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PART I

(Part II begins on page 28795)

NOTICE TO AGENCIES

Agencies preparing documents for publication in the FEDERAL REGISTER are reminded that the revised rules of the Administrative Committee of the Federal Register go into effect on January 3, 1973. (1 CFR Chapter I, 37 F.R. 23602, November 4, 1972.)

These revised rules include the following significant changes:

1. Requirement for a preamble in each proposed rule making and final rule-making document that describes the contents of the document in a manner sufficient to apprise a reader who is not an expert in the subject area of the general subject matter of the document.

2. Requirement for setting forth specific effective dates and action dates.

3. Change in publication dates of the daily FEDERAL REGISTER (Monday through Friday instead of Tuesday through Saturday). See 1 CFR 17.2, 18.12, and 18.17.

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PART 213—EXCEPTED SERVICE

Department of the Navy

Section 213.3108 is amended to reflect recent organizational changes in the Department, to clarify the usage of several authorities, and to show that the current citation for the authority to fix the compensation of student-employees is 5 U.S.C. 5351–54.

Effective on publication in the FEDERAL REGISTER (12–29–72), § 213.3108 is amended as set out below.

§ 213.3108 **Department of the Navy.**

(a) *General.* (1) Intelligence and counterintelligence positions assigned to Naval Intelligence Activities/Functions and all positions assigned to Naval Security Group Activities/Functions. Use of this authority outside the organizations named in the preceding sentence requires prior certification by the Commander, Deputy Commander, or Assistant Deputy Commander of the respective command that the incumbent will perform duties concerned with the specific function in carrying out assigned responsibilities.

* * * * *

(3) [Revoked]

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351–54.

* * * * *

(7) Positions of student social worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided*, That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(8) Positions of student practical nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351–54.

* * * * *

(10) Positions of medical technology intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be filled on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of medical intern at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of student speech pathologist at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating non-Federal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of student dental assistant in U.S. naval dental centers, clinics, and departments, when filled by students who are enrolled in an approved dental assistant program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

* * * * *

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; and the librarian, organist-choirmaster, registrar, the dean of admissions, and social counselors at the Naval Academy.

(c) *Naval Home.* (1) Positions of orderly when filled by the appointment of beneficiaries of the Home.

* * * * *

(f) [Revoked]

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DONALD J. BIGLIN,
Director, Bureau of Management Services.

[FR Doc.72-22393 Filed 12-28-72;8:49 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3113 is amended to show that the coverage of the Schedule A authority covering temporary positions of agricultural commodity graders (processed fruits and vegetables), GS–9 and below, and of graders' aides (processed fruits and vegetables), GS–3–4, has been expanded to include positions of graders' aides at the GS–2 level.

Effective on publication in the FEDERAL REGISTER (12–29–72), subparagraph (5) of paragraph (f) of § 213.3113 is amended as set out below.

§ 213.3113 **Department of Agriculture.**

* * * * *

(f) *Agricultural Marketing Service.*

* * *

(5) Positions of agricultural commodity graders (processed fruits and vegetables), GS–9 and below, and of graders' aides (processed fruits and vegetables), GS–2–4, for temporary employment on a part-time or intermittent basis for not to exceed 1,280 hours a year.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DONALD J. BIGLIN,
Director, Bureau of Management Services.

[FR Doc.72-22394 Filed 12-28-72;8:49 am]

PART 213—EXCEPTED SERVICE

Commission on Civil Rights

Section 213.3156 is amended to show (1) that 10 additional positions of employees who collect, study, and appraise civil rights information are excepted under Schedule A; and (2) that the expiration date of this authority is extended from January 31, 1973, to June 30, 1978.

Effective on publication in the FEDERAL REGISTER (12–29–72), § 213.3156(a) is amended as set out below.

§ 213.3156 **Commission on Civil Rights.**

(a) Until June 30, 1978, 25 positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Public Law 88–352, as amended.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DONALD J. BIGLIN,
Director, Bureau of Management Services.

[FR Doc.72-22395 Filed 12-28-72;8:49 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that the position of Secretary to the Government Secretary of American Samoa is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (12–29–72), § 213.3312(l)(7) is revoked.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DONALD J. BIGLIN,
Director, Bureau of Management Services.

[FR Doc.72-22396 Filed 12-28-72;8:49 am]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 281]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.581 Navel Orange Regulation 281.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and informaion concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 26, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 29, 1972, through January 4, 1973, are hereby fixed as follows:

(i) District 1: 637,000 cartons.
(ii) District 2: 90,000 cartons.
(iii) District 3: 23,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 27, 1972.

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

[FR Doc.72-22410 Filed 12-28-72;8:45 am]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 133; Docket No. AO 275 A 24]

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Inland Empire marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1133.85.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area; and

(4) The issuance of the order amending the order to include provisions constituting a Class I base plan was not approved by two-thirds of the producers who participated in a separate individual producer referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area. Accord-

ingly, the proceeding with respect to this issue is terminated.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Inland Empire marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.

1133.1 General provisions.

DEFINITIONS

1133.2 Inland Empire marketing area.
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1133.76 Payments by handlers operating a partially regulated distributing plant.
1133.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

Sec.

1133.85 Assessment for order administration.
1133.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1133 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1133.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1133.2 Inland Empire marketing area.

"Inland Empire marketing area" hereinafter called the "marketing area" means all of Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone Counties, Idaho; Spokane and Whitman Counties, Wash.; that portion of Pend Oreille County, Wash., lying south of Township 35; and that portion of Stevens County, Wash., lying south of Township 37. This definition shall include all municipal corporations, Federal military reservations, facilities, and installations and State institutions lying wholly or partly within the above described area.

§ 1133.3 Route disposition.

"Route disposition" means any delivery, including delivery by a vendor or disposition from a plant, plant store or distribution point, of fluid milk products to retail or wholesale outlets other than delivery to a milk plant or distribution point, or pursuant to § 1133.40(c)(3).

§ 1133.4 Plant.

"Plant" means the land, buildings, facilities, and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained primarily for receiving, processing or packaging of fluid milk and milk products (including filled milk). However, an establishment that is separate from the foregoing operating unit and used only for transferring bulk milk from one tank truck to another shall not be a plant under this definition.

§ 1133.5 [Reserved]

§ 1133.6 [Reserved]

§ 1133.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means any plant described in paragraph (a) or (b) of this section, which is approved by an appropriate health authority for the receiving of milk qualified for distribution as Grade A milk in the marketing area. If a portion of such plant is physically separated from the Grade A part of such plant, is operated separately, and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(a) Any plant, hereinafter referred to as a "distributing pool plant," in which fluid milk products are processed or packaged and from which during the month:

(1) Route disposition of fluid milk products, except filled milk, on routes within the marketing area equals or exceeds the lesser of 150,000 pounds or 15 percent of the total receipts of Grade A milk from dairy farmers, cooperative associations, pursuant to § 1133.9(c), and from pool supply plants and other plants forwarding the applicable percentage of receipts specified in paragraph (b) of this section to such plant and other pool distributing plants; and

(2) Total route disposition of fluid milk products, except filled milk, is 40 percent or more of such receipts in any of the months of February through August, inclusive, and 50 percent or more of such receipts in any of the months of September through January, inclusive.

(b) Any plant, hereinafter referred to as a "supply pool plant", from which there is forwarded in the form of fluid milk products, to a pool distributing plant(s) 50 percent or more each of the skim milk and butterfat in its dairy farm supply of Grade A milk except filled milk, during the current month during the period of September through November, or 20 percent or more during the current month during the period December through August. Any such plant which has forwarded in the form of fluid milk products, more than 50 percent of such receipts except filled milk, for the entire period of September through November shall be a pool plant for the months of December through August immediately following unless the operator of such plant files with the market administrator, prior to the first day of any month(s), a written request to withdraw such plant from pool plant status or such month(s);

(c) For the purposes of computing the percentages specified in this section the following shall apply:

(1) Receipt of milk from dairy farmers shall not include, at either plant involved, milk diverted pursuant to § 1133.9(b)(2);

(2) If a plant operated by a cooperative association meets the requirements of paragraph (a)(1) of this section, bulk milk delivered to distributing pool plants of other handlers shall be added to route disposition for purposes of computing the percentage specified in paragraph (a)(2) of this section; and

(3) If a handler operates more than one distributing plant meeting the requirements of paragraph (a)(1) of this section, the aggregate route disposition and receipts of all such plants shall be used to compute the percentage specified in paragraph (a)(2) of this section for each of such plants; and

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing or supply plant which would be subject to the classification, pricing and payment provisions of another order issued pursuant to the Act, unless a greater volume of fluid milk products, except filled milk, is disposed of as route disposition or to pool plants in the Inland Empire marketing area than in the marketing area regulated pursuant to such other order.

§ 1133.8 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that forwards fluid milk products during the month to a pool plant, but is neither an other order plant nor a producer-handler plant.

(e) "State institution" means State owned and operated institution which processes or packages skim milk and butterfat distributed solely on its premises or those of other State institutions. It shall be exempt from all provisions of this part.

§ 1133.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to the milk of its member producers caused to be diverted for its account:

(1) From a pool plant to a nonpool plant; and

(2) from a pool plant to another pool plant to which such cooperative association delivers no milk pursuant to paragraph (c) of this section during the month, and not exceeding a period of 90 consecutive days for any producer;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. Milk so delivered shall be considered to have been received by the cooperative association at the location of the plant to which delivered.

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1133.7(d)(2).

§ 1133.10 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a processing plant from which fluid milk products are disposed of in the marketing area as route disposition but who receives no fluid milk products during the month from other dairy farmers or from any other source except by transfer from a pool plant, and who receives no milk products other than fluid milk products for reconstitution into fluid milk products. Such person must provide proof satisfactory to the market administrator that the maintenance, care, and management of the dairy animals and other resources necessary to produce his own farm milk production and the operation of the processing and distribution business is the personal enterprise and risk of such person.

(b) A person may qualify as a producer-handler under paragraph (a) of this section if having been a producer to whom a Class I base had been assigned pursuant to § 1133.93, such Class I base has been forfeited pursuant to § 1133.95(c).

§ 1133.11 Dairy farmer.

"Dairy farmer" means any person who operates a farm engaged in the production of milk.

§ 1133.12 Producer.

"Producer" means any dairy farmer, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1133.13.

§ 1133.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers;

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section; and

(3) That to be classified pursuant to § 1133.42(b);

(b) With respect to additional receipts of a cooperative association:

(1) For which such cooperative association is the handler pursuant to § 1133.9(b)(1), subject to the limitations and conditions of paragraph (c) of this section;

(2) For which the cooperative association is the handler pursuant to § 1133.9(b)(2); and

(3) For which the cooperative association is the handler pursuant to § 1133.9(c) and which is in excess of the quantity delivered to pool plants.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March, and 70 percent in any of the months of April through August, of its total member milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis for the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March and 70 percent in any of the months of April through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the month of September, October, or November must in addition have at least 2 days' production received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.52 and 1133.75, diverted milk shall be considered to have been received at the location of the plant to which diverted.

§ 1133.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products from any source except (1) producer milk; or (2) receipts from other pool plants; and

(b) Products, other than fluid milk products, from any source (including those processed at the plant) which are reprocessed in connection with, or converted to, another product in the plant during the month, and any disappearance during the month of nonfluid milk products not otherwise accounted for.

§ 1133.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, skim milk drinks, buttermilk, flavored milk, flavored milk drinks, filled milk, concentrated milk, skim milk or milk drinks (not including evaporated milk, condensed milk or condensed skim milk), fortified milk or skim milk (including "diet" foods), cream (sweet or sour), any mixture in fluid form of cream and milk or skim milk (except ice cream mix, frozen dessert mix, cocoa mixes, a product which contains 6 percent or more nonmilk fat (or oil), aerated products, eggnog and yogurt), which are

neither sterilized nor in hermetically sealed metal containers.

§ 1133.16 [Reserved]

§ 1133.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

§ 1133.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, duly organized as such under the laws of any State, which includes members who are producers as defined in § 1133.12 and which the Secretary determines after application by the association:

(a) To be qualified under the standards set forth in the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have its entire organization and all its activities under the control of its members; and

(c) To be currently engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1133.30 Reports of receipts and utilization.

On or before the 7th day of each month, each handler except a producer-handler or a handler making payments pursuant to § 1133.76(b), shall report to the market administrator in the detail and on the forms prescribed by the market administrator the following information for the preceding month:

(a) Each handler operating pool plants shall report the quantities of skim milk and butterfat in:

(1) Receipts of each such plant in:

(i) Producer milk, showing separately that to be classified pursuant to § 1133.42(b);

(ii) Fluid milk products received from other pool plants; and

(iii) Other source milk;

(2) Opening inventories of fluid milk products;

(3) The utilization in each class of the quantities required to be reported, including separate statements of quantities (i) in inventories of fluid milk products on hand at the end of the month, (ii) in route disposition outside the marketing area, and (iii) of in-area and outside area route disposition of filled milk; and

(4) Such other information with respect to receipts and utilization as the market administrator may request.

(b) Each handler specified in § 1133.9 (d) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of producer milk; such report shall include a separate statement showing the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area; and

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1133.9 (b) and (c) as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1133.9(b)(1);

(3) The quantities delivered to each pool plant of another handler pursuant to § 1133.9 (b)(2) and (c); and

(4) Such other information as the market administrator may require.

§ 1133.31 Payroll reports.

On or before the 20th day of each month, each handler except one exempt pursuant to § 1133.7(d)(2) or one making payments pursuant to § 1133.76(b), shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 1133.76(a), his payroll for dairy farmers delivering Grade A milk) for deliveries made the preceding month which shall show for each producer:

(a) The name and address of the producer or dairy farmer;

(b) The total pounds of milk, the average butterfat test thereof, and the pounds of butterfat received from such producer and the number of days (provided that the number of days shall not exceed the number of calendar days in the month) on which milk was received from such producer; and

(c) The price, amount, and date of payment with the nature and amount of any deductions.

§ 1133.32 Other reports.

(a) Each producer-handler, each handler pursuant to § 1133.7(d)(2) and each handler making payments pursuant to § 1133.76(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler dumping skim milk shall give the market administrator not less than 6 hours' notice of intention to make such disposition and of the quantities of skim milk involved. In addition, each handler dumping skim milk shall mail or deliver to the market administrator within 48 hours following each dumping not witnessed by the market administrator or his agent, a report in writing, as prescribed by the market administrator, showing the date on which the dumping was made and the quantity dumped, such report to be signed by both the person who dumped the skim milk and the person authorized to sign reports for the handler made pursuant to § 1133.30 (if the latter person is not available to sign the report within the 48-hour period, the signature of the plant manager or plant superintendent shall be substituted on the report).

(c) The operator of a plant specified in § 1133.7(d)(2) shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(d) In making payments to producers pursuant to § 1133.73(b), each handler on or before the 17th day after the end of each month, for milk received during such month, shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate at which payment to such producer is required pursuant to § 1133.73;

(4) The rate which is used in making payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) In making payments to a cooperative association pursuant to § 1133.73(c) each handler upon request shall furnish to the cooperative association on or before the 20th day of the month with respect to milk received during the first half of the month and on or before the 7th day of the month with respect to milk received during the last half of the previous month for each producer for whom such payment is made, the information specified in subparagraphs (1), (2), and (5) of paragraph (a) of this section, and the daily weights of milk purchased from each of the association's member producers; and

(f) In addition to the reports required pursuant to §§ 1133.30 and 1133.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1133.40 Classes of utilization.

Subject to the conditions set forth in §§ 1133.41 and 1133.42, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

(i) any products fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of milk, skim milk, or cream of the same butterfat content; and

(i) As classified pursuant to paragraphs (c) (2) and (3) of this section; or

(2) Not otherwise specifically accounted for as Class II or Class III utilization;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat used to produce ice cream, ice cream mix, frozen

desserts, cocoa mixes and cottage, pot and bakers' cheese; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product or a Class II product;

(2) In skim milk:

(i) Disposed of for livestock feed;

(ii) Dumped pursuant to the conditions specified in § 1133.32(b); and

(iii) In fluid milk products which are excepted from Class I milk pursuant to paragraph (a)(1)(i) of this section;

(3) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(4) Contained in inventories of fluid milk products on hand at the end of the month;

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1133.41(b)(1) but not to exceed the following:

(i) Two percent of receipts at a pool plant of producer milk pursuant to § 1133.13(a) (1) and (2) and, with respect to a cooperative association, producer milk for which it is the handler pursuant to § 1133.9 (b) or (c); plus

(ii) 1.5 percent of receipts from a cooperative association in its capacity as a handler pursuant to § 1133.9 (b) or (c), except that if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations, the applicable percentage shall be 2 percent; plus

(iii) 1.5 percent of receipts in bulk tank lots from other pool plants; plus

(iv) 1.5 percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II or Class III utilization was requested by the operator of such plant and the handler; plus

(v) 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; less

(vi) 1.5 percent of disposition in bulk tank lots to other milk plants (when the exception specified in subdivision (ii) of this subparagraph applies, the applicable percentage shall be 2 percent); plus

(vii) 0.5 percent of milk received by a cooperative association handler pursuant to § 1133.9 (b) and (c) from producers as determined by farm tests and weights measured by farm bulk tank calibrations unless the exception in subparagraph 5(ii) of this paragraph applies; and

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1133.41(b)(2).

§ 1133.41 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 1133.40(c)(5); and (2) skim milk and butterfat in other source milk received in the form of fluid milk products, exclusive of that specified in § 1133.40(c)(5).

§ 1133.42 Classification of transfers and diversions.

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, except as provided in paragraph (b) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1133.44(a)(8) and the corresponding step of § 1133.44(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1133.44(a)(3) and the corresponding step of § 1133.44 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1133.44(a) (7) or (8) and the corresponding step of § 1133.44(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As producer milk in the transferee plant, if transferred as bulk milk to the pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1133.9 (b)(2) or (c). Such milk shall be excluded from producer milk to be classified as that of the cooperative association;

(c) As Class I milk, if transferred from a pool plant to a producer-handler, or to a State institution;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1133.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of as route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of as route disposition in the marketing area of an other order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) Class II utilization shall next be assigned to remaining receipts in the sequence provided in subdivision (iii) of this subparagraph (3). To the extent that neither Class I nor Class II utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class III milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request

in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for only two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and skim milk and butterfat allocated to Class II under the other order shall be classified as Class III; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1133.40.

§ 1133.43 General classification rules.

In determining the classification of producer milk pursuant to § 1133.44, the following rules shall apply:

(a) For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in each class for such handler at all of his pool plants; and

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all the water originally associated with such solids.

§ 1133.44 Classification of producer milk.

After making the computations pursuant to § 1133.43(a), the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk classified:

(i) From Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(ii) From Class III the pounds of skim milk classified as Class III milk pursuant to § 1133.40(c)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3)(v) of this paragraph, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(2a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk in products other than fluid milk products that are used (directly or as a reconstituted fluid milk product) to produce Class II products;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (that was not subtracted pursuant to subparagraph (2a) of this paragraph) in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order, and from State institutions;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract, in the order specified below, in sequence beginning with Class III from the pounds of skim milk remaining in Classes II and III, but not in excess of such quantity;

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to subparagraph (1)(i) or (3)(iv) of this paragraph;

(*a*) For which the handler requests Class II or Class III utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants, that were not subtracted pursuant to subparagraph (3)(v) of this paragraph;

(ii) Receipts of fluid milk products in bulk from another order plant, that were not subtracted pursuant to subparagraph (3)(v) of this paragraph, in excess of similar transfers to such plant, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1)(ii) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class pro rata to such quantities the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraphs (1)(i), (3)(iv), or (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from another order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (3)(v) or (4)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1133.45(a) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1133.42(a);

(10) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1133.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1133.44(a)(8) and the corresponding step of § 1133.44(b), the market administrator shall estimate

and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1133.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report;

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report; and

(d) On or before the 16th day after the end of each month, report to each cooperative association (or its duly designated agent) which so requests the class utilization of milk delivered by such cooperative association pursuant to § 1133.9 (b) (2) and (c) or from its member producers to each handler. For the purpose of this report, the milk caused to be so delivered by such cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

Class Prices

§ 1133.50 Class prices.

Subject to the provisions of § 1133.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceeding month plus $1.95.

(b) *Class II price.* The Class II price shall be the price computed pursuant to paragraph (c) of this section, plus 25 cents per hundredweight.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter at Chicago as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 48 cents, and round to the nearest cent.

§ 1133.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1133.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located more than 90 miles by shortest highway distance as measured by the market administrator, from the City Hall in Spokane, Wash., and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1133.50(a) shall be reduced by two cents for each 10 miles or fraction thereof, up to 200 miles and one cent for each 10 miles or fraction thereof, in excess of 200 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from such plant to the City Hall, Spokane, Wash.;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1133.9 (b) (2) and (c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply; and

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall be not less than the Class III price.

§ 1133.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before the 5th day of each month:

(a) The Class I price for the following month;

(b) The Class I butterfat differential for the current month; and

(c) The Class II and Class III prices and the corresponding butterfat differentials, all for the preceding month.

§ 1133.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

§ 1133.55 Handler butterfat differentials.

If the average butterfat content of Class I milk, Class II milk or Class III milk, computed pursuant to § 1133.43(a), for any handler for any month differs from 3.5 percent, there shall be added to, or subtracted from, the applicable class price (§ 1133.50) for each one-tenth of 1 percent that the average butterfat content of such class is respectively above, or below, 3.5 percent, a butterfat differential computed by the market administrator as follows:

(a) *Class I milk.* The simple average of the wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter at Chicago, as reported by the Department during the preceding month, multiply by 0.123, and round to the nearest tenth of a cent.

(b) *Class II milk and Class III milk.* The simple average of the wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter at Chicago as reported by the Department during the month, multiply by 0.115 and round to the nearest tenth of a cent.

Uniform Price

§ 1133.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1133.9 (b) and (c) as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1133.44(c), by the applicable class prices (adjusted pursuant to §§ 1133.52 and 1133.55);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1133.44(a) (10) and the corresponding step of § 1133.44(b) by the applicable class prices;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1133.44(a) (5) and the corresponding step of § 1133.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The pounds of skim milk and butterfat subtracted from Class II milk pursuant to § 1133.44(a) (5) and the cor-

responding step of § 1133.44(b) for the current month; or

(ii) The pounds of skim milk and butterfat remaining in Class III milk after the calculations pursuant to § 1133.44(a)(8) and the corresponding step of § 1133.44(b) for the preceding month, less the pounds used in computation pursuant to subparagraph (1) of this paragraph;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1133.44(a)(3) and the corresponding step of § 1133.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1133.44(a)(3)(iv) and (v) and the corresponding step of § 1133.44(b) the Class I price shall be adjusted to the location of the transferor plant;

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received with respect to the skim milk and butterfat subtracted from Class I pursuant to § 1133.44(a)(7) and the corresponding step of § 1133.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(f) Add or subtract the amount necessary to correct errors disclosed by the verification of reports of receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

§ 1133.61 Computation of uniform price (including weighted average price).

(a) For each month the market administrator shall compute a uniform price for producer milk and a weighted average price for all milk as follows:

(1) Combine into one total the values computed pursuant to § 1133.60 for all handlers who filed the reports prescribed by § 1133.30 for the month and who made the payments pursuant to § 1133.71 for the preceding month;

(2) Add an amount equal to the total value of the location differentials computed pursuant to § 1133.75;

(3) Subtract, if the average butterfat content of the milk specified in subparagraph (5) of this paragraph is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1133.74 and multiplying the result by the total hundredweight of such milk;

(4) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1133.60(e);

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be known as the uniform price for producer milk and the weighted average price for all milk.

§ 1133.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before the 12th day of each month:

(a) The producer butterfat differential for the preceding month; and

(b) The uniform price for the preceding month.

Payments for Milk

§ 1133.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1133.71, 1133.76, and 1133.77 and out of which he shall make all payments to handlers pursuant to §§ 1133.72 and 1133.77.

§ 1133.71 Payments to the producer-settlement fund.

On or before the 14th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of

(1) The total of the net pool obligation computed pursuant to § 1133.60 for such handler; and

(2) In the case of a cooperative association which is a handler, the minimum amount due from other handlers pursuant to § 1133.73(d);

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1133.73; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1133.60(e);

(c) Each handler operating a plant pursuant to § 1133.7(d)(2), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

§ 1133.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1133.71(d) exceeds the amount computed pursuant to § 1133.71(a). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1133.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as specified in paragraphs (a) and (b) of this section:

(a) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at not less than the Class III price for the preceding month.

(b) On or before the 17th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1133.61 subject to the butterfat differential computed pursuant to § 1133.74 and location adjustment computed pursuant to § 1133.75 and less (1) payments made pursuant to paragraph (a) of this section, (2) marketing service deductions pursuant to § 1133.86, and (3) proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1133.72 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to

collect payments for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association;

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination;

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1133.9(b)(2) and (c), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) In making final settlement, the value of such milk at the applicable uniform price, less payment made pursuant to subparagraph (1) of this paragraph; and

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provisions of the Act.

§ 1133.74 Producer butterfat differential.

In making payments pursuant to § 1133.73(b) the uniform price shall be adjusted for each one-tenth of 1 percent of butterfat content in the milk of each producer above or below 3.5 percent as the case may be, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a) and (b) of § 1133.55, weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest tenth of a cent.

§ 1133.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk shall be reduced according to the location of the plant where the milk was first actually received from producers at the rates set forth in § 1133.52.

(b) For purposes of computations pursuant to §§ 1133.71 and 1133.72 the adjustments pursuant to this section shall be at the rates set forth in § 1133.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted price shall be not less than the Class III price.

§ 1133.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1133.30 and 1133.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1133.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. No obligation shall apply to Class I milk transferred to a pool plant or an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1133.60(e), and a credit in the amount specified in § 1103.71(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1133.30(b) and 1133.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1133.7(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plants for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk route disposition in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received at the plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the lowest class price of the respective order) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the lowest class price of the respective order.

§ 1133.77 Adjustment of Accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the

next date for making payments set forth in the provisions under which such error occurred following the fifth day after such notice.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1133.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk (including that classified pursuant to § 1133.42(b) and such handler's own farm production), (b) other source milk allocated to Class I pursuant to § 1133.44(a) (3) and (7) and the corresponding steps of § 1133.44 (b) except such other source milk on which no handler obligation applies pursuant to § 1133.60(e), and (c) Class I route disposition in the marketing area by partially regulated distributing plants that exceeds Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order pursuant to the Act; and

(2) Specified in § 1133.76(b) (2) (ii).

§ 1133.86 Deductions for marketing services.

(a) Except as provided in paragraph (c) of this section, each handler, in making payments to producers pursuant to § 1133.73(b), shall deduct 5 cents per hundredweight of milk, or such lesser amount as the Secretary may prescribe (other than with respect to milk of such handler's own production), with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association;

(2) All milk received at a plant operated by a cooperative association from producers who are not members of such association; and

(3) All milk received at a plant operated by a cooperative association(s) from producers who are members thereof but for whom any of the services set forth in paragraph (b) of this section are not being performed by such association(s), as determined by the market administrator.

