES(Adm) 73-19.

The environmental statement concerns the proposed construction of one additional chairlift, network of intermediate ski runs, pavilion with lavatory facilities, parking area and access to complement the existing Mount Hood Meadows, Oregon, Ltd. ski area in Hood River County, Oreg. This draft environmental statement was filed with CEQ on September 14, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, OR 97208.
Mount Hood National Forest, Forest Supervisor's Office, 340 Northeast 122d Avenue, Portland, OR 97216.

A limited number of single copies are available upon request to T. A. Schlapfer, Regional Forester, 319 SW. Pine Street, Portland, OR 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering. Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. T. A. Schlapfer, Regional Forester, 319 SW. Pine Street, Portland, OR 97208. Comments must be received by November 2,

1972, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

SEPTEMBER 27, 1927.

[FR Doc.72-16852 Filed 10-2-72;8:50 am]

Rural Electrification Administration

BRAZOS ELECTRIC POWER COOPERATIVE, INC., WACO, TEX.

Notice of Availability of Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with release of loan funds to Brazos Electric Power Cooperative, Inc., of Waco, Tex. This loan, together with funds from other sources, will provide financing for the construction of a 200,000-kw. generating unit to be added at the existing Palo Pinto Generating Station.

Additional information may be secured on request, submitted to Mr. James N. Myers, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4322 or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 27th day of September 1972.

JAMES N. MYERS,
Acting Administrator,
Rural Electrification Administration.

[FR Doc.72-16772 Filed 10-2-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 2B2710]

M & T CHEMICALS, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2710) has been filed by M & T Chemicals, Inc., Rahway, NJ 07065, proposing that § 121.2602 *Octyltin stabilizers in vinyl chloride plastics* (21 CFR 121.2602) be amended to provide for extraction testing procedures for di(*n*-octyl) tin S, S'-bis(isooctylmercapto acetate) and di(*n*-octyl) tin maleate polymer stabilizers from vinyl chloride plastics, in order to determine compliance with the prescribed 1 p.p.m. limitation of each or any combination of the stabilizers in food from contact with such stabilized finished vinyl chloride plastic articles.

Dated: September 25, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.7-16749 Filed 10-2-72;8:46 am]

[FAP 3B2833]

PPG INDUSTRIES, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2833) has been filed by PPG Industries, Inc., Post Office Box 312, Delaware, OH 43015, proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) be amended in subparagraph (b)(3)(xx) by revising the limitations for the item "Butyl acrylate-styrene-methacrylic acid-hydroxypropyl methacrylic copolymers ------" to extend its use to include contact with food at temperatures above 150° F., and with food containing more than 8 percent alcohol; and to delete the requirements that the copolymers be limited to use in coatings that are applied by electrodeposition.

Dated: September 22, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-16750 Filed 10-2-72;8:46 am]

National Institutes of Health

BUREAU OF HEALTH MANPOWER EDUCATION

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of meeting of the following committee and the executive secretary from whom summaries of meetings may be obtained.

Committee, date, time, and location of meeting
Preventive Medicine and Dentistry Review Committee, William J. Holland, Executive Secretary, 10/16-18/72, 9 a.m., building 31, Conference Room 7.

This meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination in order to review, discuss, and evaluate and/or rank grant applications.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

SEPTEMBER 26, 1972.

[FR Doc.72-16809 Filed 10-2-72;8:50 am]

NATIONAL HEART AND LUNG INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Blood Resource Program Advisory Committee, October 2 and 3, 1972, National Institutes of Health, Building 31, Conference Room 10. The committee will discuss progress in certain scientific areas related to the Blood Resource Program and consider the advisability and relative priority of new program areas. The meeting will be open to the public from 9:00 a.m. to 5 p.m., October 2 and from 9 a.m. to 12 noon on October 3. The meeting will be closed to the public from 1:30 p.m. to 5 p.m. on October 3, in order to review, discuss and evaluate and/or rank contract proposals in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of committee members and/or summary of the meeting may be obtained: Dr. James M. Stengle, NIH Building 31, Room 4A03.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

SEPTEMBER 26, 1972.

[FR Doc.72-16808 Filed 10-2-72;8:50 am]

Office of Education

LIBRARY SERVICES AND CONSTRUCTION ACT

Promulgation of Federal Shares

Pursuant to section 7(b)(2) and subject to the limitations of section 7(b)(1) of the Library Services and Construction Act, 70 Stat. 293, as amended and it having been found that the three most recent consecutive years for which satisfactory data are available from the Department of Commerce as to per capita income, are the years 1969, 1970, and 1971, the Federal shares for the purposes of titles I and II of such Act for the several States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands are hereby promulgated as indicated below to be effective for the fiscal years ending June 30, 1974, and June 30, 1975.

State	Federal share (percent)	State	Federal share (percent)
Alabama	63.43	Iowa	52.70
Alaska	42.00	Kansas	50.20
Arizona	54.01	Kentucky	60.64
Arkansas	63.72	Louisiana	61.13
California	43.63	Maine	59.19
Colorado	51.25	Maryland	45.74
Connecticut	38.89	Massachusetts	45.05
Delaware	43.92	Michigan	46.43
District of Columbia	33.00	Minnesota	51.34
Florida	53.42	Mississippi	66.00
Georgia	57.16	Missouri	52.82
Hawaii	43.23	Montana	56.59
Idaho	58.84	Nebraska	51.61
Illinois	42.61	Nevada	42.19
Indiana	51.13		

State	Federal share (percent)	State	Federal share (percent)
New Hampshire	54.08	Tennessee	60.76
New Jersey	42.03	Texas	54.98
New Mexico	60.57	Utah	59.14
New York	39.80	Vermont	56.14
North Carolina	59.18	Virginia	53.80
North Dakota	59.26	Washington	48.97
Ohio	49.22	West Virginia	61.65
Oklahoma	57.88	Wisconsin	52.87
Oregon	52.51	Wyoming	53.45
Pennsylvania	50.08	American Samoa	66.00
Rhode Island	50.20	Trust Territory	100.00
South Carolina	62.73	Guam	66.00
South Dakota	59.35	Puerto Rico	66.00
		Virgin Islands	66.00

Dated: September 20, 1972.

S. P. MARLAND, Jr.,
U.S. Commissioner of Education.

[FR Doc.72-16773 Filed 10-2-72;8:48 am]

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15963, October 30, 1968), as amended is hereby amended with regard to section 3-30, *Delegations of Authority*, as follows:

After subparagraph numbered (18) of the paragraph entitled *Specific delegations*, add one new subparagraph reading:

(19) Pursuant to Public Law 91-515, Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970, signed by the President on October 30, 1970, the authority to perform the functions under title IV, Authority for Group Practice.

Dated: September 26, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-16774 Filed 10-2-72;8:47 am]

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 6 (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (35 F.R. 3685-92 dated February 25, 1970, as amended) is amended to reflect the transfer of the Bureau of Radiological Health to the Food and Drug Administration.

Section 6A is amended as follows:

SEC. 6-A *Mission.* The mission of the Food and Drug Administration (FDA) is to protect the public health of the Nation as it may be impaired by foods, drugs, biological products, cosmetics, medical devices, ionizing, and nonionizing radiation-emitting products and substances, hazardous household substances, poisons, pesticides, food additives, flammable fabrics, and various other types of consumer products. FDA's regulatory functions are geared to insure that: Foods are safe, pure, and wholesome; drugs and biological products are safe and effective; cosmetics are harmless; medical devices are safe and effective; all of the above are honestly and informatively packaged; exposure to potentially injurious radiation is minimized; dangerous household products carry adequate warnings for safe use and are properly labeled; and that hazards incident to the use of various types of consumer products are reduced.

Approved: September 26, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-16775 Filed 10-2-72;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-72-117]

HARBOR VIEW ET AL.

Notice of Hearing

In the matter of Harbor View, et al., Administrative Division File No. Z-22.

Notice is hereby given that:

1. River-Bend Associates, its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing dated August 10, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's statement of record for Harbor View and the failure of the Developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer postmarked August 28, 1972, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 14 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before David Knight in Room 7233, Department of HUD Building, 451 Seventh Street SW., Washington, DC, on November 2, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 16, 1972.

5. The Respondent is *hereby notified,* That failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

JOHN R. MCDOWELL,
Deputy Interstate Land Sales Administrator.

[FR Doc.72-16832 Filed 10-2-72;8:50 am]

[Docket No. N-72-118]

RIVER BEND ET AL.

Notice of Hearing

In the matter of River Bend, et al. Administrative Division File No. Z-33.

Notice is hereby given that:

1. Steiger-Rathke Development Co., Inc., its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing dated August 10, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's statement of record for River Bend and the failure of the Developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer postmarked August 28, 1972, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before David Knight in room 7233, Department of

HUD Building, 451 Seventh Street SW., Washington, DC, on November 2, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 26, 1972.

5. The Respondent is hereby notified, that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

JOHN R. MCDOWELL,
Deputy Interstate Land Sales Administrator.

[FR Doc.72-16833 Filed 10-2-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket 71-1; Notice 4]

GLAZING MATERIALS

Notice of Date for Response to Petitions for Reconsideration

The purpose of this notice is to announce a date by which a response will be issued to the petitions for reconsideration of the amendment to Motor Vehicle Safety Standard No. 205, published June 21, 1972 (Docket No. 71-1, Notice 3; 37 F.R. 12237).

The NHTSA was unable to complete action by September 19, 1972, the date by which action would originally have been taken under the agency's policy on petitions for reconsideration. Action on the above petitions is planned for issuance not later than November 1, 1972.

(Secs. 103, 114, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1403, 1407; delegation of authority, 49 CFR 1.51 and 49 CFR 501.8)

Issued on September 27, 1972.

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

[FR Doc.72-16796 Filed 10-2-72;8:53 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-369, 50-370]

DUKE POWER CO.

Order Reconvening Evidentiary Hearing

In the matter of Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2).

The Atomic Safety and Licensing Board has inquired of the parties concerning their readiness to proceed with the further presentation of evidence, and the earliest and most convenient day for reconvening the evidentiary session of the subject proceeding. All attorneys have agreed on the date of October 10, 1972.

Wherefor it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, and take notice that the evidentiary session of this hearing shall reconvene at 10:30 a.m., local time, on Tuesday, October 10, 1972, in Superior Courtroom No. 3, Mecklenburg County Courthouse, 700 East Trade Street, Charlotte, NC 28201.

The parties have estimated that receipt of evidence on the health and safety aspects of this proceeding will be completed by the end of the week. The Board plans to recess the hearing at that time until November 1, 1972, when the hearing will reconvene for the presentation of evidence relating to the environmental aspects of this proceeding.

The Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 29th day of September 1972.

ROBERT M. LAZO,
Chairman.

[FR Doc.72-16939 Filed 10-2-72;8:55 am]

[Dockets Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO., ET AL.

Notice of Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of facility operating licenses to the Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co. (the Applicants) which would authorize the Applicants to possess, use, and operate Peach Bottom Atomic Power Station Units 2 and 3, two boiling water nuclear reactors (the Facilities), located on the Applicant's site in Peach Bottom, York County, Pa. Each unit would operate at steady-state power levels not to exceed 3,294 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto. The licenses would be issued upon the receipt of a report on the Applicants' application for facility operating licenses by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the Facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the Facilities was authorized by Construction Permits Nos. CPPR-37 and CPPR-38, issued by the Commission on January 31, 1968. Construction of Unit 2 is anticipated to be completed by March 15, 1973, and Unit 3 by March 15, 1974.

Prior to issuance of any operating licenses, the Commission will inspect each Facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the above-noted construction permit. In addition, the licenses will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicants will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The Peach Bottom Atomic Power Station, Unit 3 is subject to the provision in 10 CFR Part 50, Appendix D, Section C.2 for notice of opportunity for filing petitions for leave to intervene and requests for hearing on environmental considerations related to continuation, modification, termination, or conditioning of the construction permit. The Peach Bottom Atomic Power Station, Unit 2 is subject to the provision in 10 CFR Part 50, Appendix D, C.3.