(b) The deductions made pursuant to paragraph (a) of this section shall be paid to the market administrator on or before the 14th day after the end of each month. Such moneys shall be expended by the market administrator for the verification of weights, sampling, and testing of milk received from producers and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(c) In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and taking of deduction therefor to, a cooperative association, (2) whose milk is received at a plant not operated by such association, and (3) for whom the market administrator determines that such association is performing the services described in paragraph (b) of this section, each handler shall deduct, in lieu of the deduction specified under paragraph (a) of this section, from the payments made pursuant to § 1133.73(b), the amount per hundredweight of milk authorized by such producer and shall pay, on or before the 16th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: February 1, 1973.

Signed at Washington, D.C., on December 21, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-22381 Filed 12-28-72;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined and Released

Pursuant to the provisions of sections 1, 2, 3, and 4 of the act of March 3, 1905, as amended, sections 1 and 2 of the act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the act of May 29, 1884, as amended, and sections 3 and 11 of the act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82 Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a)(1) relating to the State of California, subdivision (iii) relating to San Bernardino and Riverside Counties is amended, and in subdivision (v) relating to Los Angeles County a new (*a*) is added, to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *California.* * * *

(iii) That portion of San Bernardino and Riverside Counties bounded by a line beginning at the junction of the San Bernardino-Los Angeles County line and the dividing line between T. 2 N. and T. 1 N. of the San Bernardino Baseline; thence, following the dividing line between T. 2 N. and T. 1 N. in an easterly direction to the San Bernardino Meridian in San Bernardino County; thence, following the San Bernardino Meridian in a southerly direction to the San Bernardino-Riverside County line; thence, following the San Bernardino-Riverside County line in an easterly direction to the dividing line between R. 1 E. and R. 2 E. of the San Bernardino Meridian in San Bernardino County; thence, following the dividing line between R. 1 E. and R. 2 E. in a southerly direction to the dividing line between T. 3 S. and T. 4 S. of the San Bernardino Baseline; thence, following the dividing line between T. 3 S. and T. 4 S. of the San Bernardino Baseline in a westerly direction to the dividing line between R. 1 W. and R. 2 W. of the San Bernardino Meridian; thence, following the dividing line between R. 1 W. and R. 2 W. of the San Bernardino Meridian in a northerly direction to the San Timoteo Canyon Road; thence, following the southern edge of the San Timoteo Canyon Road in a westerly, then northerly direction to the Riverside-San Bernardino County line; thence, following the Riverside-San Bernardino County line in a westerly direction to the western edge of U.S. Highway 395; thence, following the western edge of U.S. Highway 395 in a southwesterly, then southeasterly direction to Van Buren Boulevard; thence, following the southern edge of Van Buren Boulevard in a westerly, then northerly direction to California State Highway 91; thence, following the southern edge of California State Highway 91 in a southwesterly direction to the Riverside-Orange County line; thence, following the Riverside-Orange County line in a northwesterly direction to the San Bernardino-Orange-Riverside County lines; thence, following the San Bernardino-Orange County line in a northwesterly direction to the San Bernardino-Los Angeles County line; thence, following the San Bernardino-Los Angeles County line in a northerly direction to its junction with the dividing line between T. 2 N. and T. 1 N. of the San Bernardino Baseline.

* * * * *

(v) The following areas in Los Angeles County:

(*a*) The premises of S. J. Baer, 1297 Hacienda Boulevard, La Habra, CA.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505.)

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

The amendments quarantine an additional portion of Los Angeles County in California because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, apply to the quarantined area.

The amendments exclude portions of San Bernardino and Riverside Counties

in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

The amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22d day of December 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-22403 Filed 12-28-72;8:50 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Relief of Restrictions

On November 1, 1972, there was published in the FEDERAL REGISTER (37 F.R. 23275), a notice of proposed rule making with respect to proposed relief of restrictions on the interstate movement of birds under the regulations contained in Part 82, Title 9, Code of Federal Regulations. After due consideration of all relevant material, including that submitted in connection with such notice, and pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f) said Part 82 is hereby amended in the following respects:

In § 82.4, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read:

§ 82.4 Restrictions on interstate movement from quarantined areas.

(c) A lot consisting of no more than two psittacine or mynah birds or birds of any other species, which are not known to be affected with or exposed to any communicable disease of poultry, which are caged and are personal pets may be moved interstate by the owner thereof from any quarantined area, if (1) prior to such movement, the owner of such birds signs and furnishes to a Federal inspector in the State of origin of the movement[2] a notarized declaration under oath or affirmation stating that the birds have been in his possession for a minimum of 90 days preceding the interstate movement, that such birds have not shown any signs of illness during that period, and that such birds have not been in contact with poultry or other birds (including association with any other birds at exhibitions or in aviaries) in the quarantined area during that period; (2) prior to such movement, the owner signs an agreement[3] on a form obtainable from a Federal inspector in the State of origin of the movement[2] stating that the birds will be maintained in his personal possession separate and apart from all poultry or other birds, in a place approved by the Deputy Administrator, at destination, for a minimum of 30 days following such interstate movement and until released by a Federal or State inspector of the State of destination; [3] that the birds will be made available for health inspection by a Federal or State inspector, or both, upon request until so released, and that Federal or State officials of the State of destination [3] will be immediately notified if any signs of disease are noted in any of the birds or any of the birds die during that period; and (3) there is compliance with the terms of such agreement.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The amendments shall become effective upon publication in the FEDERAL REGISTER (12–29–72).

The amendments permit the interstate movement of not more than two personal pet birds from quarantined areas under conditions specified to prevent the spread of poultry disease, including the requirement of no contact with poultry or other birds for 90 days preceding movement interstate and the requirement of isolation for 30 days following such movement. The amendments set forth above are the same as those proposed in the notice of proposed rule making.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of December, 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-22404 Filed 12-28-72;8:49 am.]

[2] Information as to the location of such inspectors can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[3] Owners will be provided a copy of the agreement containing the name and address of the appropriate Federal and State officials of the State of destination. Animal Health officials in States of destination of pet birds to be moved from a quarantined area will be immediately notified by the Federal official in the originating State when such movement into the particular State is made under a declaration furnished to such Federal official.

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 2—RULES OF PRACTICE

Authority of Atomic Safety and Licensing Board to Rule on Certain Petitions

Section 191 of the Atomic Energy Act of 1954, as amended (42 U.S.C. section 2011 et seq.) provides for the establishment of atomic safety and licensing boards to conduct hearings and make initial decisions with respect to the granting, suspending, revoking, or amending of licenses or authorizations under the Atomic Energy Act and other law. This includes proceedings to consider applications for construction permits or operating licenses for production or utilization facilities.

Under the existing rules of practice (10 CFR Part 2), a proceeding for a construction permit for a facility is initiated by the issuance of a notice of hearing signed by the Secretary of the Commission, after the application has been docketed. Any petitions for intervention or limited appearance filed with the Commission are ruled on by the atomic safety and licensing board designated to preside over the hearing, generally at a special prehearing conference held within sixty (60) days after the notice of hearing has been published. In contrast, a proceeding for an operating license for a facility starts with a notice of consideration of issuance of facility operating license and opportunity for hearing. In such proceedings, any petitions for intervention and hearing are ruled on by the Commission. Where warranted, the Commission orders a hearing and issues a notice of hearing.

The Commission has amended its rules of practice to permit atomic safety and licensing boards to assume the function of ruling on petitions for intervention and hearing in operating license proceedings. This function may be exercised either by a board designated for a particular operating license proceeding or by a board designated to rule on such petitions. If the board orders a hearing, it will issue an appropriate notice stating

the nature of the hearing, the issues to be considered, and any other matter which the board considers to be appropriate.

Appeals from licensing board rulings on petitions for intervention and/or hearing in construction permit or operating license proceedings are permitted in specified circumstances. Any board order wholly denying a petition for intervention and/or hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part. Any board order granting a petition for intervention and/or hearing is appealable by a party other than the petitioner on the question whether the petition and/or request for a hearing should have been wholly denied. Any appeal must be made within 5 days of the appealable order.

Since the amendments which follow relate solely to matters of internal management, and are procedural rather than substantive, general notice of proposed rule making and public procedure thereon are not required by section 553 of title 5 of the United States Code.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following revisions to Title 10, Chapter 1, Code of Federal Regulations, Part 2, are published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER (12-29-72).

1. The second sentence of § 2.105(e) is amended to read as follows:

§ 2.105 Notice of proposed action.

* * * * *

(e) * * * If a request for a hearing and/or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission or an atomic safety and licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated atomic safety and licensing board will issue a notice of hearing or an appropriate order.

* * * * *

2. Section 2.700 is amended to read as follows:

§ 2.700 Scope of subpart.

The general rules in this subpart govern procedure in all adjudications initiated by the issuance of an order to show cause, an order pursuant to § 2.205 (e), a notice of hearing, or a notice of proposed action issued pursuant to § 2.105.

3. The first sentence of § 2.702 is amended to read as follows:

§ 2.702 Docket.

The Secretary will maintain a docket for each proceeding subject to this part, commencing with the issuance of the initial notice of hearing, notice of consideration of issuance of facility operating license or other proposed action specified in § 2.105, or order to show cause.

4. In § 2.714, the introductory language in paragraphs (a) and (d), and the language of paragraph (e) are amended to read as follows:

§ 2.714 Intervention.

(a) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition under oath or affirmation for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose interest may be affected may also request a hearing. Any petition and/or request shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which he wishes to intervene and/or on which he bases his request for a hearing, 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. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer, or the atomic safety and licensing board designated to rule on the petition and/or request, except as provided in § 2.102 (d)(3). Nontimely filings will not be entertained absent a determination by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request that the petitioner has made a substantial showing of good cause for failure to file on time, and with particular reference to the following factors in addition to those set out in paragraph (d) of this section:

* * * * *

(d) The Commission, the presiding officer or the atomic safety and licensing board designated to rule on petitions to intervene and/or requests for hearing shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

* * * * *

(e) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, presiding officer or the designated atomic safety and licensing board may direct in the interests of: (1) Restricting irrelevant, duplicative, or repetitive evidence and argument, (2) having common interests represented by a spokesman, and (3) retaining authority to determine priorities and control the compass of the hearing.

* * * * *

5. A new § 2.714a is added to read as follows:

§ 2.714a Appeals from certain rulings on petitions for leave to intervene and/or requests for hearing.

(a) Notwithstanding the provisions of § 2.730(f), an order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing may be appealed, in accordance with the provisions of this section, to the Atomic Safety and Licensing Appeal Board within five (5) days after service of the order. The appeal shall be asserted by the filing of a notice of appeal and accompanying supporting brief. Any other party may file a brief in support of or in opposition to the appeal within five (5) days after service of the appeal. No other appeals from rulings on petitions and/or requests for hearing shall be allowed.

(b) An order wholly denying a petition for leave to intervene and/or request for a hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part.

(c) An order granting a petition for leave to intervene and/or request for a hearing is appealable by a party other than the petitioner on the question whether the petition and/or the request for a hearing should have been wholly denied.

6. The third sentence of § 2.717(a) is amended to read as follows:

§ 2.717 Commencement and termination of jurisdiction of presiding officer.

(a) * * * A proceeding is deemed to commence when a notice of hearing or a notice of proposed action pursuant to § 2.105 is issued.

* * * * *

7. Section 2.721(a) is amended to read as follows:

§ 2.721 Atomic safety and licensing boards.

(a) The Commission or the Chairman of the Atomic Safety and Licensing Board Panel may from time to time establish one or more atomic safety and licensing boards, each comprised of three members, one of whom will be qualified in the conduct of administrative proceedings and two of whom shall have such technical or other qualifications as the Commission or the Chairman of the Atomic Safety and Licensing Board Panel deems appropriate to the issues to be decided, to preside in such proceedings for granting, suspending, revoking, or amending licenses or authorizations as the Commission may designate, and to perform such other adjudicatory functions as the Commission deems appropriate. The members of an atomic safety and licensing board shall be designated from the Atomic Safety and Licensing Board Panel established by the Commission.

(Sec. 161, 68 Stat. 948, 42 U.S.C. 2201)

Dated at Germantown, Md., this 19th day of December, 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-22335 Filed 12-28-72;8:47 am]

Title 21—FOOD AND DRUGS

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

Schedule I Substances; Research Applications and Protocols

A notice was published in the FEDERAL REGISTER of November 9, 1972 (37 F.R. 23842) proposing new regulations governing the procedures for submitting and processing applications to conduct research with Schedule I controlled substances. One comment was received, from three professors of microbiology at the University of Montana, who urged the deletion of the words "and indication of an approved funded grant" from the material to be included in the research protocol (§ 301.33(a)(3)(iv)). They argue that much research is funded by other than direct grants and interpret the language as forbidding such research. The Bureau did not intend this interpretation; rather, the proposal language was designed to notify BNDD and the FDA when a grant was involved. To clarify this, the words "if any" have been added at the end of the language cited.

Through oversight, one element was omitted from the framework of the protocol. Section 301.22(b)(3) permits a person registered to conduct research as a Schedule I controlled substance to manufacture or import that substance "if and to the extent that such manufacture is set forth in the research protocol." To provide a proper location for including this information, § 301.33(a)(2) is revised by the addition of a paragraph (vii) which reads: "(vii) If the investigator desires to manufacture or import any controlled substance listed in paragraph (iii), a statement of the quantity to be manufactured or imported and the sources of the chemicals to be used or the substance to be imported."

Under the authority vested in the Attorney General by sections 301, 302(f) and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821, 822(f), and 871(b)), and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 301 of Title 21 of the Code of Federal Regulations be amended as follows:

1. By amending § 301.32(a)(6) to read as follows:

§ 301.32 Application forms; contents signature.

(a) * * *

(6) To conduct research with controlled substances listed in schedule I, he shall apply on BNDD Form 225, with three copies of a research protocol as described in § 301.33(a) attached to the form, or, in the case of a clinical investigation, with three copies of a certificate of submission of an IND as described in § 301.33(b) attached to the form (the researcher also submitting to the Food and Drug Administration three copies of a Notice of Claimed Investigational Exemption for a New Drug as required in § 301.33(b));

* * * * *

2. By adopting a new § 301.33 to read as follows:

§ 301.33 Research protocols.

(a) A protocol to conduct research with controlled substances listed in Schedule I shall be in the following form and contain the following information where applicable:

(1) Investigator:

(i) Name, address, and BNDD registration number; if any.

(ii) Institutional affiliation.

(iii) Qualifications, including a curriculum vitae and an appropriate bibliography (list of publications).

(2) Research project:

(i) Title of project.

(ii) Statement of the purpose.

(iii) Name of the controlled substances or substances involved and the amount of each needed.

(iv) Description of the research to be conducted, including the number and species of research subjects, the dosage to be administered, the route and method of administration, and the duration of the project.

(v) Location where the research will be conducted.

(vi) Statement of the security provisions for storing the controlled substances (in accordance with § 301.75) and for dispensing the controlled substances in order to prevent diversion.

(vii) If the investigator desires to manufacture or import any controlled substance listed in subdivision (iii) of this subparagraph, a statement of the quantity to be manufactured or imported and the sources of the chemicals to be used or the substance to be imported.

(3) Authority:

(i) Institutional approval.

(ii) Approval of a Human Research Committee for human studies.

(iii) Indication of an approved active Notice of Claimed Investigational Exemption for a New Drug (number).

(iv) Indication of an approved funded grant (number), if any.

(b) In the case of a clinical investigation with controlled substances listed in Schedule I, the applicant shall submit three copies of a Notice of Claimed Investigational Exemption for a New Drug (IND) together with a statement of the security provisions (as prescribed in paragraph (a)(2)(v) of this section for a research protocol) to, and have such submission approved by, the Food and Drug Administration as required in 21 U.S.C. 355(i) and § 130.3 of this title. Submission of this Notice and statement to the Food and Drug Administration shall be in lieu of a research protocol to the Bureau as required in paragraph (a) of this section. The applicant, when applying for registration with the Bureau, shall indicate that such notice has been submitted to the Food and Drug Administration by submitting to the Bureau with his BND Form 225 three copies of the following certificate:

I hereby certify that on _____, pursuant
(Date)
to 21 U.S.C. 355(i) and 21 CFR 130.3, I, _____
(Name and Address of IND Sponsor)
submitted a Notice of Claimed Investigational Exemption for a New Drug (IND) to the Food and Drug Administration for:

_____
(Name of Investigational Drug)

_____
(Date)

_____
Signature of Applicant

(c) In the event that the registrant desires to increase the quantity of a controlled substance used for an approved research project, he shall submit a request to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Post Office Box 28083, Central Station, Washington, D.C. 20005, by registered mail, return receipt requested. The request shall contain the following information: BNDD registration number; name of the controlled substance or substances and the quantity of each authorized in the approved protocol; and the additional quantity of each desired. Upon return of the receipt, the registrant shall be authorized to purchase the additional quantity of the controlled substance or substances specified in the request. The Bureau shall review the letter and forward it to the Food and Drug Administration together with the Bureau comments. The Food and Drug Administration shall approve or deny the request as an amendment to the protocol and so notify the registrant. Approval of the letter by the Food and Drug Administration shall authorize the registrant to use the additional quantity of the controlled substance in the research project.

(d) In the event the registrant desires to conduct research beyond the variations provided in the registrant's approved protocol (excluding any increase in the quantity of the controlled substance requested for his research project as outlined in paragraph (c) of this section), he shall submit three copies of a supplemental protocol in accordance with paragraph (a) of this section describing the new research and omitting information in the supplemental protocol which has been stated in the original protocol. Supplemental protocols shall be processed and approved or denied in the same manner as original research protocols.

3. By deleting § 301.42 in its entirety and replacing it with the following:

§ 301.42 Action on applications for research in Schedule I substances.

(a) In the case of an application for registration to conduct research with controlled substances listed in Schedule I, the Director shall process the application and protocol and forward a copy of each to the Secretary within 7 days after receipt. The Secretary shall determine the qualifications and competency of the applicant, as well as the merits of the protocol (and shall notify the

Director of his determination) within 21 days after receipt of the application and complete protocol, except that in the case of a clinical investigation, the Secretary shall have 30 days to make such determination and notify the Director. The Secretary, in determining the merits of the protocol, shall consult with the Director as to effective procedures to safeguard adequately against diversion of such controlled substances from legitimate medical or scientific use.

(b) An applicant whose protocol is defective shall be notified by the Secretary within 21 days after receipt of such protocol from the Director (or in the case of a clinical investigation within 30 days), and he shall be requested to correct the existing defects before consideration shall be given to his submission.

(c) If the Secretary determines the applicant qualified and competent and the research protocol meritorious, he shall notify the Director in writing of such determination. The Director shall issue a certificate of registration within 10 days after receipt of this notice, unless he determines that the certificate of registration should be denied on a ground specified in section 304(a) of the Act (21 U.S.C. 824(a)). In the case of a supplemental protocol, a replacement certificate of registration shall be issued by the Director.

(d) If the Secretary determines that the protocol is not meritorious and/or the applicant is not qualified or competent, he shall notify the Director in writing setting forth the reasons for such determination. If the Director determines that grounds exist for the denial of the application, he shall within 10 days issue an order to show cause pursuant to § 301.48 and, if requested by the applicant, hold a hearing on the application pursuant to § 301.51. If the grounds for denial of the application include a determination by the Secretary, the Secretary or his duly authorized agent shall furnish testimony and documents pertaining to his determination at such hearing.

(e) Supplemental protocols will be processed in the same manner as original research protocols. If the processing of an application or research protocol is delayed beyond the time limits imposed by this section, the applicant shall be so notified in writing.

Effective date. This order is effective upon the date of its publication in the FEDERAL REGISTER (12-29-72).

Dated: December 22, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-22387 Filed 12-28-72;8:51 am]

PART 304—RECORDS AND REPORTS OF REGISTRANTS

Information Regarding Controlled Substance Transactions

The Bureau of Narcotics and Dangerous Drugs has responsibility for monitoring the production and distribution of controlled substances in the United States, and for establishing quotas on the quantities of controlled substances listed in Schedules I and II of the Comprehensive Drug Abuse Prevention and Control Act of 1970. In order to do this, the Bureau must collect considerable information on the flow of controlled substances among registrants.

At the present time, the Bureau relies on summarized reports filed by manufacturers and distributors of narcotic drugs, a system established in the former Federal Bureau of Narcotics. No data is collected regularly regarding nonnarcotic controlled substances. In March 1971, the Bureau proposed extending the narcotic reporting system to nonnarcotic drugs (36 F.R. 4928, March 13, 1971). Various associations of manufacturers and distributors objected to this proposal and the Bureau did not make the change. In reaching this decision, however, it was said (36 F.R. 7776, April 24, 1971):

> The Director wishes to point out that these requirements are intended to continue existing reporting requirements until a new system of reporting that more fully accords with the Act can be designed and implemented. It is anticipated that this will require 9 to 12 months and at that time §§ 304.31–35 will be replaced.

Soon thereafter the Bureau began an ambitious project that would provide BNDD with detailed information regarding every transaction in a controlled substance. This required extensive study of the feasibility of collecting and processing this data, as well as the various uses to which it could be put. Thus, the replacement of the narcotics reporting system was delayed beyond the 9 to 12 months originally anticipated.

In the summer of 1972, the Bureau had sufficiently outlined its new program to begin discussions with affected registrants. The Pharmaceutical Manufacturers' Association and the National Association of Pharmaceutical Manufacturers jointly sponsored a series of seminars with selected members, representatives of various pharmaceutical wholesaler groups, and BNDD to discuss the project. On September 18, 1972, the Bureau directly mailed to each registrant who might be affected by the new system a detailed explanation of the program, how it would work, and how it might affect them. Further meetings were held, and on November 13, 1972, a second mailing was made by BNDD. In that mailing was included a draft of the proposed regulations which would implement the new system. Comments were solicited at that time.

The Director has determined, in light of the discussions with affected registrants, that the new system should be implemented, but on a gradual basis during 1973. Each affected registrant will be contacted during the next 12 months and advised as to the date on which he shall commence reporting under the new system. Until a registrant is incorporated into the new system, he shall continue to file information on narcotic substances which he now files.

The new system will require reports from manufacturers regarding production, distributions, and annual inventories of controlled substances listed in Schedules I and II and narcotic controlled substances in Schedules III and V, and reports from repackers, relabelers, importers, exporters, and distributors regarding receipts, distributions, and annual inventories of controlled substances in Schedules I and II and narcotic controlled substances in Schedule III. The Director finds that reports on each sale, delivery, or other disposal made by a manufacturer of any controlled substance may be required under section 307(d) of the Act (21 U.S.C. 826(d)); at this time, however, the Director finds that the Bureau cannot process data on such transactions on nonnarcotic controlled substances in Schedules III, IV, and V. The Director finds that reports on each sale, delivery, or other disposal of any narcotic controlled substance made by a distributor may be required under section 307(d) of the Act (21 U.S.C. 827(d)) but that such transactions involving Schedule V narcotics are not necessary at this time. The Director further finds that reports by manufacturers regarding production and annual inventories of controlled substances in Schedules I and II (and narcotic substances in Schedules III and V) and reports by distributors regarding sales, deliveries, and other disposals of nonnarcotic controlled substances listed in Schedules I and II and regarding receipts and annual inventories of all controlled substances in Schedules I and II and narcotics substances in Schedule III, are necessary and appropriate for the efficient execution of his functions under the Act in establishing quotas on the future production of these substances, in filing annual statistical returns regarding narcotic substances required under Article 20(1) of the Single Convention on Narcotic Drugs 1961, and is filing annual statistical reports required under Article 16(4) of the Convention on Psychotropic Substances, 1971 (which the United States has agreed to submit voluntarily in advance of ratification), and may therefore be required under section 501 (b) of the Act (21 U.S.C. 871(b)). The Director also finds that reports from importers and exporters regarding imports, exports, receipts, distributions, and annual inventories of controlled substances in Schedules I and II and narcotic controlled substances in Schedule III are similarly necessary and appropriate and may be required under sections 1008(d), 1015, and 501(b) of the Act (21 U.S.C. 958(d), 965, and 871(b)).

Therefore, under the authority vested in the Attorney General pursuant to sections 307(d), 501(b), 1008(d), and 1015 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 827(d), 871(b), 958(d), and 965), and delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 304 of Title 21

of the Code of Federal Regulations be amended as follows:

1. By adopting a new § 304.36 to read as follows:

§ 304.36 Transitional regulations.

(a) It is the intent of the Bureau to shift use of BND Forms 233, 234, and 235 under §§ 304.31–304.32 to BND Form 333 under §§ 304.37–304.41 in stages during the calendar year 1973, and to have total utilization of the new reporting forms by January 1, 1974. Individual registrants will be contacted by the Bureau as to the date each registrant will shift in the forms used and the data reported.

(b) On the date on which the registrant transfers from BND Form 234 or 235 to BND Form 333, he shall take and file on BND Form 333 a complete inventory of all controlled substances on which he is required to report.

(c) References to BND Form 234 in §§ 304.33 and 304.34 shall be deemed to refer equally to BND Form 333.

2. By adopting a new § 304.37 to read as follows:

§ 304.37 Reports generally.

(a) All reports required by §§ 304.38–304.41 shall be filed with the Distribution Audit Branch, Bureau of Narcotics and Dangerous Drugs; Department of Justice, Washington, D.C. 20537.

(b) Reports required by §§ 304.38–304.41 shall be filed on BND Form 333, or on media which contains the data required by BND Form 333 and which is acceptable to the Distribution Audit Branch.

3. By adopting a new § 304.38 to read as follows:

§ 304.38 Reports from manufacturers of bulk materials or dosage units.

Each person who is registered to manufacture controlled substances and who manufactures such substances in bulk or dosage form shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled substance listed in Schedule I and II and on each narcotic controlled substance listed in Schedules III and V (but not on any material, compound, mixture, or preparations containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture or preparation is listed in Schedule III). Data shall be presented in such a manner as to identify the particular form, strength, and trade name, if any, of the product containing the controlled substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by purchase or transfer, return from a customer, recovery of waste material, manufacture from other materials, or supplied by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by sale or transfer, sampling, use in production, loss through nonrecoverable waste, theft, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each reported controlled substance on hand as of the close of business on December 31 of each year, indicating whether the substance is in storage or in process of manufacturing. These reports shall be filed no later than January 15 of the following year.

4. By adopting a new § 304.39 to read as follows:

§ 304.39 Reports from packagers and labelers.

Each person who is registered to manufacture controlled substances and who only packages, repackages, labels, or relabels such substances shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled substance listed in Schedule I and II and on each narcotic controlled substance listed in Schedule III (but not on any material, compound, mixture, or preparation containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture, or preparation is listed in Schedule III or on any narcotic controlled substance listed in Schedule V). Data shall be presented in such a manner as to identify the particular form, strength, and trade name, if any, of the product containing the controlled substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by purchase or transfer, return from a customer, recovery of waste material, manufacture from other materials, or supply by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by sale or transfer, sampling, use in production, loss through nonrecoverable waste, theft, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each reported controlled substance on hand each year as of the close of business on the inventory date selected by the registrant pursuant to § 304.13. These reports shall be filed not later than the 15th day of the month succeeding the inventory date.

(d) *Exceptions.* A registered institutional practitioner who repackages or relabels exclusively for distribution to and dispensing by agents, employees, or affiliated institutional practitioners of the registrant may be exempted from filing reports under this section by applying to the Distribution Audit Branch of the Bureau.

5. By adopting a new § 304.40 to read as follows:

§ 304.40 Reports from importers and exporters.

Each person who is registered to import or export controlled substances shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled substance listed in Schedule I and II and on each narcotic controlled substance listed in Schedule III (but not on any material, compound, mixture or preparation containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture or preparation is listed in Schedule III or on any narcotic controlled substance listed in Schedule V). Data shall be presented in such a manner as to identify the particular form, strength, and substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by importation, by purchase or transfer, return from a customer, or supply by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by exportation, by sale or transfer, sampling, theft, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each controlled substance covered on hand each year as of the close of business on the inventory date selected by the registrant pursuant to § 304.13. These reports shall be filed no later than the 15th day of the month succeeding the inventory date.

6. By adopting a new § 304.41 to read as follows:

§ 304.41 Reports from distributors.

Each person who is registered to distribute controlled substances shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled sub-

stance listed in Schedule I and II and on each narcotic controlled substance listed in Schedule III (but not on any material, compound, mixture or preparation containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture or preparation is listed in Schedule III or on any narcotic controlled substance listed in Schedule V). Data shall be presented in such a manner as to identify the particular form, strength, and trade name, if any, of the product containing the controlled substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by purchase or transfer, return from a customer, or supply by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by sale or transfer, sampling, theft, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each controlled substance covered on hand each year as of the close of business on the inventory date selected by the registrant pursuant to § 304.13. These reports shall be filed no later than the 15th day of the month succeeding the inventory date.

(d) *Exceptions.* A registered institutional practitioner which distributes exclusively to (for dispensing by) agents, employees, or affiliated institutional practitioners of the registrant may be exempted from filing reports under this section by applying to the Distribution Audit Branch of the Bureau.

Effective date. Because every registrant affected by the changes ordered above has previously been given a copy of the changes and permitted to comment, because the implementation of the system is scheduled to commence January 1, 1973, and because implementation will not be completed until December 31, 1973 (thereby allowing considerable time for revisions, if necessary), this order shall be effective on December 31, 1972. Therefore, the Director finds that waiver of the usual period for comments and objections is consistent with the public health and safety, with the interests of affected persons, and with the need to provide a codified set of regulations to all registrants.

If any interested person desires to comment on or object to any of the changes made in this order, the Director will consider such comments and objections for purposes of amending or revoking any of these changes. All interested persons are invited to submit their comments and objections in writing with five copies to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 I Street NW., Washington, DC 20537.

Dated: December 22, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-22388 Filed 12-28-72;8:51 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7238]

ACCELERATION OF COLLECTION OF ESTATE AND GIFT TAXES

On August 25, 1972, notice of proposed rule making to conform the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), the Gift Tax Regulations (26 CFR Part 25), and the Regulations on Procedure and Administration (26 CFR Part 301), to the amendments of the Internal Revenue Code of 1954 made by sections 101 and 102 of the Excise, Estate, and Gift Tax Adjustment Act of 1970 (84 Stat. 1836), was published in the FEDERAL REGISTER (37 F.R. 17179). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below.

1. Paragraph (a) of § 20.2204–2, as set forth in paragraph 16 of the notice of proposed rule making, is changed to read as set forth below.

2. Paragraphs (a) and (b) of § 20.6161–1, as set forth in paragraph 30 of the appendix to the notice of proposed rule making, are changed to read as set forth below.

3. Subparagraph (1) and example (1) of subparagraph (3) of § 25.6019–1 (b), as set forth in paragraph 77 of the appendix to the notice of proposed rule making, are changed to read as set forth below.

4. Section 301.6601–1 is amended by revising paragraph (b)(2) to read as set forth below.

(Secs. 2204(b), 2513, 6001, 6011, 6036, 6071, 6091(b), 6166(j), 6905(a), and 7805 of the Internal Revenue Code of 1954 (84 Stat. 1836, 26 U.S.C. 2204(b); 68A Stat. 406, 26 U.S.C. 2513; 68A Stat. 731, 26 U.S.C 6001; 68A Stat 732, 26 U.S.C. 6011; 68A Stat. 744, 26 U.S.C. 6036; 68A Stat. 749, 26 U.S.C 6071; 84 Stat 1837, 26 U.S.C. 6091(b); 72 Stat. 1684, 26 U.S.C. 6166(j); 84 Stat. 1838, 26 U.S.C. 6905 (a); 68A Stat 917, 26 U.S.C. 7805)

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

Approved: December 21, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

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

PARAGRAPH 1. Section 1.1015 is amended by revising section 1015(d)(2) and the historical note to read as follows:

§ 1.1015 Statutory provisions; basis of property acquired by gifts and transfers in trust.

SEC. 1015. *Basis of property acquired by gifts and transfers in trust.* * * *

(d) *Increased basis for gift tax paid.* * * *

(2) *Amount of tax paid with respect to gift.* For purposes of paragraph (1), the amount of gift tax paid with respect to any gift is an amount which bears the same ratio to the amount of gift tax paid under chapter 12 with respect to all gifts made by the donor for the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which such gift is made as the amount of such gift bears to the taxable gifts (as defined in section 2503(a) but computed without the deduction allowed by section 2521) made by the donor during such calendar quarter or year. For purposes of the preceding sentence, the amount of any gift shall be the amount included with respect to such gift in determining (for the purposes of section 2503(a)) the total amount of gifts made during the calendar quarter or year, reduced by the amount of any deduction allowed with respect to such gift under section 2522 (relating to charitable deduction) or under section 2523 (relating to marital deduction).

* * * * *

[Sec. 1015 as amended by sec. 43(a), Technical Amendments Act 1958 (Public Law 85–866, 72 Stat. 1640); sec. 102(d)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat.1841)]

PAR. 2. Paragraph (b) of § 1.1015–5 is amended by revising subparagraphs (1)(i), (1)(ii), (2), and (4) to read as follows:

§ 1.1015–5 Increased basis for gift tax paid.

* * * * *

(b) *Amount of gift tax paid with respect to a gift of property.* (1) (i) If only one gift was made during a certain calendar quarter (or calendar year if the gift was made before January 1, 1971), the entire amount of the gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws for that calendar quarter (or calendar year) is the amount of the gift tax paid with respect to the gift.

(ii) If more than one gift was made during a certain calendar quarter (or calendar year if the gifts were made before January 1, 1971), the amount of gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws with respect to any specified gift made during that calendar quarter (or calendar year) is an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar quarter or calendar year) as C (the "amount of the gift," computed as described in this subdivision) bears to D (the total taxable gifts for the calendar quarter or calendar year, computed with-

out deduction for the gift tax specific exemption under section 2521 or the corresponding provisions of prior revenue laws). Stated algebraically, the amount of the gift tax paid with respect to a gift equals:

$$\frac{\text{"Amount of the gift" (C)}}{\text{Total taxable gifts, plus specific exemption allowed (D)}} \times \text{Total gift tax paid (B)}$$

For purposes of the ratio stated in the preceding sentence, the "amount of the gift" referred to as factor "C" is the value of the gift reduced by any portion excluded or deducted under section 2503(b) (annual exclusion), 2522 (charitable deduction), or 2523 (marital deduction) of the Code or the corresponding provisions of prior revenue laws. In making the computations described in this paragraph, the values to be used are those finally determined for purposes of the gift tax.

* * * * *

(2) For purposes of this paragraph, it is immaterial whether the gift tax is paid by the donor or the donee. Where more than one gift of a present interest in property is made to the same donee during a calendar quarter or calendar year, the annual exclusion shall apply to the earliest of such gifts in point of time.

* * * * *

(4) The method described in section 1015(d)(2) and this paragraph for computing the amount of gift tax paid in respect of a gift may be illustrated by the following examples:

Example (1). Prior to 1959 H made no taxable gifts. On July 1, 1959, he made a gift to his wife, W, of land having a value for gift purposes of $60,000 and gave to his son, S, certain securities valued at $60,000. During the year 1959, H also contributed $5,000 in cash to a charitable organization described in section 2522. H filed a timely gift tax return for 1959 with respect to which he paid gift tax in the amount of $6,000, computed as follows:

Value of land given to W		$60,000	
Less: Annual exclusion	$3,000		
Marital deduction	30,000	33,000	
Included amount of gift			$27,000
Value of securities given to S		60,000	
Less: Annual exclusion		3,000	
Included amount of gift			57,000
Gift to charitable organization		5,000	
Less: Annual exclusion	3,000		
Charitable deduction	2,000	5,000	
Included amount of gift			0
Total included gifts			84,000
Less: Specific exemption allowed			30,000
Taxable gifts for 1959			54,000
Gift tax on $54,000			6,000

In determining the gift tax paid with respect to the land given to W, amount C of the ratio set forth in subparagraph (1)(ii) of this paragraph is $60,000, value of property given to W, less $33,000 (the sum of $3,000, the amount excluded under section 2503(b), and $30,000, the amount deducted under section 2523), or $27,000. Amount D of the ratio is $84,000 (the amount of taxable gifts, $54,000, plus the gift tax specific exemption, $30,000). The gift tax paid with respect to the land given to W is $1,928.57, computed as follows:

$$\frac{\$27,000\ (C)}{\$84,000\ (D)} \times \$6,000\ (B)$$

Example (2). The facts are the same as in example (1) except that H made his gifts to W and S on July 1, 1971, and that prior to 1971, H made no taxable gifts. Furthermore, H made his charitable contribution on August 12, 1971. These were the only gifts made by H during 1971. H filed his gift tax return for the third quarter of 1971 on November 15, 1971, as required by section 6075(b). With respect to the above gifts, H paid a gift tax in the amount of $6,000, on total taxable gifts of $54,000 for the third quarter of 1971. The gift tax paid with respect to the land given to W is $1,928.57. The computations for these figures are identical to those used in example (1).

Example (3). On January 15, 1956, A made a gift to his nephew, N, of land valued at $86,000, and on June 30, 1956, gave N securities valued at $40,000. On July 1, 1956, A gave to his sister, S, $46,000 in cash. A and his wife, B, were married during the entire calendar year 1956. The amount of A's taxable gifts for prior years was zero although in arriving at that amount A had used in full the specific exemption authorized by section 2521. B did not make any gifts before 1956. A and B elected under section 2513 to have all gifts made by either during 1956 treated as made one-half by A and one-half by B. Pursuant to that election, A and B each filed a gift tax return for 1956. A paid gift tax of $11,325 and B paid gift tax of $5,250, computed as follows:

	A	B
Value of land given to N	$43,000	$43,000
Less: exclusion	3,000	3,000
Included amount of gift	40,000	40,000
Value of securities given to N	20,000	20,000
Less: exclusion	None	None
Included amount of gift	20,000	20,000
Cash gift to S	23,000	23,000
Less: exclusion	3,000	3,000
Included amount of gift	20,000	20,000
Total included gifts	80,000	80,000
Less: specific exemption	None	30,000
Taxable gifts for 1956	80,000	50,000
Gift tax for 1956	11,325	5,250

The amount of the gift tax paid by A with respect to the land given to N is computed as follows:

$$\frac{\$40,000(C)}{\$80,000(D)} \times \$11,325(B) = \$5,662.50$$

The amount of the gift tax paid by B with respect to the land given to N is computed as follows:

$$\frac{\$40,000(C)}{\$80,000(D)} \times \$5,250(B) = \$2,625$$

The amount of the gift tax paid with respect to the land is $5,662.50 plus $2,625, or $8,287.50. Computed in a similar manner, the amount of gift tax paid by A with respect to the securities given to N is $2,831.25, and the amount of gift tax paid by B with respect thereto is $1,312.50, or a total of $4,143.75.

Example (4). The facts are the same as in example (3) except that A gave the land to N on January 15, 1972, the securities to N on February 3, 1972, and the cash to S on March 7, 1972. As in example (3), the amount of A's taxable gifts for taxable years prior to 1972 was zero, although in arriving at that amount A had used in full the specific exemption authorized by section 2521. B did not make any gifts before 1972. Pursuant to the election under section 2513, A and B treated all gifts made by either during 1972 as made one-half by A and one-half by B. A and B each filed a gift tax return for the first quarter of 1972 on May 15, 1972, as required by section 6075(b). A paid gift tax of $11,325 on taxable gifts of $80,000 and B paid gift tax of $5,250 on taxable gifts of $50,000. The amount of the gift tax paid by A and B with respect to the land given to N is $5,662.50 and $2,625, respectively. The computations for these figures are identical to those used in example (3).

* * * * *

PAR. 3. Section 1.1223 is amended by redesignating subsection (10) of section 1223 as (12), by inserting new subsections (10) and (11) immediately after subsection (9), and by adding a historical note. These redesignated and added provisions read as follows:

§ 1.1223 Statutory provisions; holding period of property.

SEC. 1223. *Holding period of property.* * * *

(10) In determining the period for which the taxpayer has held trust certificates of a trust to which subsection (d) of section 1246 applies, or the period for which the taxpayer has held stock in a corporation to which subsection (d) of section 1246 applies, there shall be included the period for which the trust or corporation (as the case may be) held the stock of foreign investment companies.

(11) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of section 1014(b)), if—

(A) The basis of such property in the hands of such person is determined under section 1014, and

(B) Such property is sold or otherwise disposed of by such person within 6 months after the decedent's death,

then such person shall be considered to have held such property for more than 6 months.

(12) *Cross reference.* * * *

[Sec. 1223 as amended by sec. 14(b), Rev. Act 1962 (76 Stat. 1041); sec. 101(g), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 4. Section 1.1223–1 is amended by redesignating paragraph (j) as (k) and inserting a new paragraph (j) immediately after paragraph (i). These redesignated and added provisions read as follows:

§ 1.1223–1 Determination of period for which capital assets are held.

* * * * *

(j) In the case of a person acquiring property, or to whom property passed, from a decedent (within the meaning of section 1014(b)) dying after December 31, 1970, such person shall be considered to have held the property for more than 6 months if the property—

(1) Has a basis in the hands of such person which is determined in whole or in part under section 1014, and

(2) Is sold or otherwise disposed of by such person within 6 months after the decedent's death.

The provisions of this paragraph apply to sales of such property included in the decedent's gross estate for the purposes of the estate tax by the executor or administrator of the estate and to sales of such property by other persons who have acquired property from the decedent. The provisions of this paragraph may also be applicable to cases involving joint tenancies, community property, and properties transferred in contemplation of death. Thus, if a surviving joint tenant, who acquired property by right of survivorship, sells or otherwise disposes of such property within 6 months after the date of the decedent's death, and the basis of the property in his hands is determined in whole or in part under section 1014, the property shall be considered to have been held by the surviving joint tenant for more than 6 months. Similarly, a surviving spouse's share of community property shall be considered to have been held by her for more than 6 months if it is sold or otherwise disposed of within 6 months after the date of the decedent's death, regardless of when the property was actually acquired by the marital community. For the purposes of this paragraph, it is immaterial that the sale or other disposition produces gain or loss. If property is considered to have been held for more than 6 months by reason of this paragraph, it also is considered to have been held for that period for purposes of section 1231 (if that section is otherwise applicable).

(k) Any reference in section 1223 or this section to another provision of the Internal Revenue Code of 1954 is, where applicable, to be deemed a reference to the corresponding provision of the Internal Revenue Code of 1939, or prior internal revenue laws. The provisions of prior internal revenue laws here intended are the sections referred to in the sections of the Internal Revenue Code of 1939 which correspond to the sections of the Internal Revenue Code of 1954 referred to in section 1223. Thus, the sections corresponding to section 1081(c) are section 371(c) of the Revenue Act of 1938 (52 Stat. 553) and section 371(c) of the Internal Revenue Code of 1939. The sections corresponding to section 1091 are section 118 of each of the following: The Revenue Acts of 1928 (45 Stat. 826), 1932 (47 Stat. 208), 1934 (48 Stat. 715), 1936 (49 Stat. 1692), 1938 (52 Stat. 503), and the Internal Revenue Code of 1939.

PAR. 5. Section 1.6161 is amended by revising section 6161(a)(1), by revising section 6161(b), and by adding a historical note. These revised and added provisions read as follows:

§ 1.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (* * *) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1, 12, or 42, for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months;

* * * * *

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

* * * * *

[Sec. 6161 as amended by sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PAR. 6. Section 20.0–1 is amended by revising paragraph (a)(1) to read as follows:

§ 20.0–1 Introduction.

(a) *In general.* (1) The regulations in this part (Part 20, Subchapter B, Chapter I, Title 26, Code of Federal Regulations) are designated "Estate Tax Regulations." These regulations pertain to (i) the Federal estate tax imposed by chapter 11 of subtitle B of the Internal Revenue Code on the transfer of estates of decedents dying after August 16, 1954, and (ii) certain related administrative provisions of subtitle F of the Code. It should be noted that the application of many of the provisions of these regulations may be affected by the provisions of an applicable death tax convention with a foreign country. Unless otherwise indicated, references in the regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, and references to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954, as amended. Unless otherwise provided, the Estate Tax Regulations are applicable to the estates of decedents dying after August 16, 1954, and supersede the regulations contained in Part 81, Subchapter B, Chapter 1, Title 26, Code of Federal Regulations (1939) (Regulations 105, Estate Tax), as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 F.R. 5167, Aug. 17, 1954). The regulations in this part do not reflect the amendments made by the Foreign Investors Tax Act of 1966 (80 Stat. 1539).

* * * * *

PAR. 7. Section 20.2012 is amended by revising section 2012(b)(1), by revising section 2012(d), and by adding a historical note. These revised and added provisions read as follows:

§ 20.2012 Statutory provisions; credit for gift tax.

SEC. 2012. *Credit for gift tax.* * * *

(b) In applying, with respect to any gift, the ratio stated in subsection (a), the value at the time of the gift or at the time of the death referred to in such ratio, shall be reduced—

(1) By such amount as will properly reflect the amount of such gift which was excluded in determining (for purposes of section 2503(a)), or of corresponding provisions of prior laws, the total amount of gifts made during the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which the gift was made;

* * * * *

(d) (1) For purposes of subsection (a), the amount of tax paid on a gift under chapter 12, or under corresponding provisions of prior laws, with respect to any gift shall be an amount which bears the same ratio to the total tax paid for the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which the gift was made as the amount of such gift bears to the total amount of taxable gifts (computed without deduction of the specific exemption) for such quarter or year.

(2) For purposes of paragraph (1), the "amount of such gift" shall be the amount included with respect to such gift in determining (for the purposes of section 2503(a), or of corresponding provisions of prior laws) the total amount of gifts made during such quarter or year, reduced by the amount of any deduction allowed with respect to such gift under section 2522, or under corresponding provisions of prior laws (relating to charitable deduction), or under section 2523 (relating to marital deduction).

[Sec. 2012 as amended by sec. 102(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 8. Section 20.2012–1 is amended by revising so much of paragraph (c) as precedes the example to read as follows:

§ 20.2012–1 Credit for gift tax.

* * * * *

(c) *"First limitation".* The amount of the gift tax paid on the gift is the "first limitation". Thus, if only one gift was made during a certain calendar quarter, or calendar year if the gift was made before January 1, 1971, and the gift is wholly included in the decedent's gross estate for the purpose of the estate tax, the credit with respect to the gift is limited to the amount of the gift tax paid for that calendar quarter or calendar year. On the other hand, if more than one gift was made during a certain calendar quarter or calendar year, the credit with respect to any such gift which is included in the decedent's gross estate is limited under section 2012(d) to an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar quarter or calendar year) as C (the "amount of the gift," computed as described below) bears to D (the total taxable gifts for the calendar quarter or the calendar year, computed without deduction of the gift tax specific exemption). Stated algebraically, the "first limitation" (A) equals

$$\frac{\text{"Amount of the gift" (C)}}{\text{Total taxable gifts, plus specific exemption allowed (D)}} \times \text{Total gift tax paid (B).}$$

For purposes of the ratio stated above, the "amount of the gift" referred to as factor "C" is the value of the gift reduced by any portion exluded or deducted under sections 2503(b) (annual exclusion), 2522 (charitable deduction), or 2523 (marital deduction) of the Internal Revenue Code or corresponding provisions of prior law. In making the computations described in this paragraph, the values to be used are those finally determined for the purpose of the gift tax, irrespective of the values determined for the purpose of the estate tax. A similar computation is made in case only a portion of any gift is included in the decedent's gross estate. The application of this paragraph may be illustrated by the following example:

* * * * *

PAR. 9. Section 20.2032 is amended by revising sections 2032(a) (1) and (2), by revising section 2032(b) and by adding a historical note. These revised and added provisions read as follows:

§ 20.2032 Statutory provisions; alternate valuation.

SEC. 2032. *Alternate valuation*—(a) *General.* * * *

(1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.

(2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date 6 months after the decedent's death.

* * * * *

(b) *Special rules.* No deduction under this chapter of any item shall be allowed if allowance for such item is in effect given by the alternate valuation provided by this section. Wherever in any other subsection or section of this chapter reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property used in determining the value of the gross estate. In case of an election made by the executor under this section, then—

(1) For purposes of the charitable deduction under section 2055 or 2106(a)(2), any bequest, legacy, devise, or transfer enumerated therein, and

(2) For the purpose of the marital deduction under section 2056, any interest in property passing to the surviving spouse,

shall be valued as of the date of the decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date 6 months after the decedent's death (substituting, in the case of property distributed by the executor or trustee, or sold, exchanged, or otherwise disposed of, during such 6-month period, the date thereof).

* * * * *

[Sec. 2032 as amended by sec. 101(a), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

PAR. 10. Section 20.2032–1 is amended by revising paragraphs (a)(1), (a)(2), (a)(3), (b), (f)(1), and (g) to read as follows:

§ 20.2032–1 Alternate valuation.

(a) *In general.* * * *

(1) Any property distributed, sold, exchanged, or otherwise disposed of within 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death is valued as of the date on which it is first distributed, sold, exchanged, or otherwise disposed of;

(2) Any property not distributed, sold, exchanged, or otherwise disposed of within 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death is valued as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after the date of the decedent's death;

(3) Any property, interest, or estate which is affected by mere lapse of time is valued as of the date of the decedent's death, but adjusted for any difference in its value not due to mere lapse of time as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death, or as of the date of its distribution, sale, exchange, or other disposition, whichever date first occurs.

(b) *Method and effect of election.* (1) While it is the purpose of section 2032 to permit a reduction in the amount of tax that would otherwise be payable if the gross estate has suffered a shrinkage in its aggregate value in the 6 months (1 year, if the decedent died on or before December 31, 1970) following the decedent's death, the alternate valuation method is not automatic but must be elected. Furthermore, the alternate valuation method may be elected whether or not there has been a shrinkage in the aggregate value of the estate. However, the election is not effective for any purpose unless the value of the gross estate at the time of the decedent's death exceeded $60,000, so that an estate tax return is required to be filed under section 6018.

(2) If the alternate valuation method under section 2032 is to be used, section 2032(c) requires that the executor must so elect on the estate tax return required under section 6018, filed within 9 months (15 months, if the decedent died on or before December 31, 1970) from the date of the decedent's death or within the period of any extension of time granted by the district director under section 6081. In no case may the election be exercised, or a previous election changed, after the expiration of such time. If the election is made, it applies to all the property included in the gross estate, and cannot be applied to only a portion of the property.

* * * * *

(f) *Mere lapse of time.* * * *

(1) *Life estates, remainders, and similar interests.* The values of life estates, remainders, and similar interests are to be obtained by applying the methods prescribed in § 20.2031–7, using (i) the age of each person, the duration of whose life may affect the value of the interest, as of the date of the decedent's death, and (ii) the value of the property as of the alternate date. For example, assume that the decedent or his estate was entitled to receive property upon the death of his elder brother who was entitled to receive the income therefrom for life. At the date of the decedent's death, the property was worth $50,000 and the elder brother was 31 years old. The value of the decedent's remainder interest at the date of his death would, as explained in paragraph (d) of § 20.2031–7, be $14,466 ($50,000 × 0.28932). If, because of economic conditions, the property declined in value

and was worth only $40,000, 6 months (1 year if the decedent died on or before December 31, 1970) after the date of the decedent's death, the value of the remainder interest as of the alternate date would be $11,572.80 ($40,000 ×0.28932), even though the elder brother may be 32 years old on the alternate date.

* * * * *

(g) *Effect of election on deductions.* If the executor elects the alternate valuation method under section 2032, any deduction for administration expenses under section 2053(b) (pertaining to property not subject to claims) or losses under section 2054 (or section 2106(a)(1), relating to estates of nonresidents not citizens) is allowed only to the extent that it is not otherwise in effect allowed in determining the value of the gross estate. Furthermore, the amount of any charitable deduction under section 2055 (or section 2106(a)(2), relating to the estates of nonresidents not citizens) or the amount of any marital deduction under section 2056 is determined by the value of the property with respect to which the deduction is allowed as of the date of the decedent's death, adjusted, however, for any difference in its value as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after death, or as of the date of its distribution, sale, exchange, or other disposition, whichever first occurs. However, no such adjustment may take into account any difference in value due to lapse of time or to the occurrence or nonoccurrence of a contingency.

PAR. 11. Section 20.2053–1 is amended by revising paragraph (c)(2) to read as follows:

§ 20.2053–1 Deductions for expenses, indebtedness, and taxes; in general.

* * * * *

(c) *Provision applicable to first category only.* * * *

(2) Amounts paid, out of property not subject to claims against the decedent's estate, within 9 months (15 months in the case of the estate of a decedent dying before January 1, 1971) after the decedent's death (the period within which the estate tax return must be filed under section 6075), or within any extension of time for filing the return granted under section 6081.

* * * * *

PAR. 12. Section 20.2055 is amended by revising section 2055(a)(2) and (3), by revising section 2055(b)(2)(C), by revising section 2055(e), and by revising the historical note. These revised provisions read as follows:

§ 20.2055 Statutory provisions; transfers for public, charitable, and religious uses.

SEC. 2055. *Transfers for public, charitable, and religious uses*—(a) *In general.* * * *

(2) To or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which insures to the benefit of any private stockholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(3) To a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; or

* * * * *

(b) *Powers of appointment* * * *

(2) *Special rule for certain bequests subject to power of appointment.* * * *

(C) Such surviving spouse by affidavit executed within 6 months after the death of the decedent specifies the organizations described in subsection (a)(2) in favor of which he intends to exercise the power of appointment and indicates the amount or proportion each such organization is to receive; and

* * * * *

(e) *Disallowance of deductions in certain cases.* (1) No deduction shall be allowed under this section for a transfer to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

(2) Where an interest in property (other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property) passes or has passed from the decedent to a person, or for a use, described in subsection (a), and an interest (other than an interest which is extinguished upon the decedent's death) in the same property passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to a person, or for a use, not described in subsection (a), no deduction shall be allowed under this section for the interest which passes or has passed to the person, or for the use, described in subsection (a) unless—

(A) In the case of a remainder interest, such interest is in a trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664) or a pooled income fund (described in section 642(c)(5)), or

(B) In the case of any other interest, such interest is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly).