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: (1) With respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit for Unit 3 should be appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the Facility operating licenses for Units 2 and 3. 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.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the

proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the Facility operating licenses dated August 31, 1970, as amended, and the applicants' Environmental Report dated June 4, 1971, as supplemented, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Martin Memorial Library, 159 East Market Street, York, PA 17401. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for Facility operating licenses; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed Facility operating licenses; and (6) the technical specifications, which will be attached to the proposed Facility operating licenses.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 27th day of September 1972.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-16776 Filed 10-2-72;8:47 am]

[Docket No. 50-333]

POWER AUTHORITY OF STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Notice of Consideration of Issuance of Facility Operating License and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Power Authority of the State of New York and Niagara Mohawk Power Corp. (the Applicants) which would authorize the Applicants to possess, use, and operate James A FitzPatrick Nuclear Power Plant, Unit 1, a boiling water nuclear reactor (the facility), located at the Power Authority of the State of New York's site on the southeast shore of Lake Ontario in Oswego County, N.Y., at steady-state power levels not to exceed 2,436 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the Applicants' application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation of the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-71, issued by the Commission on May 20, 1970.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-71. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operatng licenses were issued in the period January 1, 1970-September 9, 1971. Notice is hereby given, pursuant to the Act and the regulations in 10 CFR Part 2, "Rules of Practice," and Appendix D to 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that a hearing will be held in the captioned proceeding by an Atomic Safety and Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's Rules of Practice, the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as to its membership will be published in the FEDERAL REGISTER. Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing with respect to issuance of the facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the facility operating license. 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.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the result of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

If a request for a hearing or petition for leave to intervene with respect to the issuance of a facility operating license is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

Any person who does not wish to, or is not qualified to become a party to this proceeding concerning continuation, modification, termination, or conditioning the construction permit may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matters under consideration, see the application for the facility operating license dated June 4, 1971, as amended, and the applicants' environmental report dated May 22, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Oswego City Library, 120 East Second Street, Oswego, NY 13126. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the proposed technical specifications, which will be attached to the proposed facility operating license. Copies of items (3), (4), and (5) may be obtained by request to Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

With respect to this proceeding concerning continuation, modification, termination or conditioning the construction permit, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the appeal board pursuant to 10 CFR 2.785 and will make the delegation pursuant to subparagraph (a)(1) of that section. The appeal board will be composed of a chairman, and two other members to be designated by the Commission. Notice as to the membership of the appeal board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 21st day of September 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-16475 Filed 10-2-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22628; Order 72-9-89]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Fare Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of September 1972.

By order 71-4-8, dated April 1, 1971, the Board deferred action and requested comments from interested persons on IATA Resolution 810s, the text of which is as follows:

Resolved that where an Agent issues two or more tickets and/or other transportation documents for parts of the same through journey to the same passenger where the effect of such multiple issuance is to undercut the applicable through fare, such Agent shall be deemed solely responsible for such issuance and be subject to compliance action pursuant to section H of Resolutions 810a and 810aa.

The Board noted that the subject IATA resolution raises substantial issues which require further review prior to final action thereon. Such issues include but are not limited to (a) the effect of the resolution on agents, and (b) the status of IATA through fares. In regard to the latter, the Board questioned whether or not it is unduly restrictive to create sanctions for the multiple issuance of tickets for a through journey involving lawful fares for each component segment.

The Board invited comments from interested persons not only on the questions discussed above but any other ramifications and potential effects of the

resolution with which the Board should be concerned. Comments have been received from member carriers of IATA,[1] various non-IATA carriers,[2] the American Society of Travel Agents, Inc. (ASTA), and an individual. The IATA carriers, in urging approval of the resolutions, state that sector fares for use on a point-to-point basis and through fares and construction rules are published in airline tariffs as a part of the overall fare structures; that limitations on the sale of fares are sometimes necessitated by economic reasons to balance the worldwide IATA fare structure into an effective marketing tool; that the precedence of one fare over another is an established tariff principle; and that the use of two tickets to undercut an otherwise applicable fare is a violation of the tariffs published by IATA members.

The non-IATA carriers object to the resolution on the grounds that it constitutes an unfair method of competition in violation of section 411 of the Federal Aviation Act of 1958 (the Act) and is adverse to the public interest. These carriers contend that the resolution would prohibit an agent from selling the services of a non-IATA carrier for a portion of a through journey because use of the non-IATA carrier's lower fares would undercut the through IATA fare. They refer to the Board's decision in the TAN case[3] in which the Board conditioned IATA resolutions so as to make them inapplicable to any U.S. IATA carrier with respect to foreign air transportation involving a domestic segment of that carrier.

ASTA likewise cites the Board's action in the TAN case and states that this is sufficient justification for the Board to deny the antitrust immunity which would flow from approval of the resolution. ASTA takes the position that a U.S. citizen should be entitled to purchase in the United States, from either a carrier or agent, at the applicable tariff, any transportation between two points either within or outside the United States for which the passenger is eligible, unless there is written into the tariff an explicit prohibition on the purchase of such transportation for reasons which can be justified and which have received approval of the government having jurisdiction over the tariff. ASTA cites the inherent discrimination against U.S. travel agents in precluding the sale of a ticket in the United States, while the same ticket can be sold to the same passenger in Europe by a European travel agent. ASTA alleges that it is improper for the carriers to use a back-door approach to proscribe the use of otherwise applicable tariffs.

Mr. Donald Lawrence Pevsner, an attorney in Miami, Fla., takes the position that fares designated as noncombinable which possess no restrictions as to the nationality of the purchaser should not be withheld from sale within the United States by U.S. travel agents or IATA carriers, and that for the carriers to deliberately conceal the existence of these special fares constitutes a deceptive practice within the meaning of section 411 of the Act. He urges that if the Board does not disapprove the restriction on sales within the United States, it should compel the carriers, and through them the international Quick Reference Airline Guide, to publish the fact that reduced fares for on-going travel on intra-European segments can be purchased in Europe.

Upon consideration of the comments and information submitted in response to Order 71-4-8, the Board will approve the resolution but will, however, impose appropriate conditions as described below, which we find are required in the public interest.

The Board interprets the resolution (and will so condition it) as applying solely to the issuance of multiple tickets on IATA carriers undercutting an applicable IATA through fare between the same two points to which these particular carriers are parties. Such an interpretation is consistent with the comments of certain member carriers of IATA and with the proper role of IATA carriers vis-a-vis their agents.

Under this interpretation, the resolution will have no application to the sale of transportation on non-IATA carriers, either directly or in conjunction with IATA fares, regardless of whether single or multiple ticketing is involved, so long as the sale is not inconsistent with the applicable tariffs of the carriers involved. Such construction will meet the public interest contentions presented by the non-IATA carriers and ASTA, who urge that the resolution is inconsistent with the decision in the TAN case.

In TAN, the Board found that certain IATA fare resolutions were intended to and did in fact restrict the freedom of U.S.-flag IATA carriers to enter into interline agreements with non-IATA carriers providing for through transportation at less than the agreed IATA fare, and that such resolutions were contrary to the public interest insofar as they restricted the freedom of U.S.-flag IATA carriers to enter into such agreements for through international transportation of passengers over a route involving the domestic segment of a U.S. IATA member. The Board therefore conditioned the IATA resolutions to provide that they should not be binding upon a U.S. air carrier member with respect to foreign air transportation involving only a U.S. domestic segment of that carrier.

Insofar as the resolution here at issue might be interpreted as precluding the sale of two or more tickets for a service in air transportation at rates or fares set forth in lawful tariffs on file with the Board (or not required to be so filed, see infra), merely because the sum of such fares or rates is less than the specified or constructed through IATA fare, it would be inconsistent with the principles enunciated in the TAN case.[4]

The Board therefore concludes that it would be unduly restrictive for IATA resolutions to preclude the sale of any number of tickets for air transportation where the fares to be combined are set forth in lawful tariffs on file with the Board (or not required to be so filed) where the sale would not be in contravention of governing local or joint fares over the particular route from point of origin to point of destination for the specified service by the same carriers.[5] Accordingly, we will attach appropriate conditions to our order of approval to prevent any such unwarranted restriction with respect to situations involving multiple tickets for transportation solely upon IATA carriers.[6]

As indicated, the Board concludes that as interpreted and conditioned the resolution warrants approval under the criteria of the Act. In this regard, the carriage of persons by air between a point in the United States and a point outside thereof constitutes air transportation within the meaning of the Federal Aviation Act. Such carriage constitutes air transportation whether or not stops are made at intermediate points, whether the

---

[1] One document urging approval was filed for, or supported by American Airlines, Pan American World Airways, Trans World Airlines, Braniff International, National Airlines, and United Air Lines.

[2] Empresa Guatemalteca de Aviacion, Lineas Aereas de Nicaragua, S.A. (LANICA), Transportes Aereos Nacionales, S.A. (TAN) and Loftleidir.

[3] IATA Regional Traffic Conference, Investigation, 24 CAB 463 (1957).

[4] For example, the combination of a U.S. domestic fare from an interior point to a gateway with the IATA fare from the gateway to a foreign point may under some circumstances undercut the through IATA fare. Under the Board's interpretation, the resolution would not apply if any part of the transportation was performed by a non-IATA carrier. The proper use of such U.S. domestic fare requires, of course, that all tariff conditions be complied with. As regards IATA carriers, we note that IATA Resolution 014a already includes the condition that "Nothing shall be deemed to preclude the combination of specified or constructed IATA fares and special fares within the United States subject to all conditions of such special fares being complied with."

[5] It is not the Board's intention to abrogate the tariff construction regulations providing that a local or joint fare takes precedence over the aggregate of intermediates for the same specified service by the same carriers, 14 CFR 221.62. The Board notes, however, that a through fare which is higher than the aggregate of intermediate fares is ordinarily considered to be unreasonable per se, and would not ordinarily be permitted to go into effect.

[6] While the resolution by its terms is stated to be applicable to the issuance by an agent of two or more tickets which undercut an applicable IATA through fare, the public interest problem stemming from an IATA restriction on the issuance of tickets is equally applicable to situations where lawful tariff fares might be combined in a single ticket or where the ticket was issued by an IATA carrier rather than an IATA agent. Accordingly, our condition herein will attach to IATA Resolution 001 (Permanent Effectiveness Resolution) to prevent an unwarranted IATA restriction upon sales by carriers as well as agents and it will apply to the combination of tariff fares on one or more tickets, and to transportation involving non-IATA as well as IATA carriers.

transportation involves single or multiple carriers and whether or not a single service or fare class is used, so long as the journey is a single through trip. Under section 403 of the Act, air carriers and foreign air carriers are required to set forth in their tariffs filed with the Board all rates, fares, and charges for their air transportation services. Section 403 prohibits air carriers, foreign air carriers, and their agents from selling air transportation except in accordance with such tariffs.[7]

Application of these principles to the instant resolution indicates that this qualified approval is warranted.

Some of the comments filed in respect to this matter advert to certain fares applicable only between foreign points and designated as "noncombinable" thus precluding their use in combination with fares to or from the United States.[8] The instant resolution would effectively preclude travel agents from using such fares in combination with other IATA fares when the through IATA fare would be undercut. An example of such a fare is an intra-European round-trip excursion fare from London to Beirut and return which provides a discount from normal fares and is designated as "noncombinable" in the IATA resolution creating the fare. It is contended that it is unfair to the U.S. public and to U.S. travel agents to so limit the availability of these fares. However, we see nothing to bar the sale of such fares in the United States, per se, so long as they are not applicable in air transportation within the meaning of the Act. Conversely, such fares may not be sold by an air carrier, a foreign air carrier, or the agent of either for use in air transportation whether or not the through IATA fare is undercut.

Thus, there is no bar to a sale in the United States of the London-Beirut excursion fare, where the excursion constitutes a single trip or journey, although the Act does not contemplate the filing of such fare with the Board. However, the prohibition in the Act against selling air transportation except in accordance with applicable tariffs would preclude the sale of such excursion fare on a U.S. or foreign air carrier in combination with a New York-London fare for through air transportation to Beirut, as a segment of a through New York-Beirut trip.

The question remains whether the Board should continue to disclaim jurisdiction over such noncombinable fare resolutions, in the light of the policy questions raised. We shall not, however, attempt to decide in this order whether our long-standing policy in this regard should be maintained or changed. While some of the comments may be construed to go to this question, the Board's order did not raise the matter as such and the parties have not had adequate opportunity to consider and argue a question of this significance.

The Board, acting pursuant to sections 412 and 414 of the Act, does not find the following resolution, incorporated in the agreement indicated, is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition stated thereafter:

Agreement CAB	IATA No.	Title	Application
22068	810s	Multiple Ticket Issuance by Agent. Provided that said resolution shall be construed as applying solely to the sale of multiple tickets on IATA carriers at an aggregate fare which undercuts the applicable IATA through fare to which such carriers are parties.	1; 2; 3.

Accordingly, it is ordered, That:

1. Agreement CAB 22068, R–33, be and hereby is approved, subject to the condition stated in the finding paragraph above; and

2. IATA Resolution 001 (Permanent Effectiveness Resolution) is hereby conditioned as follows:

No IATA resolution shall be construed as preventing any agent or carrier from selling a ticket or any number of tickets for air transportation to any person who meets the travel requirements affixed to the air fares subject to the stipulations contained in the lawful tariffs of the various carriers involved in said transportation, as filed with the Civil Aeronautics Board (where such filing is required by law).

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72–16842 Filed 10–2–72;8:54 am]

[Docket No. 22973]

NEW ENGLAND SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding will resume on October 10, 1972, at 10 a.m. (e.d.t.), in Room 1031, North Universal Building, 1875 Connecticut Avenue NW., Washington, DC, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on May 5, 1972, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 27, 1972.