* * * * *

[Sec. 2055 as amended by sec. 1, Act of Aug. 6, 1956 (Pub. Law 1011, 84th Cong., 70 Stat. 1075); sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631); sec. 201(d), Tax Reform Act 1969 (83 Stat. 560); sec. 101(c), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

PAR. 13. Section 20.2055–2 is amended by revising paragraph (c)(1) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(c) *Disclaimers.* * * *

(1) A disclaimer of a bequest, devise, transfer, or power, if (i) the disclaimer is made within 9 months (15 months, if the decendent died on or before December 31, 1970) after the decendent's death (the period of time within which the estate tax return must be filed under section 6075) or within any extension of time for filing the return granted pursuant to section 6081, and (ii) the disclaimer is irrevocable at the time the deduction is allowed, or

* * * * *

PAR. 14. Section 20.2204 is amended to read as follows:

§ 20.2204 Statutory provisions; discharge of fiduciary from personal liability.

(a) Section 2204 as amended by section 101(d) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

SEC. 2204. *Discharge of fiduciary from personal liability*—(a) *General rule.* If the executor makes written application to the Secretary or his delegate for determination of the amount of the tax and discharge from personal liability therefor, the Secretary or his delegate (as soon as possible, and in any event within 1 year after the making of such application, or, if the application is made before the return is filed then within 1 year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 6501) shall notify the executor of the amount of the tax. The executor, on payment of the amount of which he is notified (other than any amount the time for payment of which is extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment is extended, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) *Fiduciary other than the executor.* If a fiduciary (not including a fiduciary in respect of the estate of a nonresident decedent) other than the executor makes written application to the Secretary or his delegate for determination of the amount of any estate tax for which the fiduciary may be personally liable, and for discharge from personal liability therefor, the Secretary or his delegate upon the discharge of the executor from personal liability under subsection (a), or upon the expiration of 6 months after the making of such application by the fiduciary, if later, shall notify the fiduciary (1) of the amount of such tax for which it has been determined the fiduciary is liable, or (2) that it has been determined that the fiduciary is not liable for any such tax. Such application shall be accompanied by a copy of the instrument, if any, under which such fiduciary is acting, a description of the property held by the fiduciary, and such other information for purposes of carrying out the provisions of this section as the Secretary or his delegate may require by regulations. On payment of the amount of such tax for which it has been determined the fiduciary is liable (other than any amount the time for payment of which has not been extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment has been extended, or on receipt by him of notification of a determination that he is

not liable for any such tax, the fiduciary shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing evidencing such discharge.

[Sec. 2204 as amended by sec. 101(d), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 15. Section 20.2204–1 is amended to read as follows:

§ 20.2204–1 Discharge of executor from personal liability.

(a) *General rule.* The executor of a decedent's estate may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091–1, for a determination of the Federal estate tax and for a discharge of personal liability therefrom. Within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after receipt of the application, or if the application is made before the return is filed then within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after the return is filed, the executor will be notified of the amount of the tax and, upon payment thereof, he will be discharged from personal liability for any deficiency in the tax thereafter found to be due. If no such notification is received, the executor is discharged at the end of such 9 month (1 year if applicable) period from personal liability for any deficiency thereafter found to be due. The discharge of the executor from personal liability under this section applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as executor to the extent of the assets of the estate in his possession or control. Further, the discharge is not to operate as a release of any part of the gross estate from the lien for estate tax for any deficiency that may thereafter be determined to be due.

(b) *Special rule in the case of extension of time for payment of tax.* In addition to the provisions of paragraph (a) of this section, an executor of the estate of a decedent dying after December 31, 1970, may make written application to be discharged from personal liability for the amount of Federal estate tax for which the time for payment has been extended under section 6161, 6163, or 6166. In such a case, the executor will be notified of the amount of bond, if any, to be furnished within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after receipt of the application, or, if the application is made before the return is filed, within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after the return is filed. The amount of any bond required under the provisions of this paragraph shall not exceed the amount of tax the payment of which has been extended. Upon furnishing the bond in the form required under § 301.7101–1 of this chapter (Regulations on Procedure and Administration), or upon receipt of the notification that no bond is required, the executor will be discharged from personal liability for the tax the payment of which has been extended. If no notification is received, the executor is discharged at the end of such 9 month period (or 1 year period if applicable) from personal liability for the tax the payment of which has been extended.

PAR. 16. The following section is inserted immediately before § 20.2205:

§ 20.2204–2 Discharge of fiduciary other than executor from personal liability.

(a) A fiduciary (not including a fiduciary of the estate of a nonresident decedent), other than the executor, who as a fiduciary holds, or has held at any time since the decedent's death, property transferred to the fiduciary from a decedent dying after December 31, 1970, or his estate, may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091–1, for a determination of the Federal estate tax liability with respect to such property and for a discharge of personal liability therefrom. The application must be accompanied by a copy of the instrument, if any, under which the fiduciary is acting, a description of all the property transferred to the fiduciary from the decedent or his estate, and any other information that would be relevant to a determination of the fiduciary's tax liability.

(b) Upon the discharge of the executor from personal liability under § 20.2204–1, or, if later, within 6 months after the receipt of the application filed by a fiduciary pursuant to the provisions of paragraph (a) of this section, such fiduciary will be notified either (1) of the amount of tax for which it has been determined the fiduciary is liable, or (2) that it has been determined that the fiduciary is not liable for any such tax. The fiduciary will also be notified of the amount of bond, if any, to be furnished for any Federal estate tax for which the time for payment has been extended under section 6161, 6163, or 6166. The amount of any bond required under the provisions of this paragraph shall not exceed the amount of tax the payment of which has been so extended. Upon payment of the amount for which it has been determined the fiduciary is liable, and upon furnishing any bond required under this paragraph in the form specified under § 301.7101–1 of this chapter (Regulations on Procedure and Administration), or upon receipt by the fiduciary of notification of a determination that he is not liable for such tax or that a bond is not required, the fiduciary will be discharged from personal liability for any deficiency in the tax thereafter found to be due. If no such notification is received, the fiduciary is discharged at the end of such 6 months (or upon discharge of the executor, if later) from personal liability for any deficiency thereafter found to be due. The discharge of the fiduciary from personal liability under this section applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as a fiduciary (such as a trustee) to the extent of the assets of the estate in his possession or control. Further, the discharge is not to operate as a release of any part of the gross estate from the lien for estate tax for any deficiency that may thereafter be determined to be due.

PAR. 17. Section 20.6001–1 is amended by revising paragraph (b) to read as follows:

§ 20.6001–1 Persons required to keep records and render statements.

* * * * *

(b) In addition to filing an estate tax return (see § 20.6018–1) and, if applicable, a preliminary notice (see § 20.6036–1), the executor shall furnish such supplemental data as may be necessary to establish the correct estate tax. It is therefore the duty of the executor (1) to furnish, upon request, copies of any documents in his possession (or on file in any court having jurisdiction over the estate) relating to the estate, appraisal lists of any items included in the gross estate, copies of balance sheets or other financial statements obtainable by him relating to the value of stock, and any other information obtainable by him that may be found necessary in the determination of the tax, and (2) to render any written statement, containing a declaration that it is made under penalties of perjury, of facts within his knowledge which the district director may require for the purpose of determining whether a tax liability exists and, if so, the extent thereof. Failure to comply with such a request will render the executor liable to penalties (see section 7269), and proceedings may be instituted in the proper court of the United States to secure compliance therewith (see section 7604).

* * * * *

PAR. 18. Section 20.6011–1 is amended by revising paragraph (b) to read as follows:

§ 20.6011–1 General requirement of return, statement, or list.

* * * * *

(b) *Use of prescribed forms.* Copies of the forms prescribed by §§ 20.6018–1 and 20.6036–1 may be obtained from district directors. The fact that an executor has not been furnished with copies of these forms will not excuse him from making a return or, if applicable, from filing a preliminary notice. Application for a form shall be made to the district director in ample time for the executor to have the form prepared, verified, and filed with the appropriate internal revenue office on or before the date prescribed for the filing thereof (see §§ 20.6071–1 and 20.6075–1). The executor shall care-

fully prepare the return and, if applicable, the preliminary notice so as to set forth fully and clearly the data called for therein. A return or, if applicable, a preliminary notice which has not been so prepared will not be accepted as meeting the requirements of §§ 20.6018–1 through 20.6018–4, and § 20.6036–1.

PAR. 19. Section 20.6018–3 is amended by revising paragraph (c)(6) to read as follows:

§ 20.6018–3 Returns; contents of return.

* * * * *

(c) *Provisions applicable to returns described in paragraphs (a) and (b) of this section.* * * *

(6) If, pursuant to section 2032, the executor elects to have the estate valued at a date or dates subsequent to the time of the decedent's death, there must be set forth on the return: (i) An itemized description of all property included in the gross estate on the date of the decedent's death, together with the value of each item as of that date; (ii) an itemized disclosure of all distributions, sales, exchanges, and other dispositions of any property during the 6 month (1 year, if the decedent died on or before December 31, 1970) period after the date of the decedent's death, together with the dates thereof; and (iii) the value of each item of property in accordance with the provisions of section 2032 (see § 20.2032–1). Interest and rents accrued at the date of the decedent's death and dividends declared to stockholders of record on or before the date of the decedent's death and not collected at that date are to be shown separately. (See also paragraph (e) of § 20.6018–4 with respect to documents required to be filed with the return.)

* * * * *

PAR. 20. Section 20.6018–4 is amended by revising paragraph (e) to read as follows:

§ 20.6018–4 Returns; documents to accompany the return.

* * * * *

(e) If, pursuant to section 2032, the executor elects to have the estate valued at a date or dates subsequent to the time of the decedent's death, the executor shall file with the return evidence in support of any statements made by him in the return as to distributions, sales, exchanges, or other dispositions of property during the 6 month (1 year, if the decedent died on or before December 31, 1970) period which followed the decedent's death. If the court having jurisdiction over the estate makes an order or decree of distribution during that period, a certified copy thereof must be submitted as part of the evidence. The district director, or the director of a service center, may require the submission of such additional evidence as is deemed necessary.

* * * * *

PAR. 21. Section 20.6036–1 is amended to read as follows:

§ 20.6036–1 Notice of qualification as executor of estate of decedent dying before 1971.

(a) *Preliminary notice.* With respect to the estate of a decedent dying before January 1, 1971, a preliminary notice is required to be filed on Form 704 in the case of every citizen or resident of the United States whose gross estate exceeded $60,000 in value at the date of death, and on Form 705 in the case of every nonresident who is not a citizen if that part of his gross estate which was situated in the United States (see § 20.2104–1) exceeded $2,000 in value at the date of death. The value of the gross estate at the date of death governs with respect to the filing of the notice regardless of whether the value of the gross estate is, at the executor's election, finally determined as of a date subsequent to the date of death pursuant to the provisions of section 2032. If there is doubt as to whether the gross estate exceeds $60,000 or $2,000, as the case may be, the notice shall be filed as a matter of precaution in order to avoid the possibility of penalties attaching. The primary purpose of the notice is to advise the Internal Revenue Service of the existence of taxable estates, and filing shall not be delayed beyond the period provided for in § 20.6071–1 merely because of uncertainty as to the exact value of the assets. The estimate of the gross estate called for by the notice shall be the best approximation of value which can be made within the time allowed. Duplicate copies of the preliminary notice are not required to be filed. For criminal penalties for failure to file a notice and filing a false or fraudulent notice, see sections 7203, 7207, and 7269. See § 20.6091–1 for the place for filing the notice. See § 20.6071–1 for the time for filing the notice.

(b) *Persons required to file.* In the case of an estate of a citizen or resident of the United States described in paragraph (a) of this section, the preliminary notice must be filed by the duly qualified executor or administrator, or if none qualifies within two months after the decedent's death, by every person in actual or constructive possession of any property of the decedent at or after the time of the decedent's death. The signature of one executor or administrator on the preliminary notice is sufficient. In the case of a nonresident not a citizen, the notice must be filed by every duly qualified executor or administrator within the United States, or if none qualifies within two months after the decedent's death, by every person in actual or constructive possession of any property of the decedent at or after the time of the decedent's death.

PAR. 22. The following new section is added immediately before § 20.6061:

§ 20.6036–2 Notice of qualification as executor of estate of decedent dying after 1970.

In the case of the estate of a decedent dying after December 31, 1970, no special notice of qualification as executor of an estate is required to be filed. The requirement of section 6036 for notification of qualification as executor of an estate shall be satisfied by the filing of the estate tax return required by section 6018 and the regulations thereunder.

PAR. 23. Section 20.6071–1 is amended to read as follows:

§ 20.6071–1 Time for filing preliminary notice required by § 20.6036–1.

In the case of the estate of a decedent dying before January 1, 1971, if a duly qualified executor or administrator of the estate of such a decedent who was a resident or a citizen of the United States qualifies within two months after a decedent's death, or if a duly qualified executor or administrator of the estate of such a decedent who was a nonresident not a citizen qualifies within the United States within two months after the decedent's death, the preliminary notice required by § 20.6036–1 must be filed within two months after his qualification. If no such executor or administrator qualifies within that period, the preliminary notice must be filed within two months of the decedent's death.

PAR. 24. Section 20.6075 is amended by revising section 6075(a) and adding a historical note. These revised and added provisions read as follows:

§ 20.6075 Statutory provisions; time for filing estate tax return.

SEC. 6075. *Time for filing estate and gift tax returns*—(a) *Estate tax returns.* Returns made under section 6018(a) (relating to estate taxes) shall be filed within 9 months after the date of the decedent's death.

* * * * *

[Sec. 6075 as amended by sec. 101(b), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

PAR. 25. Section 20.6075–1 is amended to read as follows:

§ 20.6075–1 Returns; time for filing estate tax return.

The estate tax return required by section 6018 must be filed on or before the due date. The due date is the date on or before which the return is required to be filed in accordance with the provisions of section 6075(a) or the last day of the period covered by an extension of time granted by the district director or the director of a service center as provided in § 20.6081–1. The due date, with respect to a decedent dying after December 31, 1970, is, unless an extension of time for filing has been granted, the day of the ninth calendar month after the decedent's death numerically corresponding to the day of the calendar month on which death occurred, except that, if there is no numerically corresponding day in such ninth month, the last day of the ninth month is the due date. For example, if the decedent dies on July 31, 1972, the estate tax return and tax payment must be made on or before April 30, 1973. The due date, with respect to a decedent dying before January 1, 1971, is, unless an extension of time for filing has been granted, the day of the fifteenth calendar month after the decedent's death numerically correspond-

ing to the day of the calendar month on which death occurred, except that, if there is no numerically corresponding day in such fifteenth month, the last day of the fifteenth month is the due date. When the due date falls on Saturday, Sunday, or a legal holiday, the due date for filing the return is the next succeeding day which is not Saturday, Sunday, or a legal holiday. For definition of a legal holiday, see section 7503 and § 301.7503–1 of this chapter (Regulations on Procedure and Administration). As to additions to the tax in the case of failure to file the return or pay the tax within the prescribed time, see section 6651 and § 301.6651–1 of this chapter (Regulations on Procedure and Administration). For rules with respect to the right to elect to have the property valued as of a date or dates subsequent to the decedent's death, see § 20.2032–1, and section 7502 and § 301.7502–1 of this chapter (Regulations on Procedure and Administration).

PAR. 26. Section 20.6081–1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 20.6081–1 Extension of time for filing the return.

(a) In case it is impossible or impracticable for the executor to file a reasonably complete return within 9 months (15 months in the case of a decedent dying before January 1, 1971) from the date of death, the district director or the director of a service center may, upon a showing of good and sufficient cause, grant a reasonable extension of time for filing the return required by section 6018. Unless the executor is abroad, the extension may not be for more than six months from the date for filing provided by section 6075(a). Therefore, unless the executor is abroad, the due date for filing the return under any extension granted by a district director or a director of a service center may not be later than 15 months (21 months in the case of a decedent dying before January 1, 1971) from the date of the decedent's death. The extension may, of course, be for a lesser period of time.

(b) Except as provided in paragraph (b) of § 301.6091–1 of this chapter (Regulations on Procedure and Administration), relating to hand-carried documents, such application shall be made to the internal revenue officer with whom the estate tax return is required to be filed and must contain a full recital of the causes for the delay. It should be made before the expiration of the time within which the return otherwise must be filed and failure to do so may indicate negligence and constitute sufficient cause for denial. It should, where possible, be made sufficiently early to permit the internal revenue officer to consider the matter and reply before what otherwise would be the due date of the return.

* * * * *

PAR. 27. Section 20.6091 is amended by revising section 6091(b)(3), by redesignating section 6091(b)(4) as section 6091(b)(5), by revising section 6091(b)(5), by adding a new paragraph (4) immediately after section 6091(b)(3), and by adding a historical note. These revised, redesignated and added provisions read as follows:

§ 20.6091 Statutory provisions; place for filing returns or other documents.

SEC. 6091. *Place for filing returns or other documents* * * *

(b) *Tax returns.* * * *

(3) *Estate tax returns*—(A) *General rule.* Except as provided in subparagraph (B), returns of estate tax required under section 6018 shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which was the domicile of the decedent at the time of his death, or

(ii) At a service center serving the internal revenue district referred to in clause (i), as the Secretary or his delegate may by regulations designate.

(B) *Exception.* If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary or his delegate may by regulations designate.

(4) *Hand-carried returns.* Notwithstanding paragraph * * * (3), a return to which paragraph * * * (3)(A) would apply, but for this paragraph, which is made to the Secretary or his delegate by hand-carrying shall, under regulations prescribed by the Secretary or his delegate, be made in the internal revenue district referred to in paragraph * * * (3)(A)(i) * * *.

(5) *Exceptional cases.* Notwithstanding paragraph * * * (3), or (4) of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary or his delegate.

[Sec. 6091 as amended by sec. 1(a), Act of Nov. 2, 1966 (Public Law 89–713, 80 Stat. 1107); sec. 101(i)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 28. Section 20.6091–1 is amended to read as follows:

§ 20.6091–1 Place for filing returns or other documents.

(a) *General rule.* If the decedent was domiciled in the United States at the time of his death, the preliminary notice required by § 20.6036–1 in the case of the estate of a decedent dying before January 1, 1971, and the estate tax return required by § 20.6018–1 shall be filed with:

(1) The service center serving the district in which the decedent was domiciled at the time of his death, if the instructions applicable to the estate tax return provide that the return shall be filed with a service center, or

(2) The district director in whose district the decedent was domiciled at the time of his death, if subparagraph (1) of this paragraph does not apply.

Subparagraph (1) of this paragraph does not apply if the return is made by hand-carrying or if the instructions applicable to the preliminary notice or to the return do not provide that it shall be filed with a service center.

(b) *Non-U.S. domiciliaries.* If the decedent was not domiciled in the United States at the time of his death, the preliminary notice required by § 20.6036–1 in the case of the estate of a decedent dying before January 1, 1971, and the estate tax return required by § 20.6018–1 shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. This paragraph applies whether or not the decedent was a citizen of the United States and whether or not the return is made by hand-carrying.

PAR. 29. Section 20.6161 is amended by revising section 6161(a)(1), by revising so much of section 6161(b) as follows paragraph (1), and by revising the historical note. These revised provisions read as follows:

§ 20.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (12 months in the case of estate tax) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* * *

(2) In the case of a tax imposed by chapter 11, for a period not to exceed 4 years from the date otherwise fixed for payment of the deficiency.

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

[Sec. 6161 as amended by sec. 206(c), Small Business Tax Revision Act 1958 (72 Stat. 1684); sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 30. Section 20.6161–1 is amended to read as follows:

§ 20.6161–1 Extension of time for paying tax shown on return.

(a) *Basis for granting an extension of time*—(1) *Reasonable cause.* With respect to the estate of a decedent dying after December 31, 1970, an extension of time beyond the due date to pay any part of the tax shown on the estate tax return may be granted for a reasonable period of time, not to exceed 12 months, by the district director or the director of a service center, at the request of the executor, if an examination of all the facts and circumstances discloses that such request is based upon reasonable cause. (See paragraph (b) of this section for rules relating to application for extension.) The following examples illustrate cases involving reasonable cause for granting an extension of time pursuant to this paragraph:

Example (1). An estate includes sufficient liquid assets to pay the estate tax when otherwise due. The liquid assets, however, are located in several jurisdictions and are not immediately subject to the control of the executor. Consequently, such assets cannot readily be marshaled by the executor, even with the exercise of due diligence.

Example (2). An estate is comprised in substantial part of assets consisting of rights to receive payments in the future (i.e., annuities, copyright royalties, contingent fees, or accounts receivable). These assets provide insufficient present cash with which to pay the estate tax when otherwise due and the estate cannot borrow against these assets except upon terms which would inflict loss upon the estate.

Example (3). An estate includes a claim to substantial assets which cannot be collected without litigation. Consequently, the size of the gross estate is unascertainable as of the time the tax is otherwise due.

Example (4). An estate does not have sufficient funds (without borrowing at a rate of interest higher than that generally available) with which to pay the entire estate tax when otherwise due, to provide a reasonable allowance during the remaining period of administration of the estate for the decedent's widow and dependent children, and to satisfy claims against the estate that are due and payable. Furthermore, the executor has made a reasonable effort to convert assets in his possession (other than an interest in a closely held business to which section 6166 applies) into cash.

Example (5). Payment of a portion of the estate tax shown on the estate tax return would impose an undue hardship upon the estate for purposes of subparagraph (2) of this paragraph but the application for an extension of time for paying such portion is limited to a request for an extension under section 6161(a)(1) on the basis of reasonable cause. In such a case, the rate of interest is 6 percent per annum pursuant to the general rule of § 301.6601–1 of this chapter rather than the 4 percent per annum rate of interest on an underpayment in the case where the time for payment of estate tax is extended under section 6161(a)(2) on the basis of undue hardship. See paragraph (b) of this section with respect to an application for extension.

(2) *Undue hardship* — (i) *General rule.* In any case where the district director finds that payment on the due date of any part of the tax shown on the return, or payment of any part of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived) on the date fixed for payment thereof, would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed 10 years from the date prescribed in section 6151(a) for payment of the tax. See paragraph (a) of § 20.6151–1. In addition, if the district director finds that payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived would impose undue hardship upon the estate, he may extend the time for payment for a similar period or periods.

(ii) *Definition of "undue hardship".* The extension provided under this subparagraph on the basis of undue hardship to the estate will not be granted upon a general statement of hardship or merely upon a showing of reasonable cause. The term "undue hardship" means more than an inconvenience to the estate. A sale of property at a price equal to its current fair market value, where a market exists, is not ordinarily considered as resulting in an undue hardship to the estate. The following examples illustrate cases in which an extension of time will be granted based on undue hardship pursuant to this paragraph:

Example (1). A farm (or other closely held business) comprises a significant portion of an estate, but the percentage requirements of section 6166(a) (relating to an extension where the estate includes a closely held business) are not satisfied and, therefore, that section does not apply. Sufficient funds for the payment of the estate tax when otherwise due are not readily available. The farm (or closely held business) could be sold to unrelated persons at a price equal to its fair market value, but the executor seeks an extension of time to facilitate the raising of funds from other sources for the payment of the estate tax.

Example (2). The assets in the gross estate which must be liquidated to pay the estate tax can only be sold at a sacrifice price or in a depressed market if the tax is to be paid when otherwise due.

(b) *Application for extension.* An application containing a request for an extension of time for paying the tax shown on the return shall be in writing, shall state the period of the extension requested, and shall include a declaration that it is made under penalties of perjury. If the application is based upon reasonable cause (see paragraph (a)(1) of this section), a statement of such reasonable cause shall be included in the application. If the application is based upon undue hardship to the estate (see paragraph (a)(2) of this section), the application shall include a statement explaining in detail the undue hardship to the estate that would result if the requested extension were refused. At the option of the executor, an application for an extension of time based upon undue hardship may contain an alternative request for an extension based upon reasonable cause if the application for an extension based upon undue hardship is denied. However, an application for an extension of time based solely upon reasonable cause will be treated as such even though an examination of all the facts and circumstances discloses that an application for an extension of time based upon undue hardship might have been granted had such an application therefor been made. If the application is based solely on reasonable cause, it shall be filed with the internal revenue officer with whom the estate tax return is required to be filed under the provisions of § 20.6091–1(a). If the application is based on undue hardship (including an application in which the executor makes an alternative request for an extension based on reasonable cause), it shall be filed with the appropriate district director referred to in paragraph (a)(2) of § 20.6091–1 whether or not the return is to be filed with, or the tax is to be paid to, such district director. An application, for an extension of time, relating to the estate of a decedent who was not domiciled in the United States at the time of death, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. When received, the application will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. An application for an extension of time for payment of the tax, or of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived), will not be considered unless the extension is applied for on or before the date fixed for payment of the tax or installment. Similarly, an application for such an extension of time for payment of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived, will not be considered unless the extension is applied for on or before the date prescribed for payment of the deficiency as shown by the notice and demand from the district director. If the executor desires to obtain an additional extension of time for payment of any part of the tax shown on the return, or any part of an installment under section 6166 (including any part of a deficiency prorated to installment), it must be applied for on or before the date of the expiration of the previous extension. The granting of the extension of time for paying the tax is discretionary with the appropriate internal revenue officer and his authority will be exercised under such conditions as he may deem advisable. However, if a request for an extension of time for payment of estate tax under this section is denied by a district director or a director of a service center, a written appeal may be made, by registered or certified mail or hand delivery, to the regional commissioner with authority over such district director or service center director within 10 days after the denial is mailed to the executor. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday) apply in the case of appeals filed under this paragraph. When received, the appeal will be examined, and if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. If, in the mistaken belief that an estate satisfies the requirements of section 6166, the executor, within the time prescribed in paragraph (e) of § 20.6166–1, files a notification of election to pay estate tax in installments, the notification of election to pay tax in installments will be treated as a timely filed application for an extension, under section 6161, of time for payment of the tax if the executor so requests, in writing, within a reasonable time after being notified by the district director that the estate does not satisfy the requirements of section 6166. A request that the election under section 6166 be treated as a timely filed application for an extension

under section 6161 must contain, or be supported by the same information required by this paragraph with respect to an application for such an extension.

(c) *Special rules*—(1) *Payment pursuant to extension.* The amount of the tax for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the district director.

(2) *Interest.* The granting of an extension of the time for payment of the tax will not relieve the estate from liability for the payment of interest thereon during the period of the extension. See section 6601.

(3) *Duty to file timely return.* The granting of an extension of time for paying the tax will not relieve the executor from the duty of filing the return on or before the date provided for in § 20.6075–1.

(4) *Credit for taxes.* An extension of time to pay the tax may extend the period within which State and foreign death taxes allowed as a credit under sections 2011 and 2014 are required to be paid and the credit therefor claimed. See paragraph (c) of § 20.2011–1 and § 20.2014–6.

(d) *Cross references.* For provisions requiring the furnishing of security for the payment of the tax for which an extension is granted, see paragraph (a) of § 20.6165–1. For provisions relating to extensions of time for payment of tax on the value of a reversionary or remainder interest in property, see § 20.6163–1.

PAR. 31. Section 20.6163–1 is amended by revising so much of paragraph (a)(2) as follows subdivision (ii) to read as follows:

§ 20.6163–1 Extension of time for payment of estate tax on value of reversionary or remainder interest in property.