[SEAL] GREER M. MURPHY,
Administrative Law Judge.

[FR Doc.72–16843 Filed 10–2–72;8:55 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE ARAB REPUBLIC OF EGYPT (FORMERLY THE UNITED ARAB REPUBLIC)

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1972.

On October 5, 1970, the Government of the United States, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Arab Republic of Egypt (formerly the United Arab Republic), concerning exports of cotton textiles and cotton textile products from the Arab Republic of Egypt to the United States over a 3-year period beginning on October 1, 1970, and extending through September 30, 1973. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories, and within the aggregate limit specific limits on Categories 1/2, 3/4, 9/26, and 16/21/22/27, for the third agreement year beginning on October 1, 1972.

Accordingly, there is published below a letter of September 26, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the amounts of cotton textiles in the above categories, produced or manufactured in the Arab Republic of Egypt, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the

[7] It should be noted that section 403 is applicable only to air carriers and foreign air carriers as defined in the Act. It does not apply to carriers which do not serve any point in the United States. There is no prohibition against such carriers selling their services in the United States, directly or through their agents, without a tariff on file with the Board, nor is there any explicit prohibition against the use of such fares by a passenger who is also utilizing a fare applicable to foreign air transportation. The Board also recognizes that the tariff of a foreign air carrier may not contain all of the local homeland fares and rates of such carrier, yet a U.S. originating passenger whose destination is a point served only by such a carrier's internal domestic services needs to be able to purchase a ticket through to that destination, using the foreign carrier's local domestic fare. The Board does not construe that either section 403 or the provisions of the resolution 810s would preclude such a sale.

[8] The Board has for many years disclaimed jurisdiction over resolutions establishing such fares because the resulting fares do not affect air transportation within the meaning of sections 403 and 412. Such fares have been treated as not properly includable in tariffs filed with the Board.

bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 26, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 5, 1970, between the Governments of the United States and the Arab Republic of Egypt, effected by an exchange of notes between the Government of the United States and the Government of India, representing the interests of the Arab Republic of Egypt, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the twelve-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles in Categories 1/2, 3/4, 9/26, and 16/21/22/27, produced or manufactured in the Arab Republic of Egypt, in excess of the following levels of restraint:

Category	*Twelve-month level of restraint*
1/2	3,528,000 pounds (of which not more than 3,307,500 pounds may be in Category 1, and not more than 441,000 pounds may be in Category 2).
3/4	661,500 pounds (of which not more than 66,150 pounds may be in Category 4).
9/26	33,075,000 square yards (of which not more than 27,562,500 square yards may be in Category 9, and not more than 11,025,000 square yards may be in Category 26).
16/21/22/27	9,922,500 square yards (of which not more than 3,583,125 square yards may be in Category 16, not more than 3,858,750 square yards may be in Category 21, not more than 3,858,750 square yards may be in Category 22, and not more than 2,149,875 square yards may be in Category 27).

In carrying out this directive, entries of cotton textiles in the above categories, produced or manufactured in the Arab Republic of Egypt, which have been exported to the United States from the Arab Republic of Egypt prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the above levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 5, 1970, between the Governments of the United States and the Arab Republic of Egypt which provide, in part, for the limited carryover of shortfalls in certain categories to the next agreement year and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Arab Republic of Egypt with respect to imports of cotton textiles and cotton textile products from the Arab Republic of Egypt 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 rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16766 Filed 10-2-72;8:47 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE FEDERATIVE REPUBLIC OF BRAZIL

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1972.

On October 23, 1970, the U.S. Government, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of the Federative Republic of Brazil concerning exports of cotton textiles and cotton textile products from the Federative Republic of Brazil to the United States over a 5-year period beginning on October 1, 1970, and extending through September 30, 1975. On May 9, 1972, the bilateral agreement was amended, inter alia, in the following respects: (1) The term of the agreement was extended through September 30, 1977; and (2) the specific ceiling on Category 24 was deleted.

Among the provisions of the agreement, as amended, are those establishing an aggregate limit for the 64 categories, group limits, and within the group limits specific limits on Categories 1–4, 9, 18/19, and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64 for the third agreement year beginning October 1, 1972.

Accordingly, there is published below a letter of September 26, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 1–4, 9, 18/19, and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64, produced or manufactured in the Federative Republic of Brazil, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 26, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–4, 9, 18/19, and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64 produced or manufactured in the Federative Republic of Brazil, in excess of the following levels of restraint:

Category	*Twelve-month levels of restraint*
1–4 ---------- pounds	7,190,217
9 square yards ----------	13,230,000
18/19 and part of 26 (printcloth) [1] ---------- do	11,576,250
22/23 ---------- do	4,961,250

[1] In Category 26, the T.S.U.S.A. numbers for printcloth are:

320.--34	322.--34	327.--34
321.--34	326.--34	328.--34

Part of 26/27 (duck) [2] ---- do	2,756,250
Part of 26/27 (other than printcloth and duck) [1, 2] ---- do	7,166,250
Part of 30/31 [3] ---------- pieces	6,336,206
50 ---------- dozen	43,364
51 ---------- do	37,170
55 ---------- do	15,132
Part of 64 (only T.S.U.S.A. Nos.: 366.6500 and 386.2500 pounds	239,674

[2] The T.S.U.S.A. Nos. for duck are:

320.--01	through	04, 06, 08	
321.--01	through	04, 06, 08	
322.--01	through	04, 06, 08	
326.--01	through	04, 06, 08	
327.--01	through	04, 06, 08	
328.--01	through	04, 06, 08	

[3] All of Categories 30 and 31 except T.S.U.S.A. No. 366.2740.

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Federative Republic of Brazil, which have been exported to the United States from the Federative Republic of Brazil prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the above levels of restraint for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that within the aggregate limit and group limits, the limitations on specific categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from the Federative Republic of Brazil 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 rule-making 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.72-16767 Filed 10-2-72;8:47 am]

COTTON, WOOL, MAN-MADE FIBER TEXTILES AND TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 27, 1972.

Under the bilateral Cotton Textile Agreement and the bilateral Wool and Man-Made Fiber Textile Agreement, both of December 30, 1971, between the Governments of the United States and the Republic of China, the Republic of China has undertaken to limit its exports of cotton, wool, and man-made fiber textiles and textile products to the United States to certain designated levels. Pursuant to these agreements, the Governments of the United States and the Republic of China have established an administrative mechanism intended to preclude circumvention of the licensing system for exports to the United States of cotton, wool, or man-made fiber textiles and textile products produced or manufactured in the Republic of China. The purpose of this notice is to announce the implementation of this administrative mechanism.

Effective on the publication of the letter set forth below, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton, wool, or man-made fiber textiles and textile products, produced or manufactured in the Republic of China, and exported therefrom to the United States on and after that date, for which the Republic of China has not issued an appropriate visa, fully described below, will be prohibited. Application of the visa system to wool and man-made fiber textile products exported from the Republic of China prior to the date of publication is to become effective sixty (60) days following that date. The 60-day period, however, will not apply to cotton textiles and cotton textile products exported from the Republic of China prior to the effective date of the present system because these shipments have been subject to identical visa requirements over the past 4 years. (See 33 F.R. 6944 and 37 F.R. 16430.)

The visa will be a stamp on the back side of the original copy of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice when used); will indicate the actual quantity of goods involved in the appropriate unit or units of measure in the correct category or categories corresponding to the merchandise; and the signature of the official issuing the visa. The official authorized to issue such visas is P. Y. Liu. A facsimile of the stamp, along with Mr. Liu's signature, are published as enclosures to the letter set forth below.

Interested parties are advised to take all necessary steps to assure that cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in the Republic of China, which are to be entered into the United States for consumption or withdrawn from warehouse for consumption will meet the stated visa requirements.

There is published below a letter of September 27, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs implementing the administrative mechanism.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20226.

SEPTEMBER 27, 1972.

DEAR MR. COMMISSIONER: On May 3, 1968, the Chairman, President's Cabinet Textile Advisory Committee, directed you to prohibit, effective June 10, 1968, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in the Republic of China which did not meet certain visa requirements. The directive of May 3, 1968 was amended by the directive of August 9, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, which authorized you to recognize as part of the visa requirement for shipments of cotton textiles and cotton textile products from the Republic of China, effective upon publication of that letter in the FEDERAL REGISTER, either the seal enclosed in the earlier letter of May 3, 1968, or the seal enclosed in the letter of August 9, 1972. The present directive cancels the directive of May 3, 1968 as amended by that of August 9, 1972.

Under the provisions of the bilateral Cotton Textile Agreement and the bilateral Wool and Man-Made Fiber Textile Agreement, both of December 30, 1971, between the Governments of the United States and the Republic of China, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on the date of publication of this letter in the FEDERAL REGISTER and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64 and wool textile products in Categories 101–126, 128, and 131–132 and man-made fiber textile products in Categories 200–243, produced or manufactured in the Republic of China, for which the Republic of China has not issued an appropriate visa, fully described below, provided, however, that wool textile products in Categories 101–126, 128, and 131–132 and man-made fiber textile products in Categories 200–243, produced or manufactured in the Republic of China and exported therefrom prior to the date of publication shall not be denied entry until 60 days after the date of publication.

The visa will be a stamp on the back side of the original copy of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice when such form is used); will indicate the actual quantity of cotton, wool, man-made fiber textiles and textile products involved in the appropriate unit or units of measure in the correct category or categories corresponding to the merchandise; and the authorized signature of the official issuing the visa. The facsimile of the stamp, along with the signature of the official authorized to issue visas, are enclosed.

You are further directed to allow entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in the Republic of China, and exported to the United States from the Republic of China, notwithstanding the designated shipment or shipments do not meet the aforementioned visa requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

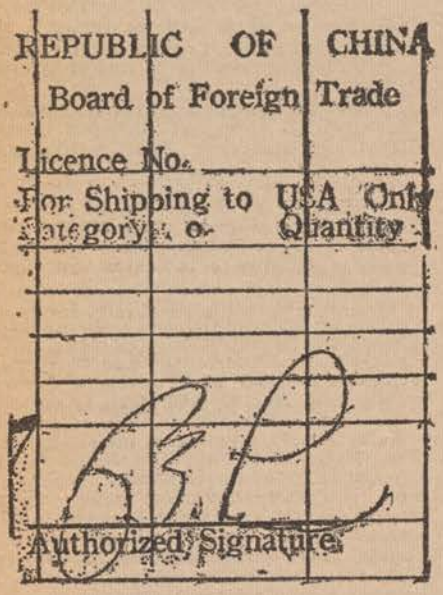
In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with

respect to imports of cotton, wool, and man-made fiber textiles and textile products from the Republic of China, 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 rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources



(P. Y. Liu)

[FR Doc.72-16768 Filed 10-2-27;8:47 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 28, 1972.

On December 30, 1971, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1972, concluded a new comprehensive bilateral agreement with the Government of the Republic of Korea concerning exports of cotton textiles and cotton textile products from Korea to the United States. Subsequently, the agreement was amended by limiting the product coverage of the specific export limitation for Category 31 to shop towels (also known as wiping cloths); and by deleting the specific export limitation for Category 63. Among the provisions of the agreement, as amended, are those establishing specific export limitations on Categories 7, 9/10, 18/19/26 (printcloth), 22/23, 26 (duck fabric), 27/26 (other than duck fabric and printcloth), 31 (shop towels), 34/35, 38, 39, 45, 46/47, 48, 49, 50, 51, 52, 53, 54, 55, 60, and parts of 64 (tablecloths, napkins, and zipper tapes only), for the third agreement year beginning October 1, 1972.

There is published below a letter of September 28, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Republic of Korea, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning on October 1, 1972, and extending through September 30, 1973, be limited to certain designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 28, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 7, 9/10, 18/19/26 (printcloth only), 22/23, 26 (duck fabric), 27/26 (other than duck fabric and printcloth), part of 31, 34/35, 38, 39, 45, 46/47, 48, 49, 50, 51, 52, 53, 54, 55, 60, and parts of 64 (tablecloths, napkins, and zipper tapes only), produced or manufactured in the Republic of Korea in excess of the following 12-month levels of restraint:

Category		Twelve-month level of restraint
7	square yards	761,383
9/10	do	4,606,362
18/19/26	(printcloth only) [1] do	2,930,834
22/23	do	2,017,665
26 (duck fabric) [2]	do	16,750,399
336.2740)	pieces	1,448,150
34/35	do	264,470
38	pounds	175,887
39	dozen pairs	168,607
45	dozen	45,684
46/47	square yards equivalent	1,698,205
48	dozen	14,503
49	do	38,069
50	do	63,959
51	do	86,798
52	do	45,684
53	do	14,503
54	do	68,525
55	do	14,503
60	do	39,594
64 (only T.S.U.S.A. No. 366.4500, 366.4600, and 366,4700)	pounds	695,904
64 (only T.S.U.S.A. Nos. 347.3340)	do	85,274
27/26 (other than duck fabric and printcloth) [3]	do	2,208,494

[1] In Category 26, the T.S.U.S.A. Nos. for printcloth are:

320...34 322...34 327...34
321...34 326...34 328...34

[2] The T.S.U.S.A. Nos. for duck fabric are:

320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

[3] In Category 26, all T.S.U.S.A. Nos. not included in footnotes 1 and 2.