(a) * * *

(2) * * *

See paragraph (a)(2)(ii) of § 20.6161–1 for the meaning of the term "undue hardship". An example of undue hardship is a case where, by reason of the time required to settle the complex issues involved in a trust, the decedent's heirs or beneficiaries cannot reasonably expect to receive the decedent's remainder interest in the trust before the expiration of the period of postponement. The extension will be granted only in the manner provided in paragraph (b) of § 20.6161–1, and the amount of the tax for which the extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the district director.

* * * * *

PAR. 32. Section 20.6166–1 is amended by revising paragraph (e)(2) to read as follows:

§ 20.6166–1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

* * * * *

(e) *Notice of election.* * * *

(2) *Form of notice.* The notice of election to pay the estate tax in installments may be in the form of a letter addressed to the district director. The executor shall state in the notice the amount of tax which he elects to pay in installments, and the total number of installments (including the installment due 9 months (15 months, in the case of a decedent dying before January 1, 1971) after the date of the decedent's death) in which he elects to pay the tax. The properties in the gross estate which constitute the decedent's interest in a closely held business should be listed in the notice, and identified by the schedule and item number at which they appear on the estate tax return. The notice should set forth the facts which formed the basis for the executor's conclusion that the estate qualifies for the payment of the estate tax in installments.

* * * * *

PAR. 33. Section 20.6314 is amended by revising section 6314(c)(2) and by adding a historical note. These revised and added provisions read as follows:

§ 20.6314 Statutory provisions; receipt for taxes.

SEC. 6314. *Receipt for taxes.*

* * * * *

(c) *Cross references.* * * *

(2) For receipt of discharge of fiduciary from personal liability, see section 2204.

[Sec. 6314 as amended by sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 34. Section 20.6314–1 is amended to read as follows:

§ 20.6314–1 Duplicate receipts for payment of estate taxes.

The internal revenue officer with whom the estate tax return is filed will, upon request, give to the person paying the tax duplicate receipts, either of which will be sufficient evidence of such payment and entitle the executor to be credited with the amount by any court having jurisdiction to audit or settle his accounts.

PAR. 35. Section 20.6324 is amended to read as follows:

§ 20.6324 Statutory provisions; special liens for estate and gift taxes.

SEC. 6324. *Special liens for estate and gift taxes*—(a) *Liens for estate tax.* Except as otherwise provided in subsection (c)—

(1) *Upon gross estate.* Unless the estate tax imposed by chapter 11 is sooner paid in full, or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) *Liability of transferees and others.* If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employees' trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser or holder of a security interest shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

(3) *Continuance after discharge of fiduciary.* The provisions of section 2204 (relating to discharge of fiduciary from personal liability) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a purchaser or a holder of a security interest, in which case such part (or such interest) shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser or holder of a security interest, by the heirs, legatees, devisees, or distributees.

* * * * *

(c) *Exceptions.* (1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

[Sec. 6324 as amended by sec. 236 (b), (c), Rev. Act 1964 (78 Stat. 127, 128); sec. 102, Federal Tax Lien Act 1966 (80 Stat. 1132); sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 36. The following new sections are inserted immediately before section 20.7101:

§ 20.6905 Statutory provisions; discharge of executor from personal liability for decedent's income and gift taxes.

(a) Section 6905 as added by section 101(e) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

SEC. 6905. *Discharge of executor from personal liability for decedent's income and gift taxes*—(a) *Discharge of liability.* In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) for release from personal liability for such taxes, the Secretary or his delegate may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 1 year after receipt of the application if no notification is made by the Secretary or his delegate before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be

due and shall be entitled to a receipt or writing showing such discharge.

(b) *Definition of executor.* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross reference.* For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204.

[Sec. 6905 as added by sec. 101(e), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

§ 20.6905–1 Discharge of executor from personal liability for decedent's income and gift taxes.

For regulations concerning the discharge of an executor from personal liability for a decedent's income and gift taxes, see § 301.6905–1 of this chapter (Regulations on Procedure and Administration).

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

PAR. 37. Section 25.0–1 is amended by revising paragraph (a)(1) to read as follows:

§ 25.0–1 Introduction.

(a) *In general.* (1) The regulations in this part are designated "Gift Tax Regulations." These regulations pertain to (i) the gift tax imposed by chapter 12 of subtitle B of the Internal Revenue Code on the transfer of property by gift by individuals in the calendar year 1955, in subsequent calendar years beginning before the calendar year 1971 and in calendar quarters beginning with the first calendar quarter of calendar year 1971, and (ii) certain related administrative provisions of subtitle F of the Code. It should be noted that the application of some of the provisions of these regulations may be affected by the provisions of an applicable gift tax convention with a foreign country. Unless otherwise indicated, references in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, and references to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954, as amended. The Gift Tax Regulations are applicable to the transfer of property by gift by individuals in calendar years 1955 through 1970 and in calendar quarters beginning with the first calendar quarter of calendar year 1971, and supersede the regulations contained in Part 86, Subchapter B, Chapter 1, Title 26, Code of Federal Regulations (1939) (Regulations 108, Gift Tax (8 F.R. 10858)), as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 F.R. 5167, Aug. 17, 1954). The regulations in this part do not reflect the amendments made by the Foreign Investors Tax Act of 1966 (80 Stat. 1539) except as provided in § 25.2501.

* * * * *

PAR. 38. Section 25.2501 is amended by revising section 2501(a) and the historical note to read as follows:

§ 25.2501 Statutory provisions; imposition of tax.

SEC. 2501. *Imposition of tax*—(a) *Taxable transfers*—(1) *General rule.* For the first calendar quarter of calendar year 1971 and each calendar quarter thereafter a tax, computed as provided in section 2502, is hereby imposed on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident.

(2) *Transfers of intangible property.* Except as provided in paragraph (3), paragraph (1) shall not apply to the transfer of intangible property by a nonresident not a citizen of the United States.

(3) *Exceptions.* Paragraph (2) shall not apply in the case of a donor who at any time after March 8, 1965, and within the 10-year period ending with the date of transfer lost United States citizenship unless—

(A) Such donor's loss of United States citizenship resulted from the application of section 301(b), 350, or 355 of the Immigration and Naturalization Act, as amended (8 U.S.C. 1401(b), 1482, or 1487), or

(B) Such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

(4) *Burden of proof.* If the Secretary or his delegate establishes that it is reasonable to believe that an individual's loss of United States citizenship would, but for paragraph (3), result in a substantial reduction for the calendar quarter in the taxes on the transfer of property by gift, the burden of proving that such loss of citizenship did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A shall be on such individual.

* * * * *

[Sec. 2501 as amended by secs. 43(b) and 102(b), Technical Amendments Act 1958 (72 Stat. 1641, 1674); sec. 4(d), Act of Sept. 14, 1960 (Public Law 86–779, 74 Stat. 1000); sec. 109(a), Foreign Investors Tax Act 1966 (80 Stat. 1574); sec. 102(a)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 39. Section 25.2501–1 is amended by revising paragraph (a) to read as follows:

§ 25.2501–1 Imposition of tax.

(a) *In general.* The tax applies to all transfers by gift of property, wherever situated, by an individual who is a citizen or resident of the United States, to the extent the value of the transfers exceeds the amount of the exclusions authorized by section 2503 and the deductions authorized by sections 2521, 2522, and 2523. With respect to calendar years after 1954 and prior to 1971, the tax is imposed on the transfer of property by gift during such calendar year. With respect to the first calendar quarter of calendar year 1971 and each calendar quarter thereafter, the tax is imposed on the transfer of property by gift during such calendar quarter. The tax does not apply to a transfer of intangible property by a nonresident who is not a citizen of the United States and who was not engaged in business in the United States during the calendar year in which the transfer was made. For additional rules relating to the application of the tax to transfers by nonresidents not citizens of the United States, see section 2511 and § 25.2511–3.

* * * * *

PAR. 40. Section 25.2502 is amended by revising so much of subsection (a) of section 2502 as precedes the rate schedule, by revising subsections (b) and (c) of section 2502, and by adding a historical note. These revised and added provisions read as follows:

§ 25.2502 Statutory provisions; rate of tax.

SEC. 2502. *Rate of Tax*—(a) *Computation of tax.* The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

(1) A tax, computed in accordance with the rate schedule set forth in this subsection, on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over

(2) A tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters.

* * * * *

(b) *Calendar quarter.* Wherever used in this title in connection with the gift tax imposed by this chapter, the term "calendar quarter" includes only the first calendar quarter of the calendar year 1971 and succeeding calendar quarters.

(c) *Preceding calendar years and quarters.* Wherever used in this title in connection with the gift tax imposed by this chapter—

(1) The term "preceding calendar years" means calendar years 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970. The term "calendar year 1932" includes only the portion of such year after June 6, 1932.

(2) The term "preceding calendar quarters" means the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the calendar quarter for which the tax is being computed.

* * * * *

[Sec. 2502 as amended by sec. 102(a)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1839)]

PAR. 41. Section 25.2502–1 is amended by revising paragraph (a), by redesignating paragraph (c) as (d), by adding a new paragraph (c) immediately after paragraph (b), by revising example (1) of new paragraph (d), and by adding example (5) to new paragraph (d) immediately after example (4). These revised and added provisions read as follows:

§ 25.2502–1 Rate of tax.

(a) *Computation of tax*—(1) *Gifts made after December 31, 1970.* In the case of gifts made after December 31, 1970, the gift tax is imposed on a calendar quarter basis, rather than on a yearly basis. For such gifts, the rate of tax is determined by the total of all gifts made by the donor during the calendar quarter and all the preceding calendar years and calendar quarters since June 6, 1932. See § 25.2502–1(c) for the definition of "calendar quarter" and "preceding calendar years and calendar quarters." The fol-

lowing subdivisions set forth the six steps to be followed in computing the tax:

(i) *First step.* Ascertain the amount of the "taxable gifts" for the calendar quarter for which the return is being prepared. For the meaning of this term see § 25.2503–1.

(ii) *Second step.* Ascertain "the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters," considering only those gifts made after June 6, 1932. For the meaning of this term see § 25.2504–1.

(iii) *Third step.* Ascertain the total amount of the taxable gifts, which is the sum of the amounts determined in the first and second steps.

(iv) *Fourth step.* Compute the tax on the total amount of taxable gifts (as determined in the third step) using the rate schedule set forth in paragraph (b) of this section.

(v) *Fifth step.* Compute the tax on "the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters" (as determined in the second step), using the rate schedule set forth in paragraph (b) of this section.

(vi) *Sixth step.* Subtract the amount determined in the fifth step from the amount determined in the fourth step. The amount remaining is the gift tax for the calendar quarter for which the return is being prepared.

(2) *Gifts made before January 1, 1971.* In the case of gifts made prior to January 1, 1971, the gift tax is imposed on a calendar year basis, rather than on a quarterly basis. For such gifts, the rate of tax is determined by the total of all gifts made by the donor during the calendar year and in all preceding calendar years since June 6, 1932. See § 25.2502–1(c) for the definition of "preceding calendar years". The following subdivisions set forth the six steps to be followed in computing the tax:

(i) *First step.* Ascertain the amount of the "taxable gifts" for the calendar year for which the return is being prepared. For the meaning of this term see § 25.2503–1.

(ii) *Second step.* Ascertain "the aggregate sum of the taxable gifts for each of the preceding calendar years," considering only those gifts made after June 6, 1932. For the meaning of this term see § 25.2504–1.

(iii) *Third step.* Ascertain the total amount of the taxable gifts, which is the sum of the amounts determined in the first and second steps.

(iv) *Fourth step.* Compute the tax on the total amount of taxable gifts (as determined in the third step) using the rate schedule set forth in paragraph (b) of this section.

(v) *Fifth step.* Compute the tax on "the aggregate sum of the taxable gifts for each of the preceding calendar years" (as determined in the second step), using the rate schedule set forth in paragraph (b) of this section.

(vi) *Sixth step.* Subtract the amount determined in the fifth step from the amount determined in the fourth step. The amount remaining is the gift tax for the calendar year for which the return is being prepared.

* * * * *

(c) *Definitions*—(1) The term "calendar quarter" includes only the first calendar quarter of the calendar year 1971 and each succeeding calendar quarter.

(2) The term "preceding calendar years" means calendar years 1932 (but only the portion of such year after June 6, 1932) through 1970.

(3) The term "preceding calendar quarters" means the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the calendar quarter for which the tax is being computed.

(4) The term "preceding calendar years and calendar quarters" means a period that consists of the "preceding calendar years" and the "preceding calendar quarters."

(d) *Examples.* * * *

Example (1). Assume that in 1955 the donor made taxable gifts, as ascertained under the first step (paragraph (a)(2) of this section), of $62,500 and that there were no taxable gifts for prior years, with the result that the amount ascertained under the third step is $62,500. Under the fourth step a tax is computed on this amount. Reference to the table discloses that the specified amount in column (A) nearest to and less than $62,500 is $60,000. The tax on this amount, as shown in column (C), is $7,125. The amount by which the taxable gifts exceeds the specified amount is $2,500 and the tax on such excess amount, computed at the rate of 21 percent as shown in column (D), is $525. The tax on taxable gifts of $62,500 is the sum of $7,125 and $525, or $7,650.

* * * * *

Example (5). A makes gifts (other than gifts of future interests in property) to B in the first quarter of 1971 of $43,000 and in the second quarter of 1971 of $60,000. A gave to C in the second quarter of 1971 land valued at $11,000. The full amount of A's specific exemption provided under section 2521 was claimed and allowed in 1956. In 1966, A made taxable gifts totaling $21,000 on which gift tax was timely paid and no other taxable gifts were made by A in any other year preceding 1971. The gift tax return due for the first calendar quarter of 1971 was timely filed and the tax paid. With respect to the gifts made to B in 1971, the $3,000 annual gift tax exclusion provided by section 2503(b) is applied in its entirety against the $43,000 gift made to B in the first quarter and therefore is not available to offset the $60,000 gift made to B in the second quarter. (See § 25.2503–2(a).) A further $3,000 annual gift tax exclusion is available, however, to offset the $11,000 gift made to C in the second quarter of 1971. The computation of the gift tax for the second calendar quarter of 1971 due on August 15, 1971 (following the steps set forth in paragraph (a)(1) of this section) is shown below:

(1) Amount of taxable gifts for the second calendar quarter of 1971 ($60,000+$11,000−$3,000)	$68,000
(2) Total amount of taxable gifts for preceding calendar years and calendar quarters ($43,000−$3,000+$21,000)	61,000
(3) Total taxable gifts	129,000
(4) Tax computed on item 3 (in accordance with rate schedule in paragraph (b))	22,050
(5) Tax computed on item 2 (using same rate schedule)	7,335
(6) Tax for second calendar quarter of 1971 (item 4 minus item 5)	14,715

PAR. 42. Section 25.2502–2 is amended to read as follows:

§ 25.2502–2 Donor primarily liable for tax.

Section 2502(d) provides that the donor shall pay the tax. If the donor dies before the tax is paid the amount of the tax is a debt due the United States from the decedent's estate and his executor or administrator is responsible for its payment out of the estate. (See § 25.6151–1 for the time and place for paying the tax.) If there is no duly qualified executor or administrator, the heirs, legatees, devisees, and distributees are liable for and required to pay the tax to the extent of the value of their inheritances, bequests, devises, or distributive shares of the donor's estate. If a husband and wife effectively signify consent, under section 2513, to have gifts made to a third party during any calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) considered as made one-half by each, the liability with respect to the gift tax of each spouse for that calendar quarter or calendar year is joint and several (see § 25.2513–4). As to the personal liability of the donee, see paragraph (b) of § 301.6324–1 of this chapter (Regulations on Procedure and Administration). As to the personal liability of the executor or administrator, see section 3467 of the Revised Statutes (31 U.S.C. 192), which reads as follows:

> Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

As used in such section 3467, the word "debt" includes a beneficiary's distributive share of an estate. Thus if an executor pays a debt due by the estate which is being administered by him or distributes any portion of the estate before there is paid all of the gift tax which he has a duty to pay, the executor is personally liable, to the extent of the payment or distribution, for so much of the gift tax as remains due and unpaid.

PAR. 43. Section 25.2503 is amended by revising section 2503 (a), (b) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2503 Statutory provisions; taxable gifts.

SEC. 2503. *Taxable gifts*—(a) *General definition.* The term "taxable gifts" means, in the case of gifts made after December 31, 1970, the total amount of gifts made during the calendar quarter, less the deductions provided in subchapter C (sec. 2521 and following). In the case of gifts made before January 1, 1971, such term means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C.

(b) *Exclusions from gifts.* In computing taxable gifts for the calendar quarter, in the case of gifts (other than gifts of future interests in property) made to any person by

the donor during the calendar year 1971 and subsequent calendar years, $3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of the calendar year shall not, for purposes of subsection (a), be included in the total amount of gifts made during such quarter.

* * * * *

[Sec. 2503 as amended by sec. 102(a)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1839)]

PAR. 44. Section 25.2503–1 is amended to read as follows:

§ 25.2503–1 General definition of "taxable gifts" and of "total amount of gifts."

The term "taxable gifts" means the "total amount of gifts" made by the donor during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) less the deductions provided for in sections 2521, 2522, and 2523 (specific exemption, charitable, etc., gifts and the marital deduction, respectively). The "total amount of gifts" means the sum of the values of the gifts made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) less the amounts excludable under section 2503(b). See § 25.2503–2. The entire value of any gift of a future interest in property must be included in the "total amount of gifts" for the calendar quarter (calendar year in the case of gifts made before January 1, 1971) in which the gift is made. See § 25.2503–3. For the definition of "calendar quarter", see § 25.2502–1(c)(1).

PAR. 45. Section 25.2503–2 is amended to read as follows:

§ 25.2503–2 Exclusions from gifts.

(a) *Gifts made after December 31, 1970.* In computing taxable gifts for the calendar quarter, in the case of gifts (other than gifts of future interests in property) made to any person by the donor during any calendar quarter of the calendar year 1971 or any subsequent calendar year, $3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of any such calendar year shall not be included in the total amount of gifts made during such quarter. Thus, the first $3,000 of gifts made to any one donee during the calendar year 1971 or any calendar year thereafter, except gifts of future interests in property as defined in §§ 25.2503–3 and 25.2503–4, is excluded in determining the total amount of gifts for a calendar quarter. In the case of a gift in trust the beneficiary of the trust is the donee. The application of this paragraph may be illustrated by the following examples:

Example (1). A made a gift of $3,000 to B on January 8, 1971, and on April 20, 1971, gave B an additional gift of $10,000. A made no other gifts in 1971. The total amount of gifts made by A during the second quarter of 1971 is $10,000 because the $3,000 exclusion provided by section 2503(b) is first applied to the January 8th gift.

Example (2). A gave $2,000 to B on January 8, 1971, and on April 20, 1971, gave him $10,000. The total amount of gifts made by A during the second quarter of 1971 is $9,000 because only $2,000 of the $3,000 exclusion provided by section 2503(b) was applied against the January 8th gift; $1,000 was available to offset other gifts (except gifts of a future interest) made to B during 1971.

(b) *Gifts made before January 1, 1971.* The first $3,000 of gifts made to any one donee during the calendar year 1955, or 1970, or any calendar year intervening between calendar year 1955 and calendar year 1970, except gifts of future interests in property as defined in §§ 25.2503–3 and 25.2503–4, is excluded in determining the total amount of gifts for the calendar year. In the case of a gift in trust the beneficiary of the trust is the donee.

PAR. 46. Section 25.2503–3 is amended by revising paragraph (a) to read as follows:

§ 25.2503–3 Future interests in property.

(a) No part of the value of a gift of a future interest may be excluded in determining the total amount of gifts made during the calendar quarter (calendar year in the case of gifts made before January 1, 1971). For the definition of "calendar quarter" see § 25.2502–1(c)(1). "Future interest" is a legal term, and includes reversions, remainders, and other interests or estates, whether vested or contingent, and whether or not supported by a particular interest or estate, which are limited to commence in use, possession, or enjoyment at some future date or time. The term has no reference to such contractual rights as exist in a bond, note (though bearing no interest until maturity), or in a policy of life insurance, the obligations of which are to be discharged by payments in the future. But a future interest or interests in such contractual obligations may be created by the limitations contained in a trust or other instrument of transfer used in effecting a gift.

* * * * *

PAR. 47. Section 25.2504 is amended to read as follows:

§ 25.2504 Statutory provisions; taxable gifts for preceding years and quarters.

SEC. 2504. *Taxable gifts for preceding years and quarters*—(a) *In general.* In computing taxable gifts for preceding calendar years or calendar quarters for the purpose of computing the tax for any calendar quarter, there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the years or calendar quarters in which the transfers were made and there shall be allowed such deductions as were provided for under such laws; except that the specific exemption in the amount, if any, allowable under section 2521 shall be applied in all computations in respect of previous calendar years or calendar quarters for the purpose of computing the tax for any calendar year or calendar quarter.

(b) *Exclusions from gifts for preceding years and quarters.* In the case of gifts made to any person by the donor during preceding calendar years and calendar quarters, the amount excluded, if any, by the provisions of gift tax laws applicable to the years and calendar quarters in which the gifts were made shall not, for purposes of subsection (a), be included in the total amount of the gifts made during such years and calendar quarters.

(c) *Valuation of certain gifts for preceding calendar years and quarters.* If the time has expired within which a tax may be assessed under this chapter or under corresponding provisions of prior laws on the transfer of property by gift made during a preceding calendar year or calendar quarter, as defined in section 2502(c), and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar year or calendar quarter, the value of such gift made in such preceding calendar year or calendar quarter shall, for purposes of computing the tax under this chapter for any calendar quarter, be the value of such gift which was used in computing the tax for the last preceding calendar year or calendar quarter for which a tax under this chapter or under corresponding provisions of prior laws was assessed or paid.

(d) *Net gifts.* The term "net gifts" as used in corresponding provisions of prior laws shall be read as "taxable gifts" for purposes of this chapter.

[Sec. 2504 as amended by sec. 102(a)(4), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1839)]

PAR. 48. Section 25.2504–1 is amended to read as follows:

§ 20.2504–1 Taxable gifts for preceding years and quarters.

(a)(1) With respect to gifts made after December 31, 1970, in order to determine the correct gift tax liability for any calendar quarter, it is necessary to ascertain the correct amount, if any, of the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters. See paragraph (a)(1)(ii) of § 25.2502–1. For definitions of "calendar quarter" and "preceding calendar years and calendar quarters" see § 25.2502–1(c). The term "aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters" means the correct aggregate of such gifts, not necessarily that returned for those calendar years or calendar quarters and in respect of which tax was paid. All transfers that constituted gifts in prior calendar years and calendar quarters under the laws, including the provisions of law relating to exclusions from gifts, in effect at the time the transfers were made are included in determining the amount of taxable gifts for preceding calendar years and calendar quarters. The deductions other than for the specific exemption (see paragraph (b) of this section) allowed by the laws in effect at the time the transfers were made also are taken into account in determining the aggregate sum of the taxable gifts for preceding calendar years and calendar quarters. (The allowable exclusion from a gift was $5,000 for years before 1939, $4,000 for the calendar years 1939 through 1942, and $3,000 thereafter.)

(2) With respect to gifts made before January 1, 1971, in order to determine the correct gift tax liability for the calendar year 1955, or 1970, or any calendar year intervening between calendar year

1955 and calendar year 1970, it is necessary to ascertain the correct amount, if any, of the aggregate sum of the taxable gifts for each of the preceding calendar years. See paragraph (a)(2)(ii) of § 25.2502–1. The term "aggregate sum of the taxable gifts for each of the preceding calendar years" means the correct aggregate of such gifts, not necessarily that returned for those years and in respect of which tax was paid. All transfers that constituted gifts in prior calendar years under the laws, including the provisions of law relating to exclusions from gifts, in effect at the time the transfers were made are included in determining the amount of taxable gifts for preceding years. The deductions other than for the specific exemption (see paragraph (b) of this section) allowed by the laws in effect at the time the transfers were made also are taken into account in determining the aggregate sum of the taxable gifts for preceding years. (The allowable exclusion from a gift was $5,000 for years before 1939, $4,000 for the calendar years 1939 through 1942, and $3,000 thereafter.)

(b) In determining the aggregate sum of the taxable gifts for either (1) the preceding calendar years and calendar quarters (under paragraph (a)(1) of this section) or, (2) the preceding calendar years (under paragraph (a)(2) of this section), the total of the amounts allowed as deductions for the specific exemption, under section 2521 and the corresponding provisions of prior laws, shall not exceed $30,000. Thus, if the only prior gifts by a donor were made in 1940 and 1941 (at which time the specific exemption allowable was $40,000), and if in his returns for those years the donor claimed deductions totaling $40,000 for the specific exemption and reported taxable gifts totaling $110,000, then in determining the aggregate sum of the taxable gifts for either the preceding calendar years and calendar quarters or the preceding calendar years, the deductions for the specific exemption cannot exceed $30,000, and the donor's taxable gifts for such periods will be $120,000 (instead of the $110,000 reported on his returns). (The allowable deduction for the specific exemption was $50,000 for calendar years before 1936, $40,000 for calendar years 1936 through 1942, and $30,000 thereafter.)

(c) If the donor and his spouse consented to have gifts made to third parties considered as made one-half by each spouse, pursuant to the provisions of section 2513 or section 1000(f) of the Internal Revenue Code of 1939 (which corresponds to section 2513), these provisions shall be taken into account in determining the aggregate sum of the taxable gifts for either (1) the preceding calendar years and calendar quarters (under paragraph (a)(1) of this section) or, (2) the preceding calendar years (under paragraph (a)(2) of this section).

(d) If interpretations of the gift tax law in prior calendar years or calendar quarters resulted in the erroneous inclusion of property for gift tax purposes that should have been excluded, or the erroneous exclusion of property that should have been included, adjustments must be made in order to arrive at the correct aggregate of taxable gifts for either (1) the preceding calendar years and calendar quarters (under paragraph (a)(1) of this section) or, (2) the preceding calendar years (under paragraph (a)(2) of this section). However, see section 1000 (e) and (g) of the 1939 Code relating to certain discretionary trusts and reciprocal trusts.

PAR. 49. Section 25.2504–2 is amended to read as follows:

§ 25.2504–2 Valuation of certain gifts for preceding calendar years and quarters.

Section 2504(c) provides that if the valuation of a transfer for gift tax purposes with respect to a gift made in a preceding calendar year or calendar quarter, as defined in § 25.2502–1(c), is at issue, and if the statutory period within which an assessment may be made with respect to the gift has expired and a tax has been actually assessed or paid for such prior calendar year or calendar quarter, then the value of the gift, for purposes of arriving at the correct amount of the taxable gifts for either (1) preceding calendar years and calendar quarters (under § 25.2504–1(a)(1)) or, (2) preceding calendar years (under § 25.2504–1(a)(2)), is the value that was used in computing the tax for the last preceding calendar year or calendar quarter for which a tax was assessed or paid under chapter 12 of the Internal Revenue Code of 1954 or the corresponding provisions of prior laws. However, this rule will not prevent an adjustment in value where no tax was paid or assessed for the prior calendar year or calendar quarter. Furthermore, this rule does not apply to adjustments involving issues other than valuation. See paragraph (d) of § 25.2504–1.