31 (only T.S.U.S.A. No.

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories produced or manufactured in the Republic of Korea, which have been exported to the United States from the Republic of Korea prior to October 1, 1972, shall, to the extent of any unfilled balances be charged against the levels of restraint established for such goods for the 9-month period beginning January 1, 1972, and extending through September 30, 1972. In the event that the levels of restraint for the 9-month period ending September 30, 1972, have been exhausted by previous entries, such goods shall be subject to the levels of restraint set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea 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 rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16935 Filed 10-2-72;8:55 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PERU

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1972.

On November 23, 1971, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Peru concerning exports of cotton textiles and cotton textile products from Peru to the United States over a 5-year period beginning on October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories and within the aggregate limit specific limits on Categories 22, 56, 57, 58, and 60 for the second agreement year beginning October 1, 1972.

Accordingly, there is published below a letter of September 26, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 26, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of November 23, 1971, between the Governments of the United States and Peru, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 22, 56, 57, 58, and 60, produced or manufactured in Peru, in excess of the following levels of restraint:

Category		Twelve-month levels of restraint
22	square yards	1,837,500
56	dozen	51,359
57	do	42,000
58	do	94,500
60	do	15,156

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which have been exported to the United States from Peru prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 23, 1971, between the Governments of the United States and Peru which provide, in part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Peru and with respect to imports of cotton textiles and cotton textile products from Peru 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 rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16769 Filed 10-2-72;8:47 am]

FEDERAL MARITIME COMMISSION

[Docket No. 72-55]

K&S FORWARDERS

Independent Ocean Freight Forwarder Application; Order of Investigation and Hearing

By letter dated July 28, 1972, K&S Forwarders, 590 Lycaste Avenue, Detroit, MI 48214, was notified of the Federal Maritime Commission's intent to deny its application for an independent ocean freight forwarder license.

The reason for the intended denial is that the applicant engaged in freight forwarding without a license in apparent violation of section 44(a), Shipping Act, 1916.

K&S Forwarders has requested a hearing to show that denial of the application is unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the shipping Act, 1916 (46 U.S.C. 821 and 841(b)), that a proceeding is hereby instituted to determine whether, in view of its past activities, K&S Forwarders is fit, willing, and able properly to carry on the business of forwarding to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied.

It is further ordered, That this proceeding determine whether K&S Forwarders has violated section 44(a), Shipping Act, 1916.

It is further ordered, That K&S Forwarders be made respondent in this proceeding and that the matter be assigned for hearing before an Administrative Law Judge of this Commission's Office of Hearing Examiners on a date and place to be announced.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notices of hearing be served on the respondent.

It is further ordered, That any persons other than the respondent, who desires to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to respondent.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding including notices of time and place of hearing or prehearing conferences, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-16744 Filed 10-2-72;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01027	Flensburger Befrachtungskontor Uwe C. Hansen & Co.: Hasselburg.
01028	Flensburger Schiffsparten-Vereinigung A.G.: Sirius. Uranus.
01088	Schulte & Bruns: Elise Schulte.
01228	A/S Consenio: Stove Caldedonia.

Category		Twelve-month level of restraint
01552---	Dampskibs-Aktieselskabet Progress: Stolt Progress.	
01641---	The Bank Line Ltd.: Minchbank.	
01765---	Caribbean Steamship Co., S.A.: Montagu Bay. Exuma Sound.	
01982---	AB Svenska Ostasiatiska Kompaniet: Nagasaki.	
02179---	Globtik Tankers International Ltd.: Globtik Mercury.	
02202---	Humble Oil & Refining Co.: Esso 258.	
02249---	Fisser & V. Doornum: Cap Vincent.	
02256---	Sigurd Haavik A/S: Mardina Cooler.	
02355---	Van Nievelt, Goudriaan & Co.'s. Stoomvasrt Maatschappij N.V.: Phecda.	
02436---	Alexander Shipping Co., Ltd.: Tewkesbury. Shaftesbury.	
02867---	Kee Yuen Maritime (Panama) Corp., S.A.: Kee Lee.	
02948---	Raymond International Inc.: Century. Constitution. Monarch.	
02956---	Ashland Oil Inc.: Kevin.	
03214---	Salenrederierna Aktiebolag: Bolero.	
03284---	The Indo-China Steam Navigation Co., Ltd.: Eastern Trader.	
03420---	Dainichi Kaiun Kabushiki Kaisha: Nittyu Maru.	
03432---	Hinode Kisen K.K.: Tomiwaka Maru No. 8.	
03441---	Japan Line K.K.: Kochu Maru.	
03489---	Sanwa Shosen K.K.: Yamaasa Maru.	
03509---	Taiyo Shosen K.K.: Tokuyo Maru.	
03933---	Newdigate S.S. Co., Ltd.: World President.	
03975---	Ulysses Shipping Enterprises S.A.: Ulysses Castle.	
03976---	Antikleia Compania de Vapores S.A.: Ulysses Reefer.	
03978---	Arkeisios Compania de Vapores S.A.: Ulysses Island.	
04000---	J.D. Street & Co., Inc.: St. Louis Zephyr.	
04287---	Monsanto Co.: Chem-96.	
04398---	Hapag-Lloyd Aktiengesellschaft: Freidburg. Lechstein.	
04499---	Junko Gyogyo K.K.: Junkomaru No. 18.	
04564---	Yamashita-Shinnihon Kisen Kaisha: Yamatada Maru.	
04566---	Ken Hieng Navigation Co., Ltd.: Kensei Maru.	
04690---	Partenreederi M.V. Brakersand: Bradkersand. Nordenhamersand. Lockflethersand.	
05090---	Esso Petroleum Co., Ltd.: Esso Westminister.	
05292---	N.V. Scheepvaart & Handelmij Westerpark: Dorthea.	
05349---	Trans-Caribbean Lines Inc.: Deep Freeze.	
05505---	Marmanosa Compania Naviera S.A.: Pan.	
05862---	World Tide Shipping Corp.: Theomar.	
05993---	Kabushiki Kaisha Fukuyoshi Maru: Fukuyoshi Maru No. 35.	
05997---	Good Will Shipping Co., Ltd.: Good Will.	
06090---	Baltimore Gas & Electric Co.: G&E 0-11.	
06787---	Evergreen Marine (Singapore) Private Ltd.: Ever Lucky. Ever Nobility.	
06892---	Pyramid Container Transport: Pyramid Vega.	

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-16745 Filed 10-2-72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. AR64-1, etc.]

PHILLIPS PETROLEUM CO., ET AL.

Notice of Petition for Special Relief From Refund Obligations

SEPTEMBER 27, 1972.

Take notice that on September 5, 1972, Phillips Petroleum Co. (Petitioner), Barlesville, Okla. 74004, filed in Docket No. AR64-1, et al., a petition for special relief from refund obligations and requests that a Commission order entered in this proceeding include provisions which will authorize and allow Petitioner and any other producer which may be willing to make similar commitments, in lieu of refunding monies collected subject to refund for sales of natural gas from the Hugoton-Anadarko Area, to retain and utilize such refund amounts in increased exploration for and development of natural gas in this area. The details of Petitioner's proposals are more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that under the terms of the proposed Hugoton-Anadarko Area Rate Settlement as of December 31, 1969, it would be obligated to refund to interstate pipelines in the area approximately $28,700,000; interest calculated to December 31, 1969, approximates $8,800,000; and both amounts have increased since December 31, 1969, as the result of continued sales and additional interest accruals. Petitioner proposes that it be permitted to retain and utilize all amounts which it may be required to refund under the terms of the order to be issued in the instant proceeding, including interest thereon (applicable refundable monies), in the exploration for and development of new natural gas reserves in the Hugoton-Anadarko Area to be offered for sale to the interstate market. The applicable refundable monies would be expended during the 5-year period ending December 31, 1975, and would be in addition to expenditure by Petitioner during such 5-year period for exploration for oil and gas of the same amount which Petitioner expended for oil and gas in the Hugoton-Anadarko Area during the past 5 years.

Petitioner states that in order to utilize the applicable refundable monies effectively, it will be necessary that Petitioner conduct an extensive geological and geophysical program and acquire and evaluate a great number of leases prior to commencement of actual drilling. Petitioner submits that it is thus obvious that there will be a considerable lapse of time between commencement of the program and the discovery and delivery of substantial volumes of gas and states that should it become apparent that the applicable refundable monies cannot all be prudently utilized by December 31, 1975, then Petitioner may, by July 1, 1975, petition the Commission for a 1-year extension of the 5-year period during which such monies are to be expended.

Petitioner states that during the years 1964 through 1968 it expended in the Hugoton-Anadarko Area for oil and gas exploration approximately $23 million. During the 5 years ending December 31, 1975, under the instant proposal Petitioner would expend in the Hugoton-Anadarko Area for oil and gas exploration at least the same amount as expended for such purposes in the area during 1964 through 1968 (normal expenditures for oil and gas exploration) plus the applicable refundable monies for oil and gas development. In expending the applicable refundable monies for gas exploration and development in the Hugoton-Anadarko Area, Petitioner would utilize its best efforts to discover and develop gas-productive reservoirs.

The specific areas in which applicable refundable monies would be expended would be selected by Petitioner and would be delineated from time to time in writing to the Commission, with expenditure of such monies in or in respect of any area so delineated to commence subsequent to such delineation. Any expenditure made in or in respect of any delineated area during the 5-year period ending December 31, 1975, but prior to delineation thereof would be included as part of Petitioner's normal expenditures for oil and gas exploration. Except as hereinafter provided, all expenditures for gas exploration and development made in or in respect of each delineated area subsequent to delineation would be counted as an expenditure of applicable refundable monies. If any expenditure in or in respect of such delineated area results in a commercial discovery of gas or results in a dry hold or otherwise establishes that the delineated area is unproductive or noncommercial, the expenditure would be charged against the applicable refundable monies. If any expenditure in or in respect of a delineated area results in a discovery of oil the expenditures would be credited against Petitioner's normal oil and gas exploration expenditures. Any well which is

classified by a state regulatory authority as a gas well or as a gas cap well from which the production is governed by the allowable for gas shall be considered as a discovery of gas.

Under the instant proposal, Petitioner would have the right and authority to select the acreage it would delineate for exploration and development and to determine the commencement, continuance, or discontinuance of exploratory and development efforts in the delineated areas. Petitioner would not charge against applicable refundable monies any expenditures outside the Hugoton-Anadarko Area without prior approval by the Commission.

When commercial gas discoveries would be made on delineated acreage, Petitioner would offer for sale to interstate gas pipelines to which applicable refundable monies would otherwise be refunded, at the then-current applicable Commission ceiling prices, all gas reserves discovered under such delineated acreage through the expenditure of applicable refundable monies.

Petitioner states that it is its intention that all gas so discovered on such delineated acreage would be sold to interstate pipelines in approximately the same ratio that each pipeline's interest in the applicable refundable monies bears to the total refundable monies. The contracts covering these sales would be in form and substance comparable to those in general use in the industry. The price to be paid would at all times be the highest price allowed from time to time by the Commission.

Under the instant proposal, Petitioner would, by 6 months prior written notice to the Commission, be able to terminate its participation in this plan as of the following January 1, and would thereafter be relieved of any further obligations under the proposal except that it would refund with interest any applicable refund monies not expended prior to the date of termination. Petitioner agrees that any commercial gas discovery made on delineated acreage prior to such termination date and upon which refundable monies have been spent would be committed to the interstate gas market. If, at the end of the 5-year period ending December 31, 1975, or as such term might be extended, any part of the applicable refundable monies which has not been expended in the exploration and development of gas in the Hugoton-Anadarko Area or other approved areas would be refunded with interest to the applicable pipeline purchaser.

Petitioner states that it would certify to the Commission by April 1 of each succeeding year the amount of its normal expenditures for oil and gas exploration expended during the preceding calendar year. It is Petitioner's intention that nothing in the instant proposal should be interpreted as giving the Commission or its staff the right to direct or supervise any of Petitioner's exploration and development facilities.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than October 17, 1972, views and comments in writing concerning the petition for special relief from refund obligations. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16810 Filed 10-2-72;8:50 am]

[Project 2418]

COMMONWEALTH EDISON CO.

Notice of Application for Surrender of Minor License

SEPTEMBER 26, 1972.

Public notice is hereby given that application for surrender of license was filed February 22, 1972, and supplemented May 15, 1972, under the Federal Power Act (16 U.S.C. 791a–825) by Commonwealth Edison Co. (Correspondence to: Mr. Preston B. Kavanagh, Secretary, Commonwealth Edison Co., Post Office Box 767, Chicago, IL 60690) located in the city of Rockford, Winnebago County, Ill., on the Rock River.

The Licensee desires to surrender its minor license for Fordam Dam Project No. 2418. The two generating units are not in operation and plant operations ceased October 1, 1971.

The Licensee proposes to:

1. Permanently disconnect project works from the system transmission network.

2. Remove a section of the shaft between the turbines and generators and fix in place the runner blades by a beam system between the turbine shaft and foundation wall.

3. Continue normal maintenance of project works after surrender.

If the Commission authorizes surrender of the license the dam would continue to be under the jurisdiction of the State of Illinois, Department of Transportation. At such time as it becomes feasible, Licensee proposes to convey the project works and adjoining property to an appropriate governmental body to use for the benefit of area residents.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1972, file with the Federal Power Commission in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16754 Filed 10-2-72;8:46 am]

[Docket Nos. RP72-91, etc.]

SOUTHERN NATURAL GAS CO.

Order Accepting Revised Tariff Sheets for Filing Subject to Refund and Consolidating Proceedings

SEPTEMBER 26, 1972.

Pipeline rates—increased rate filing accepted for filing subject to refund in pending proceeding, Southern Natural Gas Co., Docket Nos. RP72–91, RP73–13, RP73–16.

Southern Natural Gas Co. (Southern) on August 30, 1972, tendered for filing revised tariff sheets in its FPC Gas Tariff, Sixth Revised Volume No. 1, proposed to become effective as of September 1, 1972.[1] The revised tariff sheets contain proposed changes in rates and charges which would increase annual revenues for jurisdictional sales and service in the amount of $2,124,014 based upon operations for the 12-month period ended August 31, 1971, as adjusted. The proposed revenue increase is over and above the rates and charges which became effective July 1, 1972, subject to refund in Docket No. RP72–91, as adjusted to include the $1,083,454 increase which became effective as of August 1, 1972, by Commission order herein issued September 8, 1972.

Southern states that the increase in rates reflects only the increase in gas supply costs resulting from the effect of the increase in the Louisiana severance tax, effective September 1, 1972, on gas purchased and the effect of the same tax increase on gas produced by Southern. All other items of costs included in this rate filing are identical to those in its filing in Docket No. RP72–91. No other tariff changes are proposed.

Southern states that, other than in gas supply costs, there has been no material change in its facilities, sales volumes or cost of service as estimated and included in its increased rate filing on December 16, 1971, in Docket No. RP72–91. In support of the August 30 filing Southern includes statements L, M, and N reflecting its cost of service as submitted on December 16, as adjusted to reflect a $3,499,590 overall increase in gas supply costs as of August 1 and September 1. These abbreviated rate filing statements are submitted in lieu of statements A through M, pursuant to § 154.63(b)(3) of the Commission's regulations under the Natural Gas Act.

Southern requests waiver of the notice requirements of § 154.22 of the regulations, citing the waiver of notice provisions for independent producers in Commission Order No. 456. There the Commission stated that pipelines with purchased gas adjustment clauses may accumulate the increased costs resulting from the producer increases in their deferred accounts. In order that it may recover the producer increases, Southern, which does not presently have a purchased gas adjustment clause in its tariff,

[1] Eighth Revised Sheet Nos. 8E, 15E and 26E; 10th Revised Sheet No. 11F; 13th Revised Sheet No. 11J; 14th Revised Sheet Nos. 8A, 8D, 11H, 15A, 15D, 26A, 26D, and 30; 18th Revised Sheet Nos. 9, 16 and 27.

requests that it be given parity in treatment by making its rate increase effective as of September 1, 1972.

Copies of the August 30 rate filing were served by Southern upon all jurisdictional customers and interested State commissions. Petitions for leave to intervene have been filed by Alabama Gas Corp.; Alabama Municipal Distributors Group; Chattanooga Gas Co.; The Water, Light, and Sinking Fund Commission of the city of Dalton, Ga.; Florida Gas Transmission Co.; Gas Section of the Georgia Municipal Association; Mississippi Valley Gas Co.; South Carolina Electric & Gas Co.; and South Georgia Natural Gas Co. Tennessee Public Service Commission filed a notice of intervention. In its petition, Mississippi Valley Gas Co. objects to Southern's request for waiver of the statutory 30-day notice requirements in § 154.22 of the Commission's regulations under the Natural Gas Act.[2]

Southern's rate filing in substantial part reflects its estimate of supplier rate increases which would become effective as of September 1, 1972. To the extent some of such producer increases may not become effective as of that date, Southern proposes to revise the rates downward.

The Commission finds:

It is necessary and appropriate and in the public interest in carrying out the provisions of the Natural Gas Act to permit Southern to file rate changes designed to track increases in producer rates which reflect increases in the State of Louisiana severance tax, as of September 1, 1972, as hereinafter ordered and conditioned.

The Commission orders:

(A) The revised tariff sheets described above, tendered by Southern on August 30, 1972, are accepted for filing to become effective as of September 1, 1972: *Provided, however,* That Southern shall reduce the rates and charges contained in the subject tariff sheets to reflect any producer increases not actually incurred on September 1, 1972, and shall make refunds accordingly: *And provided, further,* That the rates and charges contained in the subject tariff sheets shall be substituted as of September 1, 1972, for the increased rates and charges in Docket No. RP73–13 and shall be subject to the refund obligations provided in Docket No. RP72–91.

(B) The proceedings in Docket No. RP73–16 are hereby consolidated with those in Dockets Nos. RP72–91, et al., for purposes of hearing and decision.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–16753 Filed 10–2–72;8:46 am]

[2] By virtue of the consolidation of proceedings provided below, these petitions for leave to intervene are deemed to be granted and all intervenors in Docket Nos. RP72–91, et al. are deemed to be intervenors in Docket No. RP73–16.

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. Temporary Instructions constitute Appendix 2 of that manual. The materials contained in Temporary Instructions 625–1, 670–3, and Appendix 1–2 are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore, these Temporary Instructions are set forth in full as follows:

[Temporary Instruction 625–1]

SUBJECT: RECLASSIFICATION OF REGISTRANTS INTO CLASS 1–H

1. After priority is given to the processing of registrants who are, or may be vulnerable for induction in the near future, local boards should reopen and consider anew for classification in Class 1–H, in accord with section 625.2, registrants in the following priority:

a. Registrants with RSN 096 or above, and who are in Classes 1–S, 2–A, 2–C, 2–D, 2–S, 3–A, 4–B, and 4–D.

b. Present members of the 1972 First Priority Selection Group with RSN 096 or above.

c. Registrants who were born in 1953 and whose RSN's are above 100.

d. Registrants in the second or a lower priority selection group.

e. Registrants, not in one of the above categories, who have a wife whom they married on or before August 26, 1965, and with whom they maintain a bona fide relationship in their homes.

2. Reclassification of registrants into Class 1–H by local boards according to the above priority will be accomplished as time and workload permits, but in any event before December 31, 1972.

3. Temporary Instruction No. 622–2, issued September 11, 1972, is rescinded.

4. This Temporary Instruction terminates on December 30, 1972.

Issued: September 27, 1972.

[Temporary Instruction Appendix 1–2]

SUBJECT: RESCISSION OF OPERATIONS FORMS

The following operations forms, rescinded in Order Prescribing Forms No. 252, dated August 18, 1972, and their associated procedural directives and flowcharts, will be removed from Appendix 1, RPM:

Form:	*Title*
50	Registration Questionnaire—Foreign.
99	Minutes of Action—Continuation Sheet.
111	Classification Advice.
115	Local Board Action Summary Sheet.
115–A	Local Board Action Summary Sheet.
171	Apprentice Deferment Request.
199	Notice of Examination Call on State.
262	State Monthly Report of Deliveries, Inductions, and Examinations.
300	Permit for Registrant to Depart from the United States.
304	Delinquency Notice.
306	Report of Government Appeal Agent.

Stock balances of these forms will be removed from inventory and destroyed.

This Temporary Instruction terminates upon completion of the foregoing actions.

Issued: August 20, 1972.

[Temporary Instruction 670–3]

SUBJECT: ELIMINATION OF HYPHENS IN CLASSIFICATION TYPED ON OCR SSS FORMS (INPUT FORMS)

1. Effective immediately a hyphen will no longer be used when typing a selective service classification on an OCR SSS Form.

2. All OCR SSS Forms prepared in the future will be typed with a space between the symbols, for example 1 H, 1 O and 1 A O.

3. When typing Class 1 O the symbol for the letter must be used, not the numerical symbol. Use of the numerical symbol will cause the form to be rejected by the computer.

4. Forms already forwarded to the Computer Service Center with hyphens used in the classification boxes will be accepted and no corrective action will be required.

5. This Temporary Instruction will terminate upon receipt of Chapter 670 of the RPM.

Issued: September 27, 1972.

BYRON V. PEPITONE,
Acting Director.

SEPTEMBER 27, 1972.

[FR Doc.72–16814 Filed 10–2–72;8:52 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 10]

DEPUTY ADMINISTRATOR

Delegation of Authority

Delegation of Authority No. 10 supersedes Delegation of Authority No. 1 (Revision 2). Delegation of Authority No. 1 (Revision 2) (32 F.R. 177), as amended (36 F.R. 12258), is hereby rescinded without prejudice to actions taken under such delegation of authority prior to the effective date hereof.

Delegation of Authority No. 10 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Deputy Administrator the following authority:

A. To perform any and all acts which I, as Administrator, am authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations and to serve as alter ego to the Administrator and to continue to so serve in the event of absence, resignation, or incapacity of the Administrator with respect to the activities of the Small Business Administration, except exercising authority under sections 7(a)(6), 9(d), and 11 of the Small Business Act, as amended.

B. To declare a disaster area and period and to extend the original disaster period resulting from a disaster declaration.

II. This delegation is not in derogation of any authority residing in the Associate Administrators and Assistant Administrators relating to the operations of their respective programs.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16844 Filed 10-2-72;8:51 am]

[Delegation of Authority No. 11]

GENERAL COUNSEL

Delegation on Legal Activities

Delegation of Authority No. 11 supersedes Delegation of Authority No. 2. Delegation of Authority No. 2 (29 F.R. 5052) and Delegation of Authority No. 2.1 (29 F.R. 5851) are hereby rescinded without prejudice to actions taken prior to the date hereof.

Delegation of Authority No. 11 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and Title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the General Counsel the following Authority:

A. To approve or decline fees relating to the closing of loans for attorneys retained by SBA.

B. To approve or decline fees and expenses relating to litigation and liquidation matters for attorneys retained by SBA, trustees under deeds of trust, receivers, title examinations and reports, advertising and other necessary litigation expenses.

II. The authority delegated herein may be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting General Counsel.

IV. All authority previously delegated by the Administrator to the General Counsel is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16845 Filed 10-2-72;8:51 am]

[Delegation of Authority 12]

ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation of Authority

Delegation of Authority No. 12 supersedes Delegation of Authority No. 4. The following delegations of authority are hereby rescinded without prejudice to actions taken under such delegations of authority prior to the effective date hereof: No. 4 (Rev. 2) (35 F.R. 13234), as amended (35 F.R. 16759, 36 F.R. 653, 36 F.R. 8537, 36 F.R. 11491, 36 F.R. 12258, and 37 F.R. 9267); No. 4.1 (Rev. 2) (35 F.R. 18493) as amended (36 F.R. 22028); No. 4.1-1 (Rev. 3) (36 F.R. 302) as amended (36 F.R. 22028); No. 4.2 (Rev. 3) (35 F.R. 19545); No. 4.3 (Rev. 1) (36 F.R. 7290) as amended (36 F.R. 23421); No. 4.3-B (36 F.R. 23421); No. 4.3-B-1 (36 F.R. 24025); No. 4.4 (Rev. 1) (36 F.R. 7291); No. 4.4-1 (Region IX) for Disaster No. 802 (37 F.R. 10415); No. 4.4-1, Amendment 1 (Region IX) for Disaster No. 802 (37 F.R. 14840); No. 4.4-2 (Region IX) for Disaster No. 802 (36 F.R. 11963); No. No. 4.4-1 (Region IX) for Disaster No. (36 F.R. 11684); No. 4.4-1 (Region VII) for Disaster No. 824 (36 F.R. 11963); No. 4.4-1 (Region III) for Disaster No. 839 (36 F.R. 18821); No. 4.4-1 (Region III) for Disaster No. 849 (36 F.R. 21770); No. 4.4-1 (Region I) for Disaster No. 881 (37 F.R. 5269); No. 4.4-1 (Region II) for Disaster No. 849 (36 F.R. 21770); 4.4-1 (Region VI) for Disaster No. 901 (3 documents) (37 F.R. 11811). No. 4.4-1 (Region VIII) for Disaster No. 908 (37 F.R. 13505). Delegation of Authority No. 12 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Associate Administrator for Financial Assistance, the following authority:

A. *Financial Assistance program.* 1. To approve or decline business, development company, economic opportunity, and all types of disaster loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify, and amend authorizations for loans.