PAR. 50. Section 25.2511–1 is amended by revising paragraphs (b) and (d) to read as follows:

§ 25.2511–1 Transfers in general.

* * * * *

(b) In the case of a nonresident not a citizen who was not engaged in business in the United States (see § 25.2501–1) during the calendar quarter (calendar year with respect to gifts made before January 1, 1971), the tax is imposed only if the gift consisted of real estate or tangible personal property situated within the United States at the time of transfer. See §§ 25.2501–1 and 25.2511–3. For the definition of calendar quarter see § 25.2502–1(c)(1).

* * * * *

(d) If a joint income tax return is filed by a husband and wife for a taxable year, the payment by one spouse of all or part of the income tax liability for such year is not treated as resulting in a transfer that is subject to gift tax. The same rule is applicable to the payment of gift tax for a calendar quarter (or calendar year) in the case of a husband and wife who have consented to have the gifts made considered as made half by each of them in accordance with the provisions of section 2513. For the definition of calendar quarter see § 25.2502–1(c)(1).

* * * * *

PAR. 51. Section 25.2511–2 is amended by revising paragraphs (f) and (j) to read as follows:

§ 25.2511–2 Cessation of donor's dominion and control.

* * * * *

(f) The relinquishment or termination of a power to change the beneficiaries of transferred property, occurring otherwise than by the death of the donor (the statute being confined to transfers by living donors), is regarded as the event that completes the gift and causes the tax to apply. For example, if A transfers property in trust for the benefit of B and C but reserves the power as trustee to change the proportionate interests of B and C, and if A thereafter has another person appointed trustee in place of himself, such later relinquishment of the power by A to the new trustee completes the gift of the transferred property, whether or not the new trustee has a substantial adverse interest. The receipt of income or of other enjoyment of the transferred property by the transferee or by the beneficiary (other than by the donor himself) during the interim between the making of the initial transfer and the relinquishment or termination of the power operates to free such income or other enjoyment from the power, and constitutes a gift of such income or of such other enjoyment taxable as of the calendar quarter or calendar year of its receipt. See § 25.2502–1(c)(1) for the definition of calendar quarter. If property is transferred in trust to pay the income to A for life with remainder to B, powers to distribute corpus to A, and to withhold income from A for future distribution to B, are powers to change the beneficiaries of the transferred property.

* * * * *

(j) If the donor contends that a power is of such nature as to render the gift incomplete, and hence not subject to the tax as of the calendar quarter or calendar year of the initial transfer, the transaction shall be disclosed in the return and evidence showing all relevant facts, including a copy of the instrument of transfer, should be submitted. See § 25.2502–1(c)(1) for the definition of calendar quarter.

PAR. 52. Section 25.2511–3 is amended by revising paragraphs (a)(1), (a)(2), and (b)(2) to read as follows:

§ 25.2511–3 Transfers by nonresidents not citizens.

(a) *In general.* * * *

(1) If the nonresident not a citizen of the United States was not engaged in business in the United States during the calendar quarter or calendar year in which the gift was made, the tax applies only to the transfer of real property and tangible personal property situated in the United States. See § 25.2502–1(c)(1) for the definition of calendar quarter.

(2) If the nonresident not a citizen of the United States was engaged in business in the United States during the calendar quarter or calendar year in which the gift was made, the tax applies to the transfer of all property (whether real or personal, tangible or intangible) situated in the United States. See § 25.2502–1 (c)(1) for the definition of calendar quarter.

(b) *Situs of property.* * * *

(2) Shares of stock owned and held by a nonresident not a citizen of the United States constitute property within the United States if issued by a domestic corporation, irrespective of where the certificates are physically located. However, since a share of stock is intangible property, the transfer by gift by a nonresident not a citizen of the United States of a share of stock issued by a domestic corporation would, under the provisions of paragraph (a) of this section, be subject to the tax only if the donor was engaged in business in the United States during the calendar quarter or calendar year in which the gift was made. See § 25.2502–1(c)(1) for the definition of calendar quarter.

* * * * *

PAR. 53. Section 25.2512 is amended by revising section 2512(b) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2512 Statutory provisions; valuation of gifts.

SEC. 2512. *Valuation of gifts.*

* * * * *

(b) Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration shall be deemed a gift, and shall be included in computing the amount of gifts made during the calendar quarter.

[Sec. 2512 as amended by sec. 102(b)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1840)]

PAR. 54. Section 25.2513 is amended by revising section 2513 (a), (b)(2), (c)(1), and (d), and by adding a historical note. These revised and added provisions read as follows:

§ 25.2513 Statutory provisions; gift by husband or wife to third party; considered as made one-half by each.

SEC. 2513. *Gift by husband or wife to third party*—(a) *Considered as made one-half by each*—(1) *In general.* A gift made by one spouse to any person other than his spouse shall, for the purposes of this chapter, be considered as made one-half by him and one-half by his spouse, but only if at the time of the gift each spouse is a citizen or resident of the United States. This paragraph shall not apply with respect to a gift by a spouse of an interest in property if he creates in his spouse a general power of appointment, as defined in section 2514(c), over such interest. For purposes of this section, an individual shall be considered as the spouse of another individual only if he is married to such individual at the time of the gift and does not remarry during the remainder of the calendar quarter.

(2) *Consent of both spouses.* Paragraph (1) shall apply only if both spouses have signified (under the regulations provided for in subsection (b)) their consent to the application of paragraph (1) in the case of all such gifts made during the calendar quarter by either while married to the other.

(b) *Manner and time of signifying consent.* * * *

(2) *Time.* Such consent may be so signified at any time after the close of the calendar quarter in which the gift was made, subject to the following limitations—

(A) The consent may not be signified after the 15th day of the second month following the close of such calendar quarter, unless before such 15th day no return has been filed for such calendar quarter by either spouse, in which case the consent may not be signified after a return for such calendar quarter is filed by either spouse;

(B) The consent may not be signified after a notice of deficiency with respect to the tax for such calendar quarter has been sent to either spouse in accordance with section 6212(a).

(c) *Revocation of consent.* Revocation of a consent previously signified shall be made in such manner as is provided under regulations prescribed by the Secretary or his delegate, but the right to revoke a consent previously signified with respect to a calendar quarter—

(1) Shall not exist after the 15th day of the second month following the close of such calendar quarter if the consent was signified on or before such 15th day; and

* * * * *

(d) *Joint and several liability for tax.* If the consent required by subsection (a)(2) is signified with respect to a gift made in any calendar quarter, the liability with respect to the entire tax imposed by this chapter of each spouse for such calendar quarter shall be joint and several.

[Sec. 2513 as amended by sec. 102(b)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1840)]

PAR. 55. Section 25.2513–1 is amended by revising paragraph (a), by revising subparagraphs (1), (2), and (5) of paragraph (b), by revising paragraph (c), and by revising paragraph (d). These revised provisions read as follows:

§ 25.2513–1 Gifts by husband or wife to third party considered as made one-half by each.

(a) A gift made by one spouse to a person other than his (or her) spouse may, for the purpose of the gift tax, be considered as made one-half by his spouse, but only if at the time of the gift each spouse was a citizen or resident of the United States. For purposes of this section, an individual is to be considered as the spouse of another individual only if he was married to such individual at the time of the gift and does not remarry during the remainder of the calendar quarter (calendar year with respect to gifts made before January 1, 1971). For the definition of calendar quarter see § 25.2502–1(c)(1).

(b) The provisions of this section will apply to gifts made during a particular calendar quarter (calendar year with respect to gifts made before January 1, 1971) only if both spouses signify their consent to treat all gifts made to third parties during that calendar quarter (or calendar year) by both spouses while married to each other as having been made one-half by each spouse. As to the manner and time for signifying consent, see § 25.2513–2. Such consent, if signified with respect to any calendar quarter (or calendar year), is effective with respect to all gifts made to third parties during such calendar quarter or calendar year except as follows:

(1) If the consenting spouses were not married to each other during a portion of the calendar quarter or calendar year, the consent is not effective with respect to any gifts made during such portion of the calendar quarter or calendar year. Where the consent is signified by an executor or administrator of a deceased spouse, the consent is not effective with respect to gifts made by the surviving spouse during the portion of the calendar quarter or calendar year that his spouse was deceased.

(2) If either spouse was a nonresident not a citizen of the United States during any portion of the calendar quarter or calendar year, the consent is not effective with respect to any gift made during that portion of the calendar quarter or calendar year.

* * * * *

(5) The consent applies alike to gifts made by one spouse alone and to gifts made partly by each spouse, provided such gifts were to third parties and do not fall within any of the exceptions set forth in subparagraphs (1) through (4) of this paragraph. The consent may not be applied only to a portion of the property interest constituting such gifts. For example, a wife may not treat gifts made by her spouse from his separate property to third parties as having been made one-half by her if her spouse does not consent to treat gifts made by her to third parties during the same calendar quarter or calendar year as having been made one-half by him. If the consent is effectively signified on either the husband's return or the wife's return, all gifts made by the spouses to third parties (except as described in subparagraphs (1) through (4) of this paragraph), during the calendar quarter or calendar year will be treated as having been made one-half by each spouse.

(c) If a husband and wife consent to have the gifts made to third party donees considered as made one-half by each spouse, and only one spouse makes gifts during the calendar quarter (calendar year with respect to gifts made before January 1, 1971), the other spouse is not required to file a gift tax return provided: (1) The total value of the gifts made to each third party donee since the beginning of the calendar year is not in excess of $6,000, and (2) no portion of the property transferred constitutes a gift of a future interest. If a transfer made by either spouse during the calendar quarter (or calendar year) to a third party represents a gift of a future interest in property and the spouses consent to have the gifts considered as made one-half by each, a gift tax return for such calendar quarter (or calendar year) must be filed by each spouse regardless of the value of the transfer. (See § 25.2503–3 for the definition of a future interest.)

(d) The following examples illustrate the application of this section relating to the requirements for the filing of a return, assuming that a consent was effectively signified:

(1) A husband made gifts valued at $7,000 during the second quarter of 1971 to a third party and his wife made no gifts during this time. Each spouse is required to file a return for the second calendar quarter of 1971.

(2) A husband made gifts valued at $5,000 to each of two third parties during the year 1970 and his wife made no gifts. Only the husband is required to file a return. (See § 25.6019–2.)

(3) During the third quarter of 1971, a husband made gifts valued at $5,000 to a third party, and his wife made gifts valued at $2,000 to the same third party. Each spouse is required to file a return for the third calendar quarter of 1971.

(4) A husband made gifts valued at $5,000 to a third party and his wife made gifts valued at $3,000 to another third party during the year 1970. Only the husband is required to file a return for the calendar year 1970. (See § 25.6019–2.)

(5) A husband made gifts valued at $2,000 during the first quarter of 1971 to third parties which represented gifts of future interests in property (see § 25.2503–3), and his wife made no gifts during such calendar quarter. Each spouse is required to file a return for the first calendar quarter of 1971.

PAR. 56. Section 25.2513–2 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 25.2513–2 Manner and time of signifying consent.

(a) (1) Consent to the application of the provisions of section 2513 with respect to a calendar quarter (a calendar year with respect to gifts made before January 1, 1971) shall, in order to be effective, be signified by both spouses. If both spouses file gift tax returns within the time for signifying consent, it is sufficient if—

(i) The consent of the husband is signified on the wife's return, and the consent of the wife is signified on the husband's return;

(ii) The consent of each spouse is signified on his own return; or

(iii) The consent of both spouses is signified on one of the returns.

If only one spouse files a gift tax return within the time provided for signifying consent, the consent of both spouses shall be signified on that return. However, wherever possible, the notice of the consent is to be shown on both returns and it is preferred that the notice be executed in the manner described in subdivision (i) of this subparagraph. The consent may be revoked only as provided in § 25.2513–3. If one spouse files more than one gift tax return for a calendar quarter (or a calendar year) on or before the due date of the return, the last return so filed shall, for the purpose of determining whether a consent has been signified, be considered as the return. (See § 25.6075–1 for the due date of a gift tax return.)

(2) Subject to the limitations of paragraph (b) of this section, the consent signified on a return filed for a calendar quarter will be effective for a previous calendar quarter of the same calendar year for which no return was filed because the gifts made during such previous calendar quarter did not exceed the annual exclusion provided by section 2503(b), if the gifts in such previous calendar quarter are listed on that return. Thus, for example, if A gave $2,000 to his son in the first quarter of 1972 (and filed no return because of section 2503(b)) and gave a further $4,000 to such son in the last quarter of the year, A and his spouse could signify consent to the application of section 2513 on the return filed for the fourth quarter and have it apply to the first quarter as well, provided that the $2,000 gift is listed on such return.

(b) (1) With respect to gifts made after December 31, 1970, the consent may be signified at any time following the close of the calendar quarter in which the gift was made, subject to the following limitations:

(i) The consent may not be signified after the 15th day of the second month following the close of such calendar quarter, unless before such 15th day, no return has been filed for such calendar quarter by either spouse, in which case the consent may not be signified after a return for such calendar quarter is filed by either spouse; and

(ii) The consent may not be signified after a notice of deficiency with respect to the tax for such calendar quarter has been sent to either spouse in accordance with section 6212(a).

(2) With respect to gifts made before January 1, 1971, the consent may be signified at any time following the close of the calendar year, subject to the following limitations:

(i) The consent may not be signified after the 15th day of April following the close of the calendar year, unless before such 15th day no return has been filed for the year by either spouse, in which case the consent may not be signified after a return for the year is filed by either spouse; and

(ii) The consent may not be signified for a calendar year after a notice of deficiency in gift tax for that year has been sent to either spouse in accordance with the provisions of section 6212(a).

* * * * *

(d) If the donor and spouse consent to the application of section 2513, the return or returns for the calendar quarter (calendar year with respect to gifts made before January 1, 1971) must set forth, to the extent provided thereon, information relative to the transfers made by each spouse.

PAR. 57. Section 25.2513–3 is amended to read as follows:

§ 25.2513–3 Revocation of consent.

(a) (1) With respect to gifts made after December 31, 1970, if the consent to the application of the provisions of section 2513 for a calendar quarter was effectively signified on or before the 15th day of the second month following the close of such calendar quarter, either spouse may revoke the consent by filing in duplicate a signed statement of revocation, but only if the statement is filed on or before such 15th day of the second month following the close of such calendar quarter. Therefore, a consent that was not effectively signified until after the 15th day of the second month following the close of the calendar quarter to which it applies may not be revoked. (See § 25.2502–1(c)(1) for the definition of calendar quarter.)

(2) With respect to gifts made before January 1, 1971, if the consent to the application of the provisions of section 2513 for a calendar year was effectively signified on or before the 15th day of April following the close of the calendar year, either spouse may revoke the consent by filing in duplicate a signed statement of revocation, but only if the statement is filed on or before such 15th day of April. Therefore, a consent that was not effectively signified until after the 15th day of April following the close of the calendar year to which it applies may not be revoked.

(b) Except as provided in paragraph (b) of § 301.6091–1 of this chapter (relating to hand-carried documents), the statement referred to in paragraph (a) of this section shall be filed with the internal revenue officer with whom the gift tax return is required to be filed, or with whom the gift tax return would be required to be filed if a return were required.

PAR. 58. Section 25.2513–4 is amended to read as follows:

§ 25.2513–4 Joint and several liability for tax.

If consent to the application of the provisions of section 2513 is signified as provided in § 25.2513–2, and not revoked as provided in § 25.2513–3, the liability with respect to the entire gift tax of each spouse for such calendar quarter (calendar year with respect to gifts made before January 1, 1971) is joint and several. See paragraph (d) of § 25.2511–1. For the definition of calendar quarter see § 25.2502–1(c)(1).

PAR. 59. Section 25.2514–3 is amended by revising paragraph (c)(2) to read as follows:

§ 25.2514–3 Powers of appointment created after October 21, 1942.

* * * * *

(c) *Partial releases, lapses, and disclaimers of general powers created after October 21, 1942.* * * *

(2) If a general power of appointment created after October 21, 1942, was partially released prior to June 1, 1951, so that it no longer represented a general power of appointment, as defined in paragraph (c) of § 25.2514–1, the subequent exercise, release, or lapse of the partially released power at any time thereafter will not constitute the exercise or release of a general power of appoint-

ment. For example, assume that A created a trust in 1943 under which B possessed a general power of appointment. By an instrument executed in 1948 such general power of appointment was reduced in scope by B to an excepted power. The inter vivos exercise in 1955, or in any calendar year or calendar quarter thereafter, of such excepted power is not considered an exercise or release of a general power of appointment for purposes of the gift tax. For the definition of calendar quarter see § 25.2502–1(c)(1).

* * * * *

PAR. 60. Section 25.2515 is amended by revising section 2515(c) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2515 Statutory provisions; tenancies by the entirety.

SEC. 2515. *Tenancies by the entirety*—* * *

(c) *Exercise of election.* The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety or additions made to the value thereof as a transfer by gift, to the extent such transfer constitutes a gift, determined without regard to this section, in the gift tax return of the donor for the calendar quarter in which such tenancy by the entirety was created or additions made to the value thereof, filed within the time prescribed by law, irrespective of whether or not the gift exceeds the exclusion provided by section 2503(b).

* * * * *

[Sec. 2515 as amended by sec. 102(b)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 61. Section 25.2515–1 is amended by revising paragraph (b), and by revising subparagraphs (1), (2)(ii)(b), and (3) of paragraph (d). These revised paragraphs read as follows:

§ 25.2515–1 Tenancies by the entirety; in general.

* * * * *

(b) *Gift upon creation of tenancy by the entirety; in general.* During calendar years prior to 1955 the contribution made by a husband or wife in the creation of a tenancy by the entirety constituted a gift to the extent that the consideration furnished by either spouse exceeded the value of the rights retained by that spouse. The contribution made by either or both spouses in the creation of such a tenancy during the calendar year 1955, any calendar year beginning before January 1, 1971, or any calendar quarter beginning after December 31, 1970, is not deemed a gift by either spouse, regardless of the proportion of the total consideration furnished by either spouse, unless the donor spouse elects (see § 25.2515–2) under section 2515(c) to treat such transaction as a gift in the calendar quarter or calendar year in which the transaction is effected. See § 25.2502–1(c)(1) for the definition of calendar quarter. However, there is a gift upon the termination of such a tenancy, other than by the death of a spouse, if the proceeds received by one spouse on termination of the tenancy are larger than the proceeds allocable to the consideration furnished by that spouse to the tenancy. The creation of a tenancy by the entirety takes place if (1) a husband or his wife purchases property and causes the title thereto to be conveyed to themselves as tenants by the entirety, (2) both join in such a purchase, or (3) either or both cause to be created such a tenancy in property already owned by either or both of them. The rule prescribed herein with respect to the creation of a tenancy by the entirety applies also to contributions made in the making of additions to the value of such a tenancy (in the form of improvements, reductions in the indebtedness, or otherwise), regardless of the proportion of the consideration furnished by each spouse. See § 25.2516–1 for transfers made pursuant to a property settlement agreement incident to divorce.

* * * * *

(d) *Gift upon termination of tenancy by the entirety*—(1) *In general.* Upon the termination of the tenancy, whether created before, during, or subsequent to the calendar year 1955, a gift may result, depending upon the disposition made of the proceeds of the termination (whether the proceeds be in the form of cash, property, or interests in property). A gift may result notwithstanding the fact that the contribution of either spouse to the tenancy was treated as a gift. See § 25.2515–3 for the method of determining the amount of any gift that may result from the termination of the tenancy in those cases in which no portion of the consideration contributed was treated as a gift by the spouses in the calendar quarter or calendar year in which it was furnished. See § 25.2515–4 for the method of determining the amount of any gift that may result from the termination of the tenancy in those cases in which all or a portion of the consideration contributed was treated as constituting a gift by the spouses in the calendar quarter or calendar year in which it was furnished. See § 25.2515–2 for the procedure to be followed by a donor who elects under section 2515(c) to treat the creation of a tenancy by the entirety (or the making of additions to its value) as a transfer subject to the gift tax in the calendar quarter (calendar year with respect to such transfers made before January 1, 1971) in which the transfer is made, and for the method of determining the amount of the gift. See § 25.2502–1(c)(1) for the definition of calendar quarter.

(2) *Termination.* * * *

(ii) *Exchange or reinvestment.* * * *

(b) On or before the due date for the filing of a gift tax return for the calendar quarter or calendar year (see § 25.6075–1 for the time for filing gift tax returns) in which the property held as tenants by the entirety was sold, exchanged, or otherwise disposed of, the spouses enter into a binding contract for the purchase of other real property; and

* * * * *

(3) *Proceeds of termination.* (i) The proceeds of termination may be received by a spouse in the form of money, property, or an interest in property. Where the proceeds are received in the form of property (other than money) or an interest in property, the value of the proceeds received by that spouse is the fair market value, on the date of termination of the tenancy by the entirety, of the property or interest received. Thus, if a tenancy by the entirety is terminated so that thereafter each spouse owns an undivided half interest in the property as tenant in common, the value of the proceeds of termination received by each spouse is one-half the value of the property at the time of the termination of the tenancy by the entirety. If under local law one spouse, without the consent of the other, can bring about a severance of his or her interest in a tenancy by the entirety and does so by making a gift of his or her interest to a third party, that spouse is considered as having received proceeds of termination in the amount of the fair market value, at the time of the termination, of his severable interest determined in accordance with the rules prescribed in § 25.2512–5. He has, in addition, made a gift to the third party of the fair market value of the interest conveyed to the third party. In such a case, the other spouse also is considered as having received as proceeds of termination the fair market value, at the time of termination, of the interest which she thereafter holds in the property as tenant in common with the third party. However, since section 2515(b) contemplates that the spouses may divide the proceeds of termination in some proportion other than that represented by the values of their respective legal interests in the property, if both spouses join together in making a gift to a third party of property held by them as tenants by the entirety, the value of the proceeds of termination which will be treated as received by each is the amount which each reports (on his or her gift tax return filed for the calendar quarter or calendar year in which the termination occurs) as the value of his or her gift to the third party. This amount is the amount which each reports without regard to whether the spouses elect under section 2513 to treat the gifts as made one-half by each. For example, assume that H and W (his wife) hold real property as tenants by the entirety; that in the first calendar quarter of 1972, when the property has a fair market value of $60,000, they give it to their son; and that on their gift tax returns for such calendar quarter, H reports himself as having made a gift to the son of $36,000 and W reports herself as having made a gift to the son of $24,000. Under these circumstances, H is considered as having received proceeds of termination valued at $36,000, and W is considered as having received proceeds of termination valued at $24,000.

* * * * *

PAR. 62. Section 25.2515–2 is amended by revising paragraph (a) to read as follows:

§ 25.2515–2 Tenancies by the entirety; transfers treated as gifts; manner of election and valuation.

(a) The election to treat the creation of a tenancy by the entirety in real prop-

erty, or additions made to its value, as constituting a gift in the calendar quarter or calendar year in which effected, shall be exercised by including the value of such gifts in the gift tax return of the donor for such calendar quarter or calendar year in which the tenancy was created, or the additions in value were made to the property. See section 6019 and the regulations thereunder. The election may be exercised only in a return filed within the time prescribed by law, or before the expiration of any extension of time granted pursuant to law for the filing of the return. See section 6075 for the time for filing the gift tax return and section 6081 for cxtensions of time for filing the return, together with the regulations thereunder. In order to make the election, a gift tax return must be filed for the calendar quarter or calendar year in which the tenancy was created, or additions in value thereto made, even though the value of the gift involved does not exceed the amount of the exclusion provided by section 2503(b). See § 25.2502–1(c)(1) for the definition of calendar quarter.

* * * * *

PAR. 63. Section 25.2515–3 is amended by revising paragraph (b) to read as follows:

§ 25.2515–3 Termination of tenancy by the entirety; cases in which entire value of gift is determined under section 2515(b).

* * * * *

(b) In computing the value of the gift under the circumstances described in paragraph (a) of this section, it is first necessary to determine the spouse's share of the proceeds attributable to the consideration furnished by him. This share is computed by multiplying the total value of the proceeds of the termination by a fraction, the numerator of which is the total consideration furnished by the donor spouse and the denominator of which is the total consideration furnished by both spouses. From this amount there is subtracted the value of the proceeds of termination received by the donor spouse. The amount remaining is the value of the gift. In arriving at the "total consideration furnished by the donor spouse" and the "total consideration furnished by both spouses", for purposes of the computation provided for in this paragraph, the consideration furnished (see paragraph (c) of § 25.2515–1) is not reduced by any amounts which otherwise would have been excludable under section 2503(b) in determining the amounts of taxable gifts for calendar quarters or calendar years in which the consideration was furnished. (See § 25.2502–1(c)(1) for the definition of calendar quarter.) As an example assume that in 1955, real property was purchased for $30,000, the husband and wife each contributing $12,000 and the remaining $6,000 being obtained through a mortgage on the property. In each of the years 1956 and 1957, the husband paid $3,000 on the principal of the indebtedness, but did not disclose the value of these transfers on his gift tax returns for those years. The total consideration furnished by the husband is $18,000, the total consideration furnished by the wife is $12,000, and the total consideration furnished by both spouses is $30,000.

* * * * *

PAR. 64. Section 25.2515–4 is amended by revising paragraph (a) and so much of paragraph (c) as precedes subparagraph (1) thereof to read as follows:

§ 25.2515–4 Termination of tenancy by entirety; cases in which none, or a portion only, of value of gift is determined under section 2515(b).

(a) *In general.* The rules provided in section 2515(b) (see § 25.2515–3) are not applied in determining whether a gift has been made at the termination of a tenancy to the extent that the consideration furnished for the creation of the tenancy was treated as a gift or if the consideration for the creation of the tenancy was furnished by a third party. Consideration furnished for the creation of the tenancy was treated as a gift if it was furnished either (1) during calendar years prior to 1955, or (2) during the calendar year 1955 and subsequent calendar years and calendar quarters and the donor spouse exercised the election to treat the furnishing of consideration as a gift. (For the definition of calendar quarter see § 25.2502–1(c)(1).) See paragraph (b) of this section for the manner of computing the value of gifts resulting from the termination of the tenancy under these circumstances. See paragraph (c) of this section for the rules to be applied where part of the total consideration for the creation of the tenancy and additions to the value thereof was not treated as a gift and part either was treated as a gift or was furnished by a third party.

* * * * *

(c) *Valuation of gift where both types of consideration are involved.* If the consideration furnished consists in part of the type described in paragraph (a) of § 25.2515–3 (consideration furnished by the spouses after 1954, and not treated as a gift in the calendar quarter or calendar year in which it was furnished) and in part of the type described in paragraph (a) of this section (consideration furnished by the spouses and treated as a gift or furnished by a third party), the amount of the gift is determined as follows:

* * * * *

PAR. 65. Section 25.2516–1 is amended by revising paragraph (b) to read as follows:

§ 25.2516–1 Certain property settlements.

* * * * *

(b) See paragraph (b) of § 25.6019–3 for the circumstances under which information relating to property settlements must be disclosed on the transferor's gift tax return for the calendar quarter (calendar year with respect to gifts made before January 1, 1971) in which the agreement becomes effective. See § 25.2502–1(c)(1) for the definition of calendar quarter.