3. To determine eligibility of loan, lease guarantee, and surety bond applicants.

4. To authorize acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

5. To take all necessary actions in connection with the servicing, administration, collection, and liquidation of all loans, other obligations and acquired property, with the exception of those loans classified as in litigation; to resolve nonunanimous Compromise Committee recommendations; to accept or reject a compromise settlement or an indebtedness owed to the Agency for a sum less than the total amount due thereof, but is not authorized:

(a) To sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon.

(b) To deny liability of the Small Business Administration under terms of a participation or guaranty agreement, or the initiation of a suit for recovery from a participation or guaranty agreement.

6. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

7. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under section 8(a) of the Small Business Act, as amended.

B. *Lease guarantee program.* 1. To approve or decline applications for the guarantee of the payment of rents under a lease where aggregate rentals do not exceed the lesser of $15,000 per month of $2,500,000 over the term guaranteed.

2. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to $500,000.

3. To enter into reinsurance agreements with participating insurance companies and to modify and revise the same whenever necessary.

4. To approve or decline applications for reinsured guarantees received from participating insurance companies for the payment of rents under a lease where the SBA share of such participation does not exceed the lesser of $15,000 per month or $2,500,000 over the term guaranteed.

5. To take all necessary actions in connection with the servicing, administration, collection, and payment of claims arising under insurance policies upon default of the lessee.

6. To approve the investment of moneys in the Lease Guarantee revolving fund not needed for the payment of current operating expenses or for the payment of current operating expenses or for the payment of claims arising under the Lease Guarantee program, in bonds or other obligations guaranteed as to principal and interest by the United States.

7. To make size determinations for the purpose of lease guarantee and surety bond guarantee programs.

C. *406 program.* 1. To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of the following kinds of projects designed to provide technical and management assistance to individuals to enterprises eligible for assistance under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

a. Planning and research, including feasibility studies and market research;

b. The identification and development of new business opportunities;

c. The establishment and strengthening of business service agencies, including trade associations and cooperatives;

d. The encouragement of the placement of subcontracts by major businesses with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the

training and upgrading of potential subcontractors or other small business concerns;

e. The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

II. The authority delegated herein may be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Associate Administrator for Financial Assistance.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16846 Filed 10-2-72;8:51 am]

[Delegation of Authority 13]

ASSOCIATE ADMINISTRATOR FOR PROCUREMENT AND MANAGEMENT ASSISTANCE

Delegation of Authority

Delegation of Authority No. 13 supersedes Delegation of Authority No. 5. The following delegations of authority are hereby rescinded without prejudice to actions taken prior to the effective date hereof: Delegation of Authority No. 5, Revision 1 (32 F.R. 178), as amended (32 F.R. 2405); Delegation of Authority No. 5-A (32 F.R. 242); and Delegation of Authority No. 5-A.1 (Revision 1) (35 F.R. 8517). Delegation of Authority No. 13 reads as follows:

I. Pursuant to the authority vested in the Administrator of the Small Business Administration by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and Title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Associate Administrator for Procurement and Management Assistance the following authority:

A. *Procurement Assistance.* 1. To (a) enter into, (b) negotiate, and (c) recommend approval of joint agreements and memoranda of understanding with other Government contracting, procurement, or disposal agencies.

2. To take any and all actions necessary to carry out the provisions of joint agreements and memoranda of understanding with other Government contracting, procurement, or disposal agencies.

3. To take any and all actions necessary to carry out SBA's authority to insure that a fair proportion of total Government procurements, including research and development procurements, be made from small business.

4. To take any and all actions necessary to carry out SBA's authority to encourage the letting of subcontracts by prime contractors to small business concerns.

5. To take any and all actions necessary to carry out SBA's authority to insure that a fair proportion of the total sales of Government property be made to small business concerns.

6. To appeal determinations made under joint agreements or memoranda of understanding by Government contracting, procurement, or disposal agencies to the heads of such agencies.

7. To take any and all actions relating to SBA prime contracting authority.

8. To take any and all actions necessary to carry out the certificate of competency provisions of the Small Business Act, including the issuance or denial of such certificates.

9. To take any and all actions necessary to carry out SBA's authority to make an inventory of productive facilities of small business concerns.

10. To take any and all actions necessary to carry out SBA's authority to utilize effectively the productive facilities of small business concerns.

11. To take any and all actions necessary to carry out SBA's authority to enable small business to obtain materials from its normal sources.

12. To take any and all actions necessary to carry out SBA's authority for procurement assistance in surplus labor areas and area redevelopment areas in the implementation of procurement assistance programs in such areas.

B. *Section 8(a) contracting authority.* 1. To enter into contracts on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts.

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer; and

3. To arrange for the performance of such contracts or otherwise letting subcontracts to small business concerns of others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

II. The authority delegated herein may be redelegated with the exception of subsections I.A.1(a) and I.A.6.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as Acting Associate Administrator for Procurement and Management Assistance.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16847 Filed 10-2-72;8:51 am]

[Delegation of Authority 14]

ASSOCIATE ADMINISTRATOR FOR OPERATIONS AND INVESTMENT

Delegation of Authority

Delegation of Authority No. 14 supersedes Delegation of Authority No. 50 (Revision 4). Delegation of Authority No. 50 (Revision 4) (37 F.R. 8035) is hereby rescinded without prejudice to actions taken under such delegation of authority prior to the effective date hereof.

Delegation of Authority No. 14 reads as follows:

I. Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and Title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, the following authority is hereby delegated to the Associate Administrator for Operations and Investment:

A. *Investment activities.* 1. To take any and all actions necessary to carry out the provisions of Titles I, II, and III of the Small Business Investment Act of 1958, as amended, and of the regulations thereunder as amended from time to time, including without limitation all necessary action in connection with the servicing, administration, collection, sale, and liquidation of partially or fully disbursed loans, obligations, and property (real, personal or mixed, tangible or intangible) held by or assigned to SBA and arising out of activities under said Act, and, in connection therewith, to accept or reject offers of settlement or of compromise for cash, credit, or property (real, personal, or mixed, tangible or intangible), and to exercise in the name of the Administration the power conferred on the Administration by section 310 of said Act to issue subpenas.

B. *Disaster activities.* 1. To declare a disaster area and period.

2. To extend the original disaster period resulting from a disaster declaration.

3. To establish disaster field offices and to obligate the Small Business Administration for the rental of office space; and to close disaster field offices when no longer advisable to maintain such offices.

4. To take necessary actions with respect to personnel, financial management, and administrative activities, as are granted to the regional directors.

5. To contract for supplies, materials, and equipment, printing (Government sources only), transportation, communications, space, and special services for the Agency pursuant to Chapter 4 of Title 41, United States Code, as amended,

subject to the limitations contained in sections 257 (a) and (b) of that chapter.

II. The authority delegated herein may be redelegated.

III. The authority delegated herein may be exercised by any SBA employee officially designated as Acting Associate Administrator for Operations and Investment.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16848 Filed 10-2-72;8:51 am]

[Delegation of Authority 15]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Delegation of Authority Regarding Administrative and Financial Activities

Delegation of Authority No. 15 supersedes Delegation of Authority No. 7, Revision 2. The following delegations of authority are hereby rescinded without prejudice to actions taken under such delegations of authority prior to the effective date hereof: No. 7, revision 2 (36 F.R. 8713); No. 7-A (36 F.R. 9585); No. 7-A-1 (36 F.R. 11063); No. 7-A-1.1 (36 F.R. 11543); No. 7-B (36 F.R. 9585); and, No. 7-B-1 (36 F.R. 11064).

Delegation of Authority No. 15 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Assistant Administrator for Administration the following authority:

A. *Administrative services.* 1. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the Agency pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

2. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

B. *Financial management.* To assign, endorse, transfer, deliver, or release (but in all cases without representation, recourse or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

C. *Claims Under the Federal Tort Claims Act.* To give final approval on actions resulting from any claims subject to the provisions of 28 U.S.C. 2672.

II. The authority delegated herein may be redelegated with the exception of Item I.C.

III. All authority delegated herein may be exercised by an SBA employee designated as Acting Assistant Administrator for Administration.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16849 Filed 10-2-72;8:51 am]

[Delegation of Authority 16]

ASSISTANT ADMINISTRATOR FOR MINORITY ENTERPRISE

Delegation of Authority

Delegation of Authority No. 16 supersedes Delegation of Authority No. 8. Delegation of Authority No. 8 (34 F.R. 781) and Delegation of Authority No. 8-A (34 F.R. 1412) are hereby rescinded without prejudice to actions taken under such delegation of authority prior to the effective date hereof.

Delegation of Authority No. 16 reads as follows:

I. Pursuant to the authority vested in the Administrator of the Small Business Administration by sections 402(c) and 602(d) of the Economic Opportunity Act of 1964, as amended, the following authority under section 406 of the Economic Opportunity Act of 1964, as amended, is hereby delegated to the Assistant Administrator for Minority Enterprise:

A. *406 Program.* 1. To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of technical and management assistance projects designed to furnish centralized services with regard to public services and government programs, including programs authorized under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

II. This authority may be redelegated.

III. This authority may be exercised by any person designated as Acting Assistant Administrator for Minority Enterprise.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16850 Filed 10-2-72;8:51 am]

TARIFF COMMISSION

[TEA-F-44]

WELPRO, INC.

Notice of Investigation and Hearing Regarding Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of Welpro, Inc., Seabrook, N.H., the U.S. Tariff Commission, on September 18, 1972, instituted an investigation under section 301 (c)(1) of the said act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in item 700.43, item 700.45, and item 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.t., on October 10, 1972, in the hearing room, U.S. Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission loated in Room 437 of the Customhouse.

Issued: September 27, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-16756 Filed 10-2-72;8:46 am]

[TEA-W-156]

WELPRO, INC.

Notice of Investigation Regarding Workers' Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Welpro, Inc., Seabrook, N.H., the U.S. Tariff Commission, on September 27, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the type provided for in item 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436, and at the New York

City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: September 27, 1972.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.72-16757 Filed 10-2-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 89]

ASSIGNMENT OF HEARINGS

SEPTEMBER 28, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MCC 7822, Mississippi Chemical Express, Inc., and Stauffer Chemical Co., Inc.—Investigation of Operations, now being assigned hearing November 7, 1972 (2 days), at New Orleans, La., in a hearing room to be later designated.

MC-118610 Sub 15, L. & B. Express, Inc., now assigned hearing November 30, 1972, at Louisville, Ky., is canceled and application dismissed.

MC 51146 Sub 274, Schneider Transport, Inc., now being assigned November 30, 1972, at Louisville, Ky., in a hearing room to be later designated.

MC 78400 Sub 27, Beaufort Transfer Co., now assigned October 30, 1972, at Jefferson City, Mo., postponed to December 12, 1972 (2 days), at Jefferson City, Mo., in a hearing room to be later designated.

MC 106644 Sub 133, Superior Trucking Co., Inc., now assigned October 4, 1972, at Washington, D.C., is postponed to October 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 126373 Sub 3, James A. Bonham doing business as Bonham's Special Delivery, now being assigned November 13, 1972, at Charleston, W. Va., in a hearing room to be later designated.

MC 107615, Union News Transportation Co. Petition for clarification and modification of certificate, continued to October 25, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 6143 Sub 2, Dunbar Transfer and Storage, Inc., now being assigned November 6, 1972 (1 week), at Memphis, Tenn., in a hearing room to be later designated.

MC 127834 Sub 36, Cherokee Hauling & Rigging, Inc., now assigned November 6, 1972, at Memphis, Tenn., is canceled and the petition is dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-16819 Filed 10-2-72;8:52 am]

[Order 35654]

TRANSPORTATION IN THE ALASKAN TRADE

Order Instituting Investigation

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 29th day of August 1972.

It appearing, that, in Investigation and Suspension Docket No. 8604 et al., Increased Rates and Charges, The Alaska Railroad, 340 I.C.C. 129, we considered a general increase in joint rates proposed by the respondents The Alaska Railroad and Sea-Land Service, Inc., on traffic moving between Seattle, Wash., and other Pacific Northwest points and points in Alaska, in connection with interested parties, Alaska Hydro-Train and the Alaska Trainship Corp.; that it was noted therein that the respondents adhere to a basic parity of rates, although their revenue needs differ greatly; and it was stated therein that:

> it appears that the time has come for a general review of the incidents and conditions of transportation to and from Alaska that are subject, wholly or partially, to regulatory jurisdiction of this Commission.