PAR. 66. Section 25.2517–1 is amended by revising so much of paragraph (a)(1) as follows subdivision (iii) to read as follows:

§ 25.2517–1 Employee's annuities.

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

The value of the gift is the value, on the date of the gift, of the survivor annuity or other payment, computed in accordance with the principles set forth in §§ 25.2512–1, 25.2512–5, and 25.2512–6. It should be noted that such a gift is a gift of a future interest within the contemplation of § 25.2503–3 and no part thereof may be excluded in determining the total amount of gifts made during the calendar quarter (calendar year with respect to gifts made before January 1, 1971). See § 25.2502–1(c)(1) for the definition of calendar quarter.

* * * * *

PAR. 67. Section 25.2521 is amended to read as follows:

§ 25.2521 Statutory provisions; specific exemption.

SEC. 2521. *Specific exemption.* In computing taxable gifts for a calendar quarter, there shall be allowed as a deduction in the case of a citizen or resident an exemption of $30,000, less the aggregate of the amounts claimed and allowed as a specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years and calendar quarters intervening between that calendar year and the calendar quarter for which the tax is being computed under the laws applicable to such years or calendar quarters.

[Sec. 2521 as amended by sec. 102(c)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 68. Section 25.2521–1 is amended to read as follows:

§ 25.2521–1 Specific exemption.

(a) In determining the amount of taxable gifts for the calendar quarter (calendar year with respect to gifts made before January 1, 1971) there may be deducted, if the donor was a resident or citizen of the United States at the time the gifts were made, a specific exemption of $30,000, less the sum of the amounts claimed and allowed as an exemption in prior calendar quarters or calendar years. The exemption, at the option of the donor, may be taken in the full amount of $30,000 in a single calendar quarter or calendar year, or be spread over a period of time in such amounts as the donor sees fit, but after the limit has been reached no further exemption is allowable. Except as otherwise provided in a tax convention between the United States and another country, a donor who was a nonresident not a citizen of the United States at the time the gift or gifts were made is not entitled to this exemption. For the definition of calendar quarter see § 25.2502–1(c)(1).

(b) No part of a donor's lifetime specific exemption of $30,000 may be deducted from the value of a gift attributable to his spouse where a husband and

wife consent, under the provisions of section 2513, to have the gifts made during a calendar quarter or calendar year considered as made one-half by each of them. The "gift-splitting" provisions of section 2513 do not authorize the filing of a joint gift tax return nor permit a donor to claim any of his spouse's specific exemption. For example, if a husband has no specific exemption remaining available, but his wife does, and the husband makes a gift to which his wife consents under the provisions of section 2513, the specific exemption remaining available may be claimed only on the return of the wife with respect to one-half of the gift. The husband may not claim any specific exemption since he has none available.

(c) (1) With respect to gifts made after December 31, 1970, the amount by which the specific exemption claimed and allowed in gift tax returns for prior calendar quarters and calendar years exceeds $30,000 is includible in determining the aggregate sum of the taxable gifts for preceding calendar years and calendar quarters. See paragraph (b) of § 25.2504–1.

(2) With respect to gifts made before January 1, 1971, the amount by which the specific exemption claimed and allowed in gift tax returns for prior calendar years exceeds $30,000 is includible in determining the aggregate sum of the taxable gifts for preceding calendar years. See paragraph (b) of § 25.2504–1.

PAR. 69. Section 25.2522(a) is amended by revising so much of section 2522(a) as precedes paragraph (1) thereof, by revising section 2522(a)(2), and by adding a historical note. These revised and added provisions read as follows:

§ 25.2522(a) Statutory provisions; charitable and similar gifts; citizens or residents.

SEC. 2522. *Charitable and similar gifts*—(a) *Citizens or residents.* In computing taxable gifts for the calendar quarter, there shall be allowed as a deduction in the case of a citizen or resident the amount of all gifts made during such quarter to or for the use of—

* * * * *

(2) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

* * * * *

[Sec. 2522(a) as amended by sec. 201(d)(4), Tax Reform Act 1969 (83 Stat. 561); sec. 102(c)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 70. Section 25.2522(a)–1 is amended by revising so much of paragraph (a) as precedes subparagraph (1) thereof to read as follows:

§ 25.2522(a)–1 Charitable and similar gifts; citizens or residents.

(a) In determining the amount of taxable gifts for the calendar quarter as defined in § 25.2502–1(c)(1) (calendar year with respect to gifts made before January 1, 1971) there may be deducted, in the case of a donor who was a citizen or resident of the United States at the time the gifts were made, all gifts included in the "total amount of gifts" made by the donor during the calendar quarter or calendar year (see section 2503 and the regulations thereunder) and made to or for the use of:

* * * * *

PAR. 71. Section 25.2522(b) is amended by revising so much of section 2522(b) as precedes paragraph (1) thereof, by revising section 2522(b)(2) and (3) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2522(b) Statutory provisions; charitable and similar gifts; nonresidents.

SEC. 2522. *Charitable and similar gifts.*

* * *

(b) *Nonresidents.* In the case of a nonresident not a citizen of the United States, there shall be allowed as a deduction the amount of all gifts made during such quarter to or for the use of—

* * * * *

(2) A domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(3) A trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; but only if such gifts are to be used within the United States exclusively for such purposes;

* * * * *

[Sec. 2522(b) as amended by sec. 201(d)(4), Tax Reform Act 1969 (83 Stat. 561); sec. 102(c)(2) Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 72. Section 25.2523(a) is amended to read as follows:

§ 25.2523(a) Statutory provisions; gift to spouse; in general.

SEC. 2523. *Gift to spouse*—(a) *In general.* Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to one-half of its value.

[Sec. 2523(a) as amended by sec. 102(c)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 73. Section 25.2523(a)–1 is amended by revising paragraphs (a) and (b), by redesignating paragraph (c) as (d), and by inserting a new paragraph (c) immediately after paragraph (b). These revised and added provisions read as follows:

§ 25.2523(a)–1 Gift to spouse; in general.

(a) *In general.* In determining the amount of taxable gifts for the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971), a donor who was a citizen or resident of the United States at the time the gift was made, may deduct an amount equal to one-half the value of any property interest (except as otherwise provided in paragraph (b) of this section) transferred by gift to a donee who at the time of the gift was the donor's spouse. (See § 25.2502–1(c)(1) for the definition of calendar quarter.) This deduction is referred to as the "marital deduction". No marital deduction is authorized with respect to a gift if the donor, at the time of the gift, was a nonresident not a citizen of the United States. However, if the donor was a citizen or resident of the United States at the time the gift was made, he is not deprived of the right to the marital deduction by reason of the fact that his spouse was a nonresident not a citizen. For convenience the donor's spouse is generally referred to in the feminine gender, but if the donor is a woman the reference is to her husband. The donor must submit such proof as is necesary to establish the right to the marital deduction, including any evidence requested by the Internal Revenue Service.

(b) *"Deductible interests" and "nondeductible interests"*—(1) *In general.* The property interests transferred by a donor to his spouse consist of either transfers with respect to which the marital deduction is authorized (as described in subparagraph (2) of this paragraph) or transfers with respect to which the marital deduction is not authorized (as described in subparagraph (3) of this paragraph). These transfers are referred to in this section and in §§ 25.2523(b)–1 through 25.2523(f)–1 as "deductible interests" and "nondeductible interests", respectively.

(2) *"Deductible interest".* A property interest transferred by a donor to his spouse is a "deductible interest" if it does not fall within either class of "nondeductible interests" described in subparagraph (3) of this paragraph.

(3) *"Nondeductible interests".* (i) A property interest transferred by a donor to his spouse which is a "terminable interest", as defined in § 25.2523(b)–1, is a "nondeductible interest" to the extent specified in that section.

(ii) Any property interest transferred by a donor to his spouse is a "nondeductible interest" to the extent that it is not included in the total amount of gifts made during the calendar quarter (with respect to gifts made after December 31, 1971) or calendar year (with respect to gifts made before January 1, 1971). See §§ 25.2515–1 (relating to tenancies by the entirety) and 25.2516–1 (relating to property settlements followed by divorce) for some, but not necessarily all, of the situations in which property is transferred by a donor to his spouse and not included in the total amount of gifts made during the calendar quarter or calendar year.

(c) *Marital deduction computation.* The amount of the marital deduction for a particular calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) will depend upon whether the gifts made by the donor to his spouse during the calendar quarter or calendar year are terminable interests, and whether the limitations of §§ 25.2523(f)–1 (relating to gifts of community property) and 25.2524–1 (relating to cases in which transfers by gift are not included in the "total amount of gifts" pursuant to the provisions of section 2503(b)) are applicable. Generally, the marital deduction is equal to one-half of the aggregate value of the "deductible interests." The following examples (in each of which it is assumed that the donor has previously utilized his entire $30,000 specific exemption provided by section 2521) illustrate the marital deduction computation and the interrelationship of sections 2503(b) and 2523(a):

Example (1). A donor made a transfer by gift of $6,000 cash to his spouse on December 25, 1971. The donor made no other transfers during 1971. The amount of the marital deduction for the fourth calendar quarter of 1971 is $3,000 (one-half of $6,000); the amount of the annual exclusion under section 2503(b) is $3,000; and the amount of taxable gifts is zero ($6,000—$3,000 (annual exclusion)—$3,000 (marital deduction)).

Example (2). A donor made transfers by gift to his spouse of $3,000 cash on January 1, 1971, and $3,000 cash on May 1, 1971. The donor made no other transfers during 1971. For the first calendar quarter of 1971 the marital deduction is zero because the amount excluded under section 2503(b) is $3,000, and the amount of taxable gifts is also zero. For the second calendar quarter of 1971 the marital deduction is $1,500 (one-half of $3,000), and the amount of taxable gifts is $1,500 ($3,000—$1,500 (marital deduction)). Under section 2503(b) no amount of the second $3,000 gift may be excluded because the entire $3,000 annual exclusion was applied against the gift made in the first calendar quarter of 1971.

Example (3). A donor made a transfer by gift to his spouse of $10,000 cash on April 1, 1972. The donor made no other transfers during 1972. For the second calendar quarter of 1972 the amount of the marital deduction is $5,000 (one-half of $10,000); the amount excluded under section 2503(b) is $3,000; the amount of taxable gifts is $2,000 ($10,000 —$3,000 (annual exclusion)—$5,000 (marital deduction)).

Example (4). A donor made transfers by gift to his spouse of $2,000 cash on January 1, 1971, $2,000 cash on April 5, 1971, and $10,000 cash on December 1, 1971. The donor made no other transfers during 1971. For the first calendar quarter of 1971 the marital deduction is zero because the amount excluded under section 2503(b) is $2,000, and the amount of taxable gifts is also zero. For the second calendar quarter of 1971 the marital deduction is $1,000 (one-half of $2,000) (see section 2524); the amount excluded under section 2503(b) is $1,000 because $2,000 of the $3,000 annual exclusion was applied against the gift made in the first calendar quarter of 1971; and the amount of taxable gifts is zero ($2,000—$1,000 (annual exclusion)—$1,000 (martial deduction)). For the fourth calendar quarter of 1971, the marital deduction is $5,000 (one-half of $10,000); the amount excluded under section 2503(b) is zero because the entire $3,000 annual exclusion was applied against the gifts made in the first and second calendar quarters of 1971; and the amount of taxable gifts is $5,000 ($10,000—$5,000 (marital deduction)).

Example (5). A donor made transfers by gift to his spouse of $2,000 cash on January 10, 1972, $2,000 cash on May 1, 1972, and a remainder interest valued at $16,000 on June 1, 1972. The donor made no other transfers during 1972. For the first calendar quarter of 1972, the marital deduction is zero because $2,000 is excluded under section 2503(b), and the amount of taxable gifts is also zero. For the second calendar quarter of 1972 the marital deduction is $9,000 (one-half of $16,000 plus one-half of $2,000); the amount excluded under section 2503(b) is $1,000 because $2,000 of the $3,000 annual exclusion was applied against the gift made in the first calendar quarter of 1971; and the amount of taxable gifts is $8,000 ($18,000 —$1,000 (annual exclusion) —$9,000 (marital deduction)).

Example (6). A donor made transfers by gift to his spouse of $2,000 cash on January 1, 1972, a remainder interest valued at $16,000 on January 5, 1972, and $2,000 cash on April 30, 1972. The donor made no other transfers during 1972. For the first calendar quarter of 1972, the marital deduction is $9,000 (one-half of $16,000 plus one-half of $2,000); the amount excluded under section 2503(b) is $2,000; and the amount of taxable gifts is $7,000 ($18,000 —$2,000 (annual exclusion) —$9,000 marital deduction)). For the second calendar quarter of 1972 the marital deduction is $1,000 (one-half of $2,000); the amount excluded under section 2503(b) is $1,000 because $2,000 of the $3,000 annual exclusion was applied against the gift of the present interest in the first calendar quarter of 1971; and the amount of taxable gifts is zero ($2,000 —$1,000 (annual exclusion) —$1,000 (marital deduction)).

Example (7). A donor made a transfer by gift to his spouse of $12,000 cash on July 1, 1955. The donor made no other transfers during 1955. For the calendar year 1955 the amount of the marital deduction is $6,000 (one-half of $12,000); the amount excluded under section 2503(b) is $3,000; and the amount of taxable gifts is $3,000 ($12,000 —$3,000 (annual exclusion) —$6,000 (marital deduction)).

(d) *Valuation.* If the income from property is made payable to the donor or another individual for life, or for a term of years, with remainder absolutely to the donor's spouse or to her estate, the marital deduction is equal to one-half the present value of the remainder. The present value of the remainder (that is, its value as of the date of gift) is to be determined in accordance with the rules stated in § 25.2512–9 (§ 25.2512–5 in the case of a remainder transferred before January 1, 1971). See the example in paragraph (d) of § 25.2512–9 (§ 25.2512–5 in the case of a remainder transferred before January 1, 1971). If the remainder is such that its value is to be determined by a special computation (see § 25.2512–9(e)), a request for a specific factor, accompanied by a statement of the dates of birth of each person, the duration of whose life may affect the value of the remainder, and by copies of the relevant instruments may be submitted by the donor to the Commissioner who, if conditions permit, may supply the factor requested. If the Commissioner does not furnish the factor, the claim for deduction must be supported by a full statement of the computation of the present value, made in accordance with the principles set forth in § 25.2512–9(e).

PAR. 74. Section 25.2523(d)–1 is amended to read as follows:

§ 25.2523(d)–1 Joint interests.

Section 2523(d) provides that if a property interest is transferred to the donee spouse as sole joint tenant with the donor or as a tenant by the entirety, the interest of the donor in the property which exists solely by reason of the possibility that the donor may survive the donee spouse, or that there may occur a severance of the tenancy, is not for the purposes of section 2523(b), to be considered as an interest retained by the donor in himself. Under this provision, the fact that the donor may, as surviving tenant, possess or enjoy the property after the termination of the interest transferred to the donee spouse does not preclude the allowance of the marital deduction with respect to the latter interest. Thus, if the donor purchased real property in the name of himself and wife as tenants by the entirety, or as joint tenants with right of survivorship and, pursuant to the provisions of section 2515(c), elected to treat such transaction as a completed gift in the calendar quarter (calendar year with respect to gifts made before January 1, 1971) affected, a marital deduction equal to one-half the value of the interest of the donee spouse in such property may be taken. See paragraph (c) of § 25.2523(b)–1, and section 2524.

PAR. 75. Section 25.2524–1 is amended to read as follows:

§ 25.2524–1 Extent of deductions.

Under the provisions of section 2524, the charitable deduction provided for in section 2522 and the marital deduction provided for in section 2523 are allowable only to the extent that the gifts, with respect to which those deductions are authorized, are included in the "total amount of gifts" made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971), computed as provided in section 2503 and § 25.2503–1 (i.e., the total gifts less exclusions). The following examples (in both of which it is assumed that the donor has previously utilized his entire $30,000 specific exemption provided by section 2521) illustrate the application of the provisions of this section:

Example (1). A donor made transfers by gift to his spouse of $5,000 cash on January 1, 1971, and $1,000 cash on April 5, 1971. The donor made no other transfers during 1971. The first $3,000 of such gifts for the calendar year is excluded under the provisions of section 2503(b) in determining the "total amount of gifts" made during the first calendar quarter of 1971. The marital deduction for the first calendar quarter of $2,500 (one-half of $5,000) otherwise allowable is limited by section 2524 to $2,000. The amount of taxable gifts is zero ($5,000−$3,000 (annual exclusion) −$2,000 (marital deduction)). For the second calendar quarter of 1971, the marital deduction is $500 (one-half of $1,000); the amount excluded under section 2503(b) is zero because the entire $3,000 annual exclusion was applied against the gift in the first calendar quarter of 1971; and the amount of taxable gifts is $500 ($1,000−$500 (marital deduction)).

Example (2). The only gifts made by a donor to his spouse during calendar year 1969 were a gift of $2,400 in May and a gift of $3,000 in August. The first $3,000 of such gifts is excluded under the provisions of section 2503(b) in determining the "total amount of gifts" made during the calendar year. The marital deduction for 1969 of $2,700 (one-half of $2,400 plus one-half $3,000) otherwise allowable is limited by section 2524 to $2,400. The amount of taxable gifts is zero ($5,400−$3,000 (annual exclusion) −$2,400 (marital deduction)).

PAR. 76. Section 25.6019 is amended to read as follows:

§ 25.6019 Statutory provisions; gift tax returns.

SEC. 6019. *Gift tax returns*—(a) *In general.* Any individual who in any calendar quarter makes any transfers by gift (other than transfers which under section 2503(b) are not to be included in the total amount of gifts for such quarter and other than qualified charitable transfers) shall make a return for such quarter with respect to the gift tax imposed by subtitle B.

(b) *Qualified charitable transfers*—(1) *Return requirement.* A return shall be made of any qualified charitable transfer—

(A) For the first calendar quarter, in the calendar year in which the transfer is made, for which a return is required to be filed under subsection (a), or

(B) If no return is required to be filed under subparagraph (A), for the fourth calendar quarter in the calendar year in which such transfer is made.

A return made pursuant to the provisions of this paragraph shall be deemed to be a return with respect to any transfer reported as a qualified charitable transfer for the calendar quarter in which such transfer was made.

(2) *Definition of qualified charitable transfer.* For purposes of this section, the term "qualified charitable transfer" means a transfer by gift with respect to which a deduction is allowable under section 2522 in an amount equal to the amount transferred.

(c) *Tenancy by the entirety.* For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c).

[Sec. 6019 as amended by sec. 102(d)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 77. Section 25.6019–1 is amended to read as follows:

§ 25.6019–1 Persons required to file returns.

(a) *In general.* Except in the case of a gift of a future interest in property, any individual citizen or resident of the United States who, within any calendar year beginning after December 31, 1970, makes a transfer or transfers by gift to any one donee of a value or total value in excess of $3,000 (other than qualified charitable transfers described in paragraph (b) of this section) must file a gift tax return on Form 709 for—(1) the calendar quarter in which the value of the gift or the sum of the values of the gifts to such donee during that calendar year exceeds $3,000, and (2) for any subsequent quarter within the same calendar year in which any additional gift is made to the same donee. For example, assume that the only gifts made by A during calendar year 1971 were gifts to B of $2,000 on January 1, 1971, $2,000 on July 1, 1971, and $2,000 on December 1, 1971. Thus, A must file a gift tax return for the third and fourth calendar quarters of 1971, but no return is required for the first or second calendar quarter of 1971. Each citizen or resident must file a return on Form 709 for the calendar quarter beginning after December 31, 1970, in which he makes a gift of a future interest in property, regardless of the value of the transfer. If any individual citizen or resident of the United States makes a transfer or transfers by gift within any calendar year from 1955 to 1970, inclusive, to any one donee of a value or total value in excess of $3,000 (or any gift of a future interest in property regardless of value), he must file a gift tax return on Form 709 for that year. The rules contained in this section also apply to a nonresident not a citizen of the United States provided that under § 25.2511–3 the transfer is subject to the gift tax. The return is required even though because of the deductions authorized by sections 2521 (specific exemption), 2522 (charitable, etc., deduction), and 2523 (marital deduction), no tax may be payable. Individuals only are required to file returns and not trusts, estates, partnerships or corporations. Duplicate copies of the return are not required to be filed. See §§ 25.6075–1 and 25.6091–1 for the time and place for filing the gift tax return. For delinquency penalty for failure to file return or pay the tax, see section 6651 and § 301.6651–1 of this chapter (Regulations on Procedure and Administration). For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207. For the gift tax return requirements with respect to qualified charitable transfers see paragraph (b) of this section.

(b) *Qualified charitable transfers*—(1) *Definition.* For purposes of this section, a "qualified charitable transfer" is a transfer by gift for which a deduction is allowable under section 2522 for the amount of the gift to the extent not excludable under section 2503(b) and the regulations thereunder. For example, if a donor gives securities outright to a qualified charitable organization described in section 2522, he is entitled to a charitable deduction under section 2522 equal to the amount of the transfer not otherwise excludable under section 2503(b), and therefore the transfer is a "qualified charitable transfer". If, however, the donor makes a gift of a split-interest, such as a gift to his son for life of the annuity interest in a charitable remainder annuity trust (see section 664), with a gift of the remainder interest in the trust to charity upon termination of the son's annuity interest, the transfer is not a "qualified charitable transfer" because the value of the entire gift (i.e., the value of the entire property transferred to the charitable remainder trust) less the annual exclusion provided by section 2503(b) exceeds the deduction allowed under section 2522 for the charitable remainder. This paragraph applies only to gifts made after December 31, 1970.

(2) *Return requirement.* If a donor's only gift during a calendar year was a qualified charitable transfer of a present interest in property the value of which exceeds $3,000, the transfer must be reported on a gift tax return for the fourth calendar quarter of such year regardless of when the qualified charitable transfer was made during the calendar year. However, if subsequent to such transfer a return is required to be filed under paragraph (a) of this section for a calendar quarter prior to the fourth calendar quarter of such calendar year, then the qualified charitable transfer must be reported on the return filed for such calendar quarter. A return filed pursuant to the provisions of this subparagraph, reporting a gift as a qualified charitable transfer, shall be treated as a return with respect to such transfer for the calendar quarter in which the transfer was made. Therefore, if the reported transfer is subsequently determined not to be a qualified charitable transfer, the donor shall be considered as having filed a return insofar as that transfer is concerned. Thus, the period of limitations on assessment under section 6501 runs from the date on which the return reporting the transfer is filed.

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

Example (1). On January 10, 1972, A transfers by gift property in trust to make certain payments therefrom to his wife for her life, with the remainder to a charitable organization upon the wife's death. Because the transfer is not a qualified charitable transfer, the entire transfer to the split-interest trust must be reported on a gift tax return filed on or before May 15, 1972. A may be entitled to a gift tax charitable deduction provided the trust qualifies under section 664 (charitable remainder trusts) or section 642(c)(5) (pooled income funds).

Example (2). On January 1, 1971, B transfers by gift $2,000 to C and $4,000 to a charitable organization. This latter gift is a qualified charitable transfer. B made no other gifts during 1971. B is not required to file a return for the gift to C because of the $3,000 annual exclusion provided in section 2503(b). The qualified charitable transfer is not required to be reported until the return for the fourth quarter of 1971 is filed. Thus, the only gift tax return required for 1971 should be filed on or before February 15, 1972.

Example (3). On March 2, 1971, D makes a qualified charitable transfer. On June 1, 1971, he transfers by gift $10,000 to E. D made no other gifts during 1971. Because a return is required on or before August 15,

1971, for the gift made in the second calendar quarter of 1971, the qualified charitable transfer must also be reported on that return.

Example (4). A transfer by gift is made by F in January of 1972 and reported as a qualified charitable transfer on a return filed on February 15, 1973, for the fourth calendar quarter of 1972. The period of limitations on assessment of gift tax liability with respect to the claimed qualified charitable transfer begins to run from February 15, 1973.

(c) *Deceased donor.* If the donor dies before filing his return, the executor or administrator of his estate shall file the return. If the donor becomes legally incompetent before filing his return, his guardian or committee shall file the return.

(d) *Ratification of return.* The return shall not be made by an agent unless by reason of illness, absence, or nonresidence, the person liable for the return is unable to make it within the time prescribed. Mere convenience is not sufficient reason for authorizing an agent to make the return. If by reason of illness, absence or nonresidence, a return is made by an agent, the return must be ratified by the donor or other person liable for its filing within a reasonable time after such person becomes able to do so. If the return filed by the agent is not so ratified, it will not be considered the return required by the statute. Supplemental data may be submitted at the time of ratification. The ratification may be in the form of a statement, executed under the penalties of perjury and filed with the internal revenue officer with whom the return was filed, showing specifically that the return made by the agent has been carefully examined and that the person signing ratifies the return as the donor's. If a return is signed by an agent, a statement fully explaining the inability of the donor must accompany the return.

PAR. 78. Section 25.6019–2 is amended to read as follows:

§ 25.6019–2 Returns required in case of consent under section 2513.

Except as otherwise provided in this section, the provisions of § 25.6019–1 are applicable with respect to the filing of a gift tax return or returns in the case of a husband and wife who consent (see § 25.2513–1) to the application of section 2513. In such a case, if both of the consenting spouses are (without regard to the provisions of section 2513) required under the provisions of § 25.6019–1 to file returns, returns must be filed by both spouses. If only one of the consenting spouses is (without regard to the provisions of section 2513) required under § 25.6019–1 to file a return, a return must be filed by that spouse. In the latter case, if after giving effect to the provisions of section 2513 the other spouse is considered to have made any gift (regardless of value) of a future interest in property or any gift or gifts to any one third-party donee exceeding $3,000 in value, then a return must also be filed by such other spouse. Thus, if during any calendar quarter (calendar year in the case of gifts made before January 1, 1971) the husband made a gift of $5,000 to a son (the gift not being a future interest in property) and the wife made no gifts, only the husband is required to file a return for such calendar quarter (calendar year). However, if the wife had made a gift of $2,000 to the same son in the same calendar quarter (calendar year), or if the gift made by the husband had amounted to $7,000, each spouse would be required to file a return if the consent is signified as provided in section 2513. (See § 25.2502–1(c)(1) for the definition of calendar quarter.)

PAR. 79. Section 25.6019–3 is amended to read as follows:

§ 25.6019–3 Contents of return.

(a) *In general.* The return shall set forth: (1) Each gift made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) which under sections 2511 through 2515 is to be included in computing taxable gifts; (2) the deductions claimed and allowable under sections 2521 through 2524; and (3) the taxable gifts made for each of the preceding calendar years and calendar quarters (with respect to gifts made after December 31, 1970) or for each of the preceding calendar years (with respect to gifts made before January 1, 1971). (See § 25.2504–1.) In addition the return shall set forth the fair market value of all gifts not made in money, including gifts resulting from sales and exchanges of property made for less than full and adequate consideration in money or money's worth, giving, as of the date of the sale or exchange, both the fair market value of the property sold or exchanged and the fair market value of the consideration received by the donor. If a donor contends that his retained power over property renders the gift incomplete (see § 25.2511–2) and hence not subject to tax as of the calendar quarter or calendar year of the initial transfer, the transaction should be disclosed in the return for the calendar quarter or calendar year of the initial transfer and evidence showing all relevant facts, including a copy of the instrument of transfer, shall be submitted with the return. The instructions printed on the return should be carefully followed. A certified or verified copy of each document required by the instructions printed on the return form shall be filed with the return. Any additional documents the donor may desire to submit may be submitted with the return.