It further appearing, that it was also stated in the cited report that such a formal investigation would be instituted, and that it would be directed toward examining and defining:

(1) The nature of any special risks affecting transportation conditions in the Alaskan trade, such as extreme weather during the winter season, particularly as they may affect future capital investment in transportation services;

(2) The scope and nature of carrier competition, as it exists between regulated carriers and as it arises from various carrier services not subject to economic regulation;

(3) The general scope of operations of all motor, water, and rail carriers participating in the Alaskan trade, in terms of franchises, seasons of operations, frequency of services, operating results, et cetera; and

(4) The specific arrangements that are made among the carriers for divisions of joint rates as between carriers participating in land-water-land services to and from Alaska.

Therefore,

It is ordered, That, under authority of sections 13, 204, and 304 of the Interstate Commerce Act, an investigation be, and it is hereby, instituted in this proceeding for the purpose of inquiring into the matters set forth next above, to determine whether the aforesaid carrier relationships, divisions of rates, rate relationships, and arrangements, if any, resulting in substantial parity of rates between competing modes of transportation contravene the National Transportation Policy or violate any provision of the Interstate Commerce Act, and to make such orders for the future as are determined to be required by the record;

It is further ordered, That The Alaska Railroad, Sea-Land Service, Inc., Alaska Hydro-Train, a division of Puget Sound Tug & Barge Co., the Alaska Trainship Corp., and all other motor, water, and rail carriers participating directly in the transportation of property in the Alaskan trade and subject to the jurisdiction of this Commission, in whole or in part, be, and they are hereby made respondents in this proceeding, and that any other interested person may participate actively.

It is further ordered, That this proceeding be, and it is hereby, referred to an administrative law judge for hearing and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor.

It is further ordered, That to further identify all necessary and other interested parties, to more specifically define the scope of the investigation, to determine the procedure to be followed, and for the accomplishment of purposes set forth in Rule 68 of the Commission's general rules of practice, a prehearing conference will be held on November 14, 1972, at 9:30 a.m. at the Offices of the Interstate Commerce Commission, Washington, D.C.

And it is further ordered, That a copy of this order shall be served upon all parties to Investigation and Suspension Docket No. 8604, et al., upon the Governors of Alaska, Washington, Oregon, and California, upon the public utilities commissions or boards of each of those States; that a copy be posted in the Office of the Secretary of this Commission for public inspection; and that a copy be delivered to the Director, Office of the Federal Register, for publication therein as notice to all interested persons.

By the Commission, Division 2.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-16818 Filed 10-2-72;8:50 am]

[Notice 132]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73817. By order of September 21, 1972, the Motor Carrier Board approved the transfer to Mrs. Raymond A. Albert, Kay Adams, and Larry Adams, doing business as Albert and Adams, Route 4, Marshall, MO 65340, of the operating rights in Certificate No. MC–94670 (Sub-No. 1) issued June 10, 1963, to Raymond A. Albert, Route 4, Marshall, MO 65340, authorizing the transportation of animal and poultry feeds, and seeds, from points in Kansas east of U.S. Highway 81, to points in Saline County, Mo.; fertilizer, except in bulk and in tank vehicles, from East St. Louis, Ill., and Olathe, Kans., to points in Saline, Howard, Pettis, Lafayette, Johnson, Carroll, and Chariton Counties, Mo.; and feed, from East St. Louis, Ill., to points in Saline, Howard, Pettis, Lafayette, Johnson, Carroll, and Chariton Counties, Mo.

No. MC–FC–73862. By order of September 19, 1972 the Motor Carrier Board approved the transfer to Christ Truck Service, Inc., Lebanon, Ill., of certificate No. MC–23457, issued to Oliver J. Christ, doing business as Oliver Christ Truck Service, Lebanon, Ill., authorizing the transportation of: General commodities, usual exceptions, and certain specified commodities, between specified points in Illinois and Missouri. Delmar O. Koebel, Attorney, 107 West St. Louis, Lebanon, IL 62254.

No. MC–FC–73887. By order of September 19, 1972 the Motor Carrier Board approved the transfer to C & F Transport, Inc., Goshen, Ind., of a portion of certificate No. MC–87303 issued to Ben-Lee Motor Service Co., a corporation, February 18, 1965, authorizing the transportation of: Building materials, from Chicago, Ill., to Elkhart, Ind., and other specified points in Indiana. Edward G. Bazelon, Attorney, 39 South La Salle St., Chicago, IL 60603. Alki E. Scopelitis, Attorney, 815 Merchants Bank, Indianapolis, IN 46204.

No. MC–FC–73935. By order of September 19, 1972, the Motor Carrier Board approved the transfer to Condor Contract Carriers, Inc., Garden Grove, Calif., of the operating rights in permit No. MC–128988 (Sub-No. 2) issued June 6, 1969, to Jo/Kel, Inc., City of Industry, Calif., authorizing the transportation of electrical motors and component parts thereof, with certain exceptions, between Milford, Conn., Mena, Ark., St. Louis, Mo., Prescott, Ariz., Philadelphia, Miss., Chicago, Ill., and Los Angeles and Stanton, Calif. Earl H. Scudder, Jr., Post Office Box 82028, Lincoln, NE, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-16821 Filed 10-2-72;8:52 am]

[Notice No. 131]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 27, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of ex parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5623 (Sub-No. 21 TA), filed September 11, 1972. Applicant: ARROW TRUCKING CO., 3131 North Lewis, Post Office Box 6027, Tulsa, OK 74106. Applicant's representative: Kenneth Weeks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel beams*, from the Port of Catoosa, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas, for 180 days. Supporting shipper: Jones and Laughlin Steel Corp., Three Gateway Center, Pittsburgh, Pa. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240—Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 26396 (Sub-No. 60 TA), filed September 12, 1972. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Post Office Box 990, 201 West Park, Livingston, MT 59047. Applicant's representative: Wayne Waggoner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and particle board*, from points in Montana to ports of entry and boundary line of the United States and Canada in Idaho, Montana, and Washington, for 180 days. Supporting shipper: Evans Products Co., Post Office Drawer No. 2, Missoula, MT 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, MT 59101.

No. MC 51146 (Sub-No. 292 TA), filed September 13, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Post Office Box 2298 (54306), Green Bay, WI 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Restaurant and dairy equipment*, from Ashwaubenon, Wis., to points in Florida, Minnesota and the points of Pittsburgh, Philadelphia, and North Hampton, Pa., and Davenport and Council Bluffs, Iowa, for 180 days. Supporting shipper: Haskon, Inc., Lincoln Sales Division, Bingham/Risdon Branch, Post Office Box 2477, Green Bay, WI 54306 (Charles Ratzburgh). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 51146 (Sub-No. 293 TA), filed September 13, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Boardway, Post Office Box 2298 (54306), Green Bay, WI 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished and unfinished plywood*, from Baltimore, Md., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Minnesota, Ohio, and Wisconsin, for 180 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401 (John T. Morgans, Assistant Manager Highway Transportation—Analysis). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 106603 (Sub-No. 124 TA), filed September 12, 1972. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Applicant's representative: Louis Cain (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood particle or composition boards*, from Oxford, Miss.,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Champion International Corp., Knightsbridge, Hamilton, Ohio 45020. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 108207 (Sub-No. 358 TA), filed September 12, 1972. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, (75207), Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Duluth, Minn., to points in Nebraska, Kansas, Missouri, Oklahoma, Louisiana, Mississippi, Arkansas, Texas, New Mexico, Arizona, and California, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Jeno's, Inc., 525 Lake Avenue South, Duluth, MN 55801. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 111812 (Sub-No. 479 TA), filed September 12, 1972. Applicant: MIDWEST COAST TRANSPORT, INC., Post Office Box 1233, 405½ East Eighth Street, Sioux Falls, SD 57101. Applicant's representative: David Peterson (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from plantsite and warehouse facilities of Jeno's, Inc., Duluth, Minn., to points in California, Arizona, Nevada, Utah, Colorado, Wyoming, Montana, and Ohio (except Toledo and Cleveland) Michigan (except lower Peninsula), Pennsylvania, New York, New Jersey, Maryland, Washington, D.C., Vermont, Massachusetts, Maine, Virginia, West Virginia, Connecticut, Rhode Island, New Hampshire, and Delaware, for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Avenue South, Duluth, MN 55801 Richard A. Archambault, vice president—Traffic. Send protests to: District Supervisor J. L. Hammond, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, SD 57501.

No. MC 124230 (Sub-No. 17 TA) (Correction), filed August 3, 1972, published in the FEDERAL REGISTER issue of August 29, 1972, corrected and republished in part as corrected this issue. Applicant: C. B. JOHNSON, INC., Post Office Drawer S, Cortez, CO 81321. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, CO 80202. NOTE: The purpose of this partial republication is to set forth the correct spelling of the destination point of *Pinal* County, Ariz., in lieu of Pinay County, Ariz., shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 126222 (Sub-No. 12 TA) (Correction), filed August 4, 1972, published in the FEDERAL REGISTER issue of August 29, 1972, corrected and republished in part as corrected this issue. Applicant: JOSEPH A. SIEFERT AND JOSEPH J. SIEFERT, doing business as SIEFERT BROS. TRUCKING CO., Post Office Box 310, Rural Route No. 2, DuQuoin, IL 62832. Applicant's representative: Gregory M. Rebman, Suite 1230 Boatmen's Bank Building, St. Louis, MO 63102. NOTE: The purpose of this partial republication is to include the State of Oklahoma as a destination point, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 138009 (Sub-No. 1 TA), filed September 13, 1972. Applicant: OLEN WAGNER, doing business as OLEN WAGNER TRUCKING, Route 9, Box 165, Mena, AR 71953. Applicant's representative: Ben Core, Post Office Box 1446, Fort Smith, AR 72901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fishmeal, fish solubles and animal fat*, from Homewood and Frankelton, La., and Port Arthur, and Dallas, Tex., to Mena and Grannis, Ark., for 180 days. Supporting shipper: Johnson's Feed Mill and Lanes' Feed Mill, Mena and Grannis, Ark. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 700 West Capitol, 2519 Federal Office Building, Little Rock, AR 72201.

No. MC 138025 TA, filed September 8, 1972. Applicant: FRANCIS X. KANE, doing business as KANE FREIGHT SYSTEMS, Calcon Hook Road, Sharon Hill, PA 19079. Applicant's representative: William P. Quinn, 1700 Girard Plaza, Broad and South Penn Square, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, and those requiring special equipment, between points in Philadelphia, Delaware, Chester, Montgomery, and Bucks Counties, Pa., Burlington, Camden, Gloucester, and Salem Counties, N.J., and New Castle County, Del., restricted to the transportation of traffic having a prior or subsequent movement by air, for 180 days. Supporting shippers: Novo Airfreight, Philadelphia International Airport, Philadelphia, PA 19153; General Electric Co., 6901 Elmwood Ave., Philadelphia, PA 11429; Philadelphia Air Consolidators Association, Inc., Front & Erickson Streets, Essington, PA 19029; Associated Air Freight, Inc., Township Square Building, Hook Road, Sharon Hill, PA 19079. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 138029 TA, filed September 11, 1972. Applicant: J & G TRANSPORT LTD., 8907—116 Street, Delta 716, B.C., Canada. Applicant's representative: E. Jolicoeur (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap aluminum and auto supplies*, from the Ports of Entry on the International Boundary line between the United States and Canada at or near Lynden, Blaine, and Sumas, Wash., to points in California and return from Los Angeles, Ontario, Calif., Eugene, Oreg., Seattle, Wash., to the Port of Entry on the boundary line between the United States and Canada at or near Lynden, Blaine and Sumas, Wash., for 180 days. Supporting shippers: Alcan Canada Products Limited, 1260 Vulcan Way, Richmond, British Columbia; Keystone A & A Industries Ltd., Box No. 200, 785 Alderbridge Way, Richmond, BC. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, WA 98101.

No. MC 138031 TA, filed September 14, 1972. Applicant: DON REID ENTERPRISES, INC., Drawer I, Antioch, IL 60002. Applicant's representative: Donald N. Reid (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trays*, serving, steel and synthetic plastic and glass fibre combinations, not silver plated, other than whld., equipped with removable steel collapsible stands, f.f., bins or shelving steel n.o.i.b.m.; k.d. flat in packages, from plantsite of Quaker Industries, Inc., at Antioch, Ill., to points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, and on return *such materials and products* as are used in the manufacture of the above-named commodities, for 180 days. Supporting shipper: Quaker Industries, Inc., 90 McMillen Road, Antioch, IL 60002. Send protests to: William Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 138032 TA, filed September 12, 1972. Applicant: ED LYNN, doing business as LYNN'S EMERGENCY DELIVERY SERVICE, 200 Grand Avenue, East Alton, IL 62024. Applicant's representative: Joseph E. Rebman, Suite 1230 Boatmen's Bank Building, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydraulic parts, machine gears, belts, pulleys, bushings, and printing cylinders*, between St. Louis, Mo., and points in St. Louis County, Mo., on the one hand, and, on the other, Alton Godfrey Carroll Streams, Morris, and Chicago, Ill., Elkhart, Ind., and Kalamazoo, Mich., restricted to traffic originating at or destined to the plantsites and facilities

of Alton Box Board Co., Alton, Ill., Carton Division Alton Box Board Co., Godfrey, Ill., Southern Gravure Service, Inc., St. Louis, Mo., and R. J. Bearing, Alton, Ill., for 180 days. Supporting shipper: E. A. Weishaupt, Order and Planning Manager, Carton Division, Alton Box Board Co., Godfrey, Ill. 62035; Michael S. Short, Western Regional Manager, Southern Gravure Service, Inc., 1022 North 6th Street, St. Louis, MO 63101; Alan Harrison, Alton Box Board Co., 401 Alton, Alton, IL 62003; H. Alexander, R. J. Bearing, 3118 East Broadway, Alton, IL 62005. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 138033 TA, filed September 14, 1972. Applicant: DORN & DORN ENTERPRISES, INC., 1917 Southeast Third Street, Corvallis, OR 97330. Applicant's representative: Gerald R. Dorn (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New motorcycles and snowmobiles*, from Seattle, Wash., to points in Oregon west of U.S. Highway 97, inclusive, restricted to traffic having prior movement in foreign commerce and limited to straight trucks only, for 180 days. Supporting shippers: Fred's Honda, 1935 Southeast Third Avenue, Corvallis, OR 97330; Cycle Stores, Inc., Post Office Box Q, Corvallis, OR 97330; Albany Suzuki, 2850 Santiam Highway, Albany, OR 97321. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 138034 TA, filed September 14, 1972. Applicant: HARRY MAHLANDT, Helena, Mo. 64459. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and dry animal and poultry feed supplements*, (1) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Kansas City, Kans., to points in Atchison, Holt, Buchanan, Platte, Nodaway, Andrew, Worth, Gentry, De Kalb, Clinton, Clay, Jackson, Cass, Bates, Vernon, Cedar, St. Clair, Henry, Johnson, Lafayette, Saline, Chariton, Carroll, Ray, Caldwell, Daviess, Livingston, Linn, and Macon Counties, Mo.; (2) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Kansas City, Kans., to the Armour and Co. hog farm located approximately 4 miles east of Seneca, Mo.; (3) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Kansas City, Kans., to the Armour and Company hog farm located approximately 1 mile east of the junction of Missouri Highway 96 and Missouri Highway 171; and (4) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Morrill, Kans., to points in Atchison, Holt, Andrew, Buchanan, Clinton, Platte, Clay, Ray, Carroll, Caldwell, Livingston, De Kalb, Daviess, Grundy, Mercer, Harrison, Worth, Nodaway, Gentry, and Jackson Counties, Mo., for 180 days. Supporting shipper: Cargill, Inc., Nutrena Feed Division, Morrill and Kansas City, Kans. Send protests to: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 138036 TA, filed September 15, 1972. Applicant: J & S, INC., 127 Larchfield Drive, McKeesport, PA 15135. Applicant's representative: John Pillar, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail drug and variety stores, and *equipment, material, and supplies*, used in the conduct of such business (excluding commodities in bulk), for the account of Thrift Drug Division of J. C. Penney Co., Inc., between points in O'Hara Township (Allegheny County), Pa., on the one hand, and, on the other, points in Delaware, Indiana, Illinois, Kentucky, Maryland, Michigan (Lower Peninsula), Minnesota, New Jersey, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Thrift Drug Co., Division of J. C. Penney, 615 Alpha Drive, Pittsburgh, PA 15238. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-16820 Filed 10-2-72;8:52 am]

[Notice No. 133]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 28, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules (49 CFR Part 1132):

No MC-FC-73988. By application filed September 26, 1972, CLARENCE OVERTON THOMAS, doing business as C. O. THOMAS TRUCKING, Route 1, Box 153, New Canton, VA 23123, seeks temporary authority to lease the operating rights of APPOMATTOX TRUCKING COMPANY, INCORPORATED, Appomattox, VA 24522, under Section 210a(b). The transfer to CLARENCE OVERTON THOMAS, doing business as C.O. THOMAS TRUCKING, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-16822 Filed 10-2-72;8:52 am]

FEDERAL REGISTER PAGES AND DATES—OCTOBER

Pages	*Date*
20659-20760	Oct. 3

federal register

TUESDAY, OCTOBER 3, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 192

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 116—FINANCIAL ASSISTANCE TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

Allocation of Title I Funds

In order to implement certain amendments to title I of the Elementary and Secondary Education Act (20 U.S.C. 241a) contained in sections 411(b) and 508 of Public Law 92-318, 86 Stat. 338 and 352, Part 116 of Chapter I of Title 45 of the Code of Federal Regulations is amended as set forth below. These amendments relate to the allocation of Title I funds to: (1) The Secretary of the Interior to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior under section 103(a)(1) of the Act (20 U.S.C. 241c(a)(1)); and (2) State agencies responsible for providing free public education for children in institutions for delinquent children or adult correctional institutions under section 103(a)(7) of the Act (20 U.S.C. 241c(a)(7)).

It has been determined by the Commissioner of Education with the approval of the Secretary of Health, Education, and Welfare that notice of proposed rule making is impractical and contrary to the public interest with regard to the amendments set forth below. These amendments do not involve significant policy matters but are intended merely to conform the title I regulations to recent legislation in Public Law 92-318. Furthermore, to resort to proposed rule making would delay the acquisition of data called for by these amendments. These data must be collected as soon as possible in order to make title I allocations for fiscal year 1973 in a timely fashion.

Effective date. These regulations shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: September 7, 1972.

S. P. MARLAND JR.,
U.S. Commissioner of Education.

Approved: September 25, 1972.

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

1. In § 116.1, paragraphs (c) and (p) are amended to read as follows:

§ 116.1 Definitions.

* * * * *

(c) (1) "Average daily attendance," in the case of children in institutions for neglected or delinquent children or in adult correctional institutions means the average number of such children under 21 years of age (for whom the applicant State agency is directly responsible under State law for providing free public education) who participated on a daily basis during the latest completed school year in an organized program of instruction: (i) Supported by State funds, and (ii) recognized under State law as furnishing elementary and secondary education, but not beyond grade 12. If such data are not available for adult correctional institutions, then for fiscal year 1973 allocations the average daily attendance may be estimated on the basis of: (i) 94 percent of average daily membership, or (ii) the number of children under age 21 in grade 12 or below (as described in the preceding sentence) in attendance on any one specified day of the latest completed or current school year. (Public Law 92-318, sec. 508.)

(2) "Average daily attendance," in the case of schools for handicapped children operated or supported by a State agency, means the average number of children under 21 years of age participating per day for the length of a normal school year in an organized program in such schools of instruction which is recognized under State law as furnishing elementary or secondary education, but not beyond grade 12. In the case of handicapped children, daily attendance shall be measured by the number of daily hours of participation in such instruction as the State agency determines to be appropriate for children with the particular handicap involved, except that any such instruction for more than 1 hour, but less than 3 hours, a day shall be deemed to constitute a maximum of one-half day of attendance. Time spent primarily in custodial care or medical treatment or therapy cannot be counted in determining attendance. In the case of special instructional services provided by a State agency under contract or other arrangement (such as itinerant, resource room, or other types of part-day or part-week programs) to handicapped children in attendance at public or nonpublic schools, such children may be reported as being in average daily attendance, if: (i) A statute or official written rule, policy, or other standard applicable to such State agency provides a reliable basis for determining that such State agency, rather than a local educational agency, is directly responsible for providing educational services to such children; and (ii) such State agency's average per pupil contribution to the cost of providing education to such handicapped children exceeds—(*a*) The State's average per pupil contribution to the cost of education of handicapped children in educational programs operated by local educational agencies in the State, and (*b*) exceeds one-half of the average per pupil expenditure in that State as defined in section 103(e) of title I, ESEA. For the purposes of this paragraph, a State agency's average per pupil contribution to the cost of providing education to such handicapped children, a State's average per pupil contribution to the cost of education of handicapped children by local educational agencies, and the average per pupil expenditure in a State shall be determined on the basis of data for the same fiscal year. (20 U.S.C. 241c(a)(1), 241c(a)(5), and 241c(a)(7).)

* * * * *

(p) "An institution for delinquent children" means a public or private nonprofit residential facility which is operated primarily for the care of, for an indefinite period of time or for a definite period of time other than one of short duration, children who have been adjudicated to be delinquent children. Such term also includes an adult correctional institution in which children are placed. (Public Law 92-318, sec. 508.)

* * * * *

2. A new § 116.11 is added reading as follows:

§ 116.11 Allotment of funds to the Secretary of the Interior for programs for Indian children in schools operated by the Department of the Interior.

(a) The maximum amount to be allotted for payments to the Secretary of the Interior for fiscal year 1973 under section 103(a)(1)(A)(ii) of title I of the Act to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior will be determined by multiplying the estimated number of children in such schools (as determined by the Secretary of the Interior) by the Federal percentage prescribed in § 116.1(l) of the average per pupil expenditure in the United States for the most recent fiscal year for which such data are available. In no event, however, will the total amount paid to the Secretary of the Interior from the appropriation for fiscal year 1973 exceed 1 percent of the amount appropriated for payments to States as defined in subsection 103(a) of the Act.

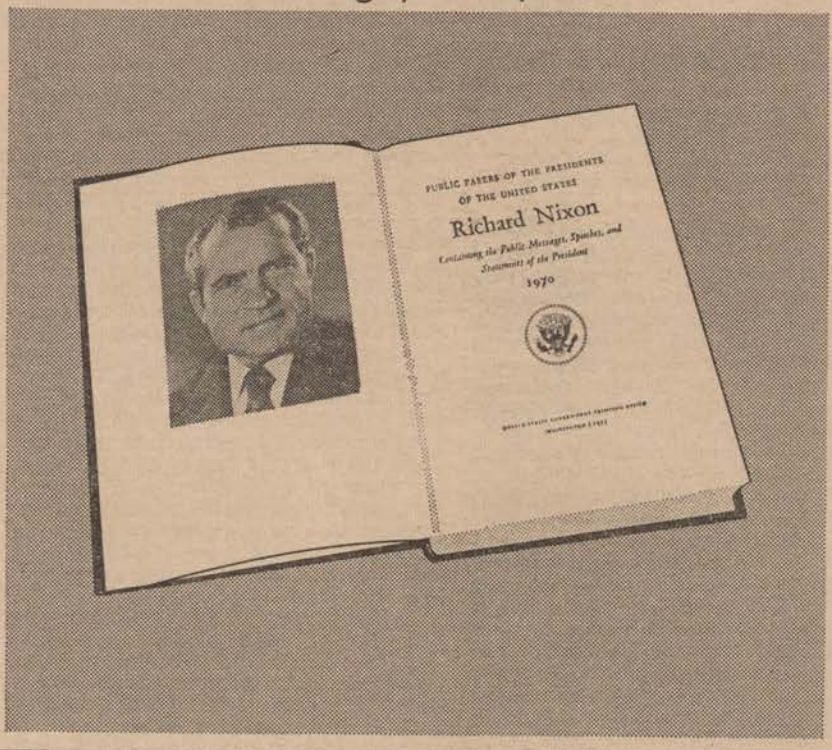
(b) The terms upon which such payments will be made will be set forth in an agreement between the Commissioner and the Secretary of the Interior containing such assurances and terms as the Commissioner determines will best carry out the purposes of this part, including: (1) An assurance that payments made pursuant to this section will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of Subpart C of this part, and (2) provision for carrying out the applicable provisions of Subpart C of this part and for the submission by the Secretary of the Interior to the Commissioner of periodic and other reports required by § 116.31 (f) and (g) to be submitted by State educational agencies. (ESEA, § 103(a)(1)(C), as added by Public Law 92-318, sec. 411(b).)

[FR Doc.72-16710 Filed 10-2-72; 8:55 am]

Public Papers of the Presidents of the United States

Richard Nixon/1970

1305 Pages/Price: $15.75



Contents

- Messages to the Congress
- Public speeches and letters
- The President's news conferences
- Radio and television reports to the American people
- Remarks to informal groups

Published by

Office of the Federal Register
National Archives and Records Service
General Services Administration

Order from

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

Prior Volumes

Volumes covering the administrations of Presidents Truman, Eisenhower, Kennedy, Johnson, and the first year of President Nixon are available at varying prices from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.