(b) *Disclosure of transfers coming within provisions of section 2516.* Section 2516 provides that certain transfers of property pursuant to written property settlements between husband and wife are deemed to be transfers for full and adequate consideration in money or money's worth if divorce occurs within 2 years. In any case where a husband and wife enter into a written agreement of the type contemplated by section 2516, and the final decree of divorce is not granted on or before the due date for the filing of a gift tax return for the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) in which the agreement became effective (see § 25.6075–1), the transfer shall be disclosed by the transferor upon a gift tax return filed for the calendar quarter or calendar year in which the agreement became effective and a copy of the agreement shall be attached to the return. In addition, a certified copy of the final divorce decree shall be furnished the internal revenue officer with whom the return was filed not later than 60 days after the divorce is granted. Pending receipt of evidence that the final decree of divorce has been granted (but in no event for a period of more than 2 years from the effective date of the agreement), the transfer will tentatively be treated as made for a full and adequate consideration in money or money's worth.

PAR. 80. Section 25.6019–4 is amended to read as follows:

§ 25.6019–4 Description of property listed on return.

The properties comprising the gifts made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) shall be listed on the return and shall be described in such a manner that they may be readily identified. Thus, there should be given for each parcel of real estate a legal description, its area, a short statement of the character of any improvements, and, if located in a city, the name of the street and number. Description of bonds shall include the number transferred, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number where there is more than one issue, and the principal exchange upon which listed, or the principal business office of the obligor, if unlisted. Description of stocks shall include number of shares, whether common or preferred, and, if preferred, what issue thereof, par value, quotation at which returned, exact name of corporation, and, if the stock is unlisted, the location of the principal business office, the State in which incorporated and the date of incorporation, or if the stock is listed, the principal exchange upon which sold. Description of notes shall include name of maker, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, and date to which interest has been paid. If the gift of property includes accrued income thereon to the date of the gift, the amount of such accrued income shall be separately set forth. Description of the seller's interest in land contracts transferred shall include name of buyer, date of contract, description of property, sale price, initial payment, amounts of installment payments, unpaid balance of principal, interest rate and date prior to gift to which interest has been paid. Description of life insurance policies shall show the name of the insurer and the number of the policy. In describing an annuity, the name and address of the issuing company shall be given, or, if

payable out of a trust or other fund, such a description as will fully identify the trust or fund. If the annuity is payable for a term of years, the duration of the term and the date on which it began shall be given, and if payable for the life of any person, the date of birth of that person shall be stated. Judgments shall be described by giving the title of the cause and the name of the court in which rendered, date of judgment, name and address of judgment debtor, amount of judgment, rate of interest to which subject, and by stating whether any payments have been made thereon, and, if so, when and in what amounts.

PAR. 81. Section 25.6075 is amended to read as follows:

§ 25.6075 Statutory provisions; time for filing gift tax returns.

SEC. 6075. *Time for filing estate and gift tax returns.*

* * * * *

(b) *Gift tax returns.* Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

[Sec. 6075 as amended by sec. 102(d)(4), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 82. Section 25.6075–1 is amended to read as follows:

§ 25.6075–1 Returns; time for filing gift tax returns.

The gift tax return required by section 6019 must be filed on or before the due date. The due date is the date on or before which the return is required to be filed in accordance with the provisions of section 6075(b) or the last day of the period covered by an extension of time granted, as provided in § 25.6081–1. With respect to gifts made after December 31, 1970, unless an extension of time has been granted, the due date is the 15th day of the second month following the close of the calendar quarter in which the gift was made. For example, the gift tax return and payment of the tax for a gift made on February 1, 1972, will be due on or before May 15, 1972. If the same taxpayer also makes a taxable gift on September 10, 1972, he must file a gift tax return and pay the tax attributable to that gift by November 15, 1972. With respect to gifts made before January 1, 1971, unless an extension of time has been granted, the due date is the 15th day of April following the close of the calendar year in which the gift was made. For example, if an individual makes taxable gifts in January and April of 1970, he must file his gift tax return and pay the gift tax no later than April 15, 1971. When the due date falls on Saturday, Sunday, or a legal holiday, the due date for filing the return is the next succeeding day which is not Saturday, Sunday, or a legal holiday. For definition of a legal holiday, see section 7503 and § 301.7503–1 of this chapter (Regulations on Procedure and Administration). As to additions to the tax for failure to file the return within the prescribed time, see section 6651 and § 301.6651–1 of this chapter (Regulations on Procedure and Administration).

PAR. 83. Section 25.6091–1 is amended by revising paragraph (a) and by adding a new paragraph (c) immediately after paragraph (b). These revised and added provisions read as follows:

§ 25.6091–1 Place for filing returns and other documents.

(a) *In general.* If the donor is a resident of the United States, the gift tax return required by section 6019 shall be filed with the district director for the district in which the legal residence or principal place of business of the donor is located. If the donor is a nonresident (whether or not a citizen), and his principal place of business is located in an internal revenue district, the gift tax return shall be filed with the district director for the internal revenue district in which the donor's principal place of business is located.

* * * * *

(c) *Returns of certain nonresidents.* If the donor is a nonresident (whether or not a citizen), and he does not have a principal place of business which is located in an internal revenue district, the gift tax return required by section 6019, whether or not such return is made by hand carrying, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, or in accordance with the instructions applicable to such return.

PAR. 84. Section 25.6161 is amended to read as follows:

§ 25.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (* * *) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1, 12, or 42, for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months;

* * * * *

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

* * * * *

[Sec. 6161 as amended by sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 85. Section 25.6324 is amended to read as follows:

§ 25.6324 Statutory provisions; special liens for estate and gift taxes.

SEC. 6324. *Special liens for estate and gift taxes*—* * *

(b) *Lien for gift tax.* Except as otherwise provided in subsection (c), unless the gift tax imposed by chapter 12 is sooner paid in full or becomes unenforceable by reason of lapse of time, such tax shall be a lien upon all gifts made during the period for which the return was filed, for 10 years from the date the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest shall be divested of the lien imposed by this subsection and such lien, to the extent of the value of such gift, shall attach to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest.

(c) *Exceptions.* (1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

[Sec. 6324 as amended by sec. 236 (b), (c), Rev. Act 1964 (78 Stat. 127, 128); sec. 102, Federal Tax Lien Act 1966 (80 Stat. 1132); sec. 102(d)(7), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 86. The following new sections are inserted immediately before § 25.7101:

§ 25.6905 Statutory provisions; discharge of executor from personal liability for decedent's income and gift taxes.

(a) Section 6905 as added by section 101 (e) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

Sec. 6905. *Discharge of executor from personal liability for decedent's income and gift taxes*—(a) *Discharge of liability.* In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) for release from personal liability for such taxes, the Secretary or his delegate may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 1 year after receipt of the application if no notification is made by the Secretary or his delegate before such date, shall be discharged from personal liability for any

deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) *Definition of executor.* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross-reference.* For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204.

[Sec. 6905 as added by sec. 101(e), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

§ 25.6905–1 Discharge of executor from personal liability for decedent's income and gift taxes.

For regulations concerning the discharge of an executor from personal liability for a decedent's income and gift taxes, see § 301.6905–1 of this chapter (Regulations on Procedure and Administration).

PART 301—PROCEDURE AND ADMINISTRATION

PAR. 87. Section 301.6019 is amended to read as follows:

§ 301.6019 Statutory provisions; gift tax returns.

SEC. 6019. *Gift tax returns*—(a) *In general.* Any individual who in any calendar quarter makes any transfers by gift (other than transfers which under section 2503(b) are not to be included in the total amount of gifts for such quarter and other than qualified charitable transfers) shall make a return for such quarter with respect to the gift tax imposed by subtitle B.

(b) *Qualified charitable transfers*—(1) *Return requirement.* A return shall be made of any qualified charitable transfer—

(A) For the first calendar quarter, in the calendar year in which the transfer is made, for which a return is required to be filed under subsection (a), or

(B) If no return is required to be filed under subparagraph (A), for the fourth calendar quarter in the calendar year in which such transfer is made.

A return made pursuant to the provisions of this paragraph shall be deemed to be a return with respect to any transfer reported as a qualified charitable transfer for the calendar quarter in which such transfer was made.

(2) *Definition of qualified charitable transfer.* For purposes of this section, the term "qualified charitable transfer" means a transfer by gift with respect to which a deduction is allowable under section 2522 in an amount equal to the amount transferred.

(C) *Tenancy by the entirety.* For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c).

[Sec. 6019 as amended by sec. 102(d)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 88. Section 301.6036–1 is amended by revising paragraph (b) to read as follows:

§ 301.6036–1 Notice required of executor or of receiver or other like fiduciary.

* * * * *

(b) *Executors, administrators, and persons in possession of property of decedent.* For provisions relating to the requirement of filing, by an executor, administrator, or person in possession of property of a decedent, of a preliminary notice in the case of the estate of a decedent dying before January 1, 1971, see § 20.6036–1 of this chapter (Estate Tax Regulations).

* * * * *

PAR. 89. Section 301.6039 is amended by revising the heading, by renumbering section 6039 as section 6040, by deleting paragraph (6), and by revising paragraph (2) and the historical note to read as follows:

§ 301.6040 Statutory provisions; cross references.

SEC. 6040. *Cross references.** * *

(2) For application by fiduciary for determination of tax and discharge from personal liability therefor, see section 2204.

* * * * *

[Sec. 6037 as renumbered by sec. 64(c), Technical Amendments Act 1958 (72 Stat. 1656); sec. 6, Act of Sept. 14, 1960 (Pub. Law 86–780, 74 Stat. 1014); sec. 221(b), Rev. Act 1964 (78 Stat. 73); as amended by sec. 305, Excise Tax Reduction Act 1965 (79 Stat. 148); sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 90. Section 301.6075 is amended to read as follows:

§ 301.6075 Statutory provisions; time for filing estate and gift tax returns.

SEC. 6075. *Time for filing estate and gift tax returns*—(a) *Estate tax returns.* Returns made under setcion 6018(a) (relating to estate taxes) shall be filed within 9 months after the date of the decedent's death.

(b) *Gift tax returns.* Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

[Sec. 6075 as amended by secs. 101(b), 102(d)(4), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836, 1842)]

PAR. 91. Section 301.6091 is amended by revising section 6091(b) and by adding a historical note. These revised and added provisions read as follows:

§ 301.6091 Statutory provisions; place for filing returns or other documents.

SEC. 6091. *Place for filing returns or other documents.* * * *

(b) *Tax returns.* In the case of returns of tax required under authority of part II of this subchapter—

(1) *Persons other than corporations*—(A) *General Rule.* Except as provided in subparagraph (B), a return (other than a corporation return) shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or

(ii) At a service center serving the internal revenue district referred to in clause (i), as the Secretary or his delegate may by regulations designate.

(B) *Exception.* Returns of—

(i) Persons who have no legal residence or principal place of business in any internal revenue district,

(ii) Citizens of the United States whose principal place of abode for the period with respect to which the return is filed is outside the United States,

(iii) Persons who claim the benefits of section 911 (relating to earned income from sources without the United States), section 931 (relating to income from sources within possessions of the United States), or section 933 (relating to income from sources within Puerto Rico), and

(iv) Nonresident alien persons,

shall be made at such place as the Secretary or his delegate may by regulations designate.

(2) *Corporations*—(A) *General rule.* Except as provided in subparagraph (B), a return of a corporation shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or

(ii) At a service center serving the internal revenue district referred to in clause (i), as the Secretary or his delegate may by regulations designate.

(B) *Exception.* Returns of—

(i) Corporations which have no principal place of business or principal office or agency in any internal revenue district,

(ii) Corporations which claim the benefits of section 922 (relating to special deduction for Western Hemisphere trade corporation), section 931 (relating to income from sources within possessions of the United States), or section 941 (relating to the special deduction for China Trade Act corporations), and

(iii) Foreign corporations,

shall be made at such place as the Secretary or his delegate may by regulations designate.

(3) *Estate tax returns*—(A) *General rule.* Except as provided in subparagraph (B), returns of estate tax required under section 6018 shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which was the domicile of the decedent at the time of his death, or

(ii) At a service center serving the internal revenue district referred to in clause (i), as the Secretary or his delegate may by regulations designate.

(B) *Exception.* If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary or his delegate may by regulations designate.

(4) *Hand-carried returns.* Notwithstanding paragraph (1), (2), or (3), a return to which paragraph (1)(A), (2)(A), or (3)(A) would apply, but for this paragraph, which is made to the Secretary or his delegate by hand-carrying shall, under regulations prescribed by the Secretary or his delegate, be made in the internal revenue district referred to in paragraph (1)(A)(i), (2)(A)(i), or (3)(A)(i), as the case may be.

(5) *Exceptional cases.* Notwithstanding paragraph (1), (2), (3), or (4) of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary or his delegate.

[Sec. 6091 as amended by sec. 1(a), Act of Nov. 2, 1966 (Public Law 89-713, 80 Stat. 1107); sec. 101(i), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 92. Section 301.6091-1(b) is amended by revising paragraph (b)(1) to read as follows:

§ 301.6091-1 Place for filing returns and other documents.

* * * * *

(b) *Exception for hand-carried documents other than returns.* Notwithstanding any other provisions of this chapter—

(1) *Persons other than corporations.* If a document, other than a return, of a person (other than a corporation) is hand carried, and if the document is otherwise required to be filed with a service center, such document may be filed with the district director for the internal revenue district in which is located the legal residence or principal place of business of such person, or, in the case of an estate, the internal revenue district in which was the domicile of the decedent at the time of his death. A document may also be filed by hand carrying such document to the appropriate service center, or, in the case of a document required to be filed (i) with the Office of International Operations, by hand carrying to such Office, or (ii) with the office of the assistant regional commissioner (alcohol and tobacco tax), by hand carrying to such office.

* * * * *

PAR. 93. Section 301.6161 is amended by revising section 6161(a)(1), by revising section 6161(b), and by revising the historical note. These revised provisions read as follows:

§ 301.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (12 months in the case of estate tax) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1, 12, or 42, for a period not to exceed 18 months from the date fixed for payment of the deficiency and, in exceptional cases, for a further period not to exceed 12 months;

(2) In the case of a tax imposed by chapter 11, for a period not to exceed 4 years from the date otherwise fixed for payment of the deficiency.

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

* * * * *

[Sec. 6161 as amended by sec. 206(c), Small Business Tax Revision Act 1958 (72 Stat. 1684); sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 94. Section 301.6212 is amended by revising section 6212(a), by revising section 6212(b)(1), by revising section 6212(c)(1), by revising section 6212(c)(2)(A), and by revising the historical note. These revised provisions read as follows:

§ 301.6212 Statutory provisions; notice of deficiency.

SEC. 6212. *Notice of deficiency*—(a) *In general.* If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A or B or chapter 42, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

(b) *Address for notice of deficiency*—(1) *Income and gift taxes and taxes imposed by chapter 42.* In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, chapter 12, or chapter 42, if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, chapter 42, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

* * * * *

(c) *Further deficiency letters restricted*—(1) *General rule.* If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the tax court within the time prescribed in section 6213(a), the Secretary or his delegate shall have no right to determine any additional deficiency of income tax for the same taxable year, of gift tax for the same calendar quarter, of estate tax in respect of the taxable estate of the same decedent, of section 4940 tax for the same taxable year, or of chapter 42 tax (other than under section 4940) with respect to any act (or failure to act) to which such petition relates, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the tax court), in section 6213(b)(1) (relating to mathematical errors), or in section 6861(c) (relating to the making of jeopardy assessments).

(2) *Cross references* * * *

(A) Deficiency attributable to change of election with respect to the standard deduction where taxpayer and his spouse made separate returns, see section 144(b).

* * * * *

[Sec. 6212 as amended by secs. 76, 89(b), Technical Amendments Act 1958 (72 Stat. 1661, 1665); sec. 112(d), Rev. Act 1964 (78 Stat. 24); secs. 101 (f), (j), Tax Reform Act 1969 (83 Stat. 524, 526); sec. 102(d)(5), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 95. Section 301.6212-1 is amended by revising paragraph (c) to read as follows:

§ 301.6212-1 Notice of deficiency.

* * * * *

(c) *Further deficiency letters restricted.* If the district director (or assistant regional commissioner, appellate) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the tax court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same calendar quarter (calendar year with respect to gifts made before January 1, 1971), or estate tax with respect to the taxable estate of the same decedent. This restriction shall not apply in the case of fraud, assertion of greater deficiencies before the tax court as provided in section 6214(a), mathematical errors as provided in section 6213(b)(1), or jeopardy assessments as provided in section 6861(c).

PAR. 96. Section 301.6214 is amended to read as follows:

§ 301.6214 Statutory provisions; determinations by Tax Court.

SEC. 6214. *Determination by Tax Court*—(a) *Jurisdiction as to increase of deficiency, additional amounts, or additions to the tax.* Except as provided by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or addition to the tax should be assessed, if claim therefor is asserted by the Secretary or his delegate at or before the hearing or a rehearing.

(b) *Jurisdiction over other years and quarters.* The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid.

(c) *Taxes imposed by section 507 or chapter 42.* The Tax Court, in redetermining a deficiency of any tax imposed by section 507 or chapter 42 for any period, act, or failure to act, shall consider such facts with relation to the taxes under chapter 42 for other periods, acts, or failures to act as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the taxes under chapter 42 for any other period, act, or failure to act have been overpaid or underpaid.

(d) *Final decisions of Tax Court.* For purposes of this chapter, chapter 42, and subtitle A or B the date on which a decision of the Tax Court becomes final shall be determined according to the provisions of section 7481.

[Sec. 6214 as amended by secs. 101(j)(43), 960(a), Tax Reform Act 1969 (83 Stat. 530, 734); sec. 102(d)(6), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 97. Section 301.6314 is amended by revising section 6314(c)(2) and by adding a historical note. These revised and added provisions read as follows:

§ 301.6314 Statutory provisions; receipt for taxes.

SEC. 6314. *Receipt for taxes.* * * *

(c) *Cross-references.* * * *

(2) For receipt of discharge of fiduciary from personal liability, see section 2204.

[Sec. 6314 as amended by sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 98. Section 301.6324 is amended to read as follows:

§ 301.6324 Statutory provisions; special liens for estate and gift taxes.

SEC. 6324. *Special liens for estate and gift taxes*—(a) *Liens for estate tax.* Except as otherwise provided in subsection (c)—

(1) *Upon gross estate.* Unless the estate tax imposed by chapter 11 is sooner paid in full, or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) *Liability of transferees and others.* If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employees' trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser or holder of a security interest shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

(3) *Continuance after discharge of fiduciary.* The provisions of section 2204 (relating to discharge of fiduciary from personal liability) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a purchaser or a holder of a security interest, in which case such part (or such interest) shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser or holder of a security interest, by the heirs, legatees, devisees, or distributees.

(b) *Lien for gift tax.* Except as otherwise provided in subsection (c), unless the gift tax imposed by chapter 12 is sooner paid in full or becomes unenforceable by reason of lapse of time, such tax shall be a lien upon all gifts made during the period for which the return was filed, for 10 years from the date the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest shall be divested of the lien imposed by this subsection and such lien, to the extent of the value of such gift, shall attach to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest.

(c) *Exceptions.* (1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

[Sec. 6324 as amended by sec. 236 (b), (c), Rev. Act 1964 (78 Stat. 127, 128); sec. 102, Federal Tax Lien Act 1966 (80 Stat. 1132); secs. 101(d)(2), 102(d)(7), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837, 1842)]

PAR. 99. Section 301.6324–1 is amended to read as follows:

§ 301.6324–1 Special liens for estate and gift taxes; personal liability of transferees and others.

(a) *Estate tax.* (1) A lien for estate tax attaches at the date of the decedent's death to every part of the gross estate, whether or not the property comes into possession of the duly qualified executor or administrator. The lien attaches to the extent of the tax shown to be due by the return and of any deficiency in tax found to be due upon review and audit. If the estate tax is not paid when due, then the spouse, transferee, trustee (except the trustee of an employee's trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, shall be personally liable for the tax to the extent of the value, at the time of the decedent's death, of the property.

(2) Unless the tax is paid in full or becomes unenforceable by reason of lapse of time, and except as otherwise provided in paragraph (c) of this section, the lien upon the entire property constituting the gross estate continues for a period of 10 years after the decedent's death, except that the lien shall be divested with respect to—

(i) The portion of the gross estate used for the payment of charges against the estate and expenses of its administration allowed by any court having jurisdiction thereof;

(ii) Property included in the gross estate under sections 2034 to 2042, inclusive, which is transferred by (or transferred by the transferee of) the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary to a purchaser or holder of a security interest. In such case a like lien attaches to all the property of the spouse, transferee, trustee, surviving tenant, person in possession, beneficiary, or transferee of any such person, except the part which is transferred to a purchaser or a holder of a security interest. See section 6323(h) (1) and (6) and the regulations thereunder, respectively, for the definitions of "security interest" and "purchaser";

(iii) The portion of the gross estate (or any interest therein) which has been transferred to a purchaser or holder of a security interest if payment is made of the full amount of tax determined by the district director pursuant to a request of the fiduciary (executor, in the case of the estate of a decedent dying before January 1, 1971) for discharge from personal liability as authorized by section 2204 (relating to discharge of fiduciary from personal liability) but there is substituted a like lien upon the consideration received from the purchaser or holder of a security interest; and

(iv) Property as to which the district director has issued a certificate releasing a lien under section 6325(a) and the regulations thereunder.

(b) *Lien for gift tax.* Except as provided in paragraph (c) of this section, a lien attaches upon all gifts made during the period for which the return was filed (see § 25.6019–1 of this chapter) for the amount of tax imposed upon the gifts made during such period. The lien extends for a period of 10 years from the time the gifts are made, unless the tax is sooner paid in full or becomes unenforceable by reason of lapse of time. If the tax is not paid when due, the donee of any gift becomes personally liable for the tax to the extent of the value of his gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest is divested of the lien, but a like lien, to the extent of the value of the gift, attaches to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest. See section 6323(h) (1) and (6) and the regulations thereunder, respectively, for the definitions of "security interest" and "purchaser."

(c) *Exceptions.* (1) A lien described in either paragraph (a) or paragraph (b) of this section is not valid against a mechanic's lienor (as defined in section 6323(h)(2) and the regulations thereunder) and, subject to the conditions set forth under section 6323(b) (relating to protection for certain interests even though notice filed), is not valid with respect to any lien or interest described in section 6323(b) and the regulations thereunder.

(2) If a lien described in either paragraph (a) or paragraph (b) of this section is not valid against a lien or security interest (as defined in section 6323(h)(1) and the regulations thereunder), the priority of the lien or security interest extends to any item described in section

6323(e) (relating to priority of interest and expenses) to the extent that, under local law, the item has the same priority as the lien or security interest to which it relates.

(d) *Application of lien imposed by section 6321.* The general lien under section 6321 and the special lien under subsection (a) or (b) of section 6324 for the estate or gift tax are not exclusive of each other, but are cumulative. Each lien will arise when the conditions precedent to the creation of such lien are met and will continue in accordance with the provisions applicable to the particular lien. Thus, the special lien may exist without the general lien being in force, or the general lien may exist without the special lien being in force, or the general lien and the special lien may exist simultaneously, depending upon the facts and pertinent statutory provisions applicable to the respective liens.

PAR. 100. Section 301.6501(e) is amended by revising the heading, by revising the heading of section 6501(e), by revising section 6501(e)(2), by adding a new paragraph (3) immediately after paragraph (2), and by adding a historical note. These revised and added provisions read as follows:

§ 301.6501(e) Statutory provisions; limitations on assessments and collection; substantial omission of items.

SEC. 6501. *Limitations on assessment and collection.* * * *

(e) *Substantial omission of items.* * * *

(2) *Estate and gift taxes.* In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the period for which the return was filed items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

(3) *Excise taxes.* In the case of a return of a tax imposed under a provision of subtitle D, if the return omits an amount of such tax properly includible thereon which exceeds 25 percent of the amount of such tax reported thereon, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return is filed. In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter 42 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the existence and nature of such item.

[Sec. 6501(e) as amended by sec. 810(b), Excise Tax Reduction Act 1965 (79 Stat. 169); sec. 101(g)(3), Tax Reform Act 1969 (83 Stat. 525); sec. 102(d)(8), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 101. Section 301.6501(e)–1 is amended by revising paragraph (b)(1) to read as follows:

§ 301.6501(e)–1 Omission from return.

* * * * *

(b) *Estate and gift taxes.* (1) If the taxpayer omits from the gross estate as stated in the estate tax return, or from the total amount of the gifts made during the period for which the gift tax return was filed (see § 25.6019–1 of this chapter) as stated in such return, an item or items properly includible therein the amount of which is in excess of 25 percent of the gross estate as stated in the return, or 25 percent of the total amount of the gifts as stated in the return, the tax may be assessed, or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed.

* * * * *

PAR. 102. Section 301.6504 is amended by deleting paragraph (8), by revising paragraph (3) and (9), and by revising the historical note to read as follows:

§ 301.6504 Statutory provisions; cross-references.

SEC. 6504. *Cross-references.* * * *

(3) Change of election with respect to the standard deduction where taxpayer and his spouse make separate returns, see section 144(b).

* * * * *

(9) Application by fiduciary for discharge from personal liability for estate tax, see section 2204.

* * * * *

[Sec. 6504 as amended by sec. 4(d), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(e)(5), Highway Rev. Act 1956 (70 Stat. 397); sec. 84(b), Technical Amendments Act 1958 (72 Stat. 1664); sec. 112(d), Rev. Act 1964 (78 Stat. 24); sec. 213(c), Tax Reform Act 1969 (83 Stat. 572); sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 103. Section 301.6512 is amended by revising so much of section 6512(a) as precedes paragraph (1) thereof, by revising section 6512(b)(1), and by revising the historical note. These revised provisions read as follows:

§ 301.6512 Statutory provisions; limitations in case of petition to Tax Court.

SEC. 6512. *Limitations in case of petition of Tax Court*—(a) *Effect of petition of Tax Court.* If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and chapter 42 taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 42 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary or his delegate has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

* * * * *

(b) *Overpayment determined by Tax Court*—(1) *Jurisdiction to determine.* Except as provided by paragraph (2) and by section 7463, if the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 42 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer.

* * * * *

[Sec. 6512 as amended by sec. 4, Act of Oct. 23, 1962 (Public Law 87–870, 76 Stat. 1161); secs. 101(j), 960(b), Tax Reform Act 1969 (83 Stat. 526, 734); sec. 102(d)(9), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 104. Section 301.6512–1 is amended by revising paragraph (a)(1), and by revising so much of paragraph (b) as precedes subparagraph (1) thereof. These revised provisions read as follows:

§ 301.6512–1 Limitations in case of petition to Tax Court.

(a) *Effect of petition to Tax Court*—(1) *General rule.* If a person, having a right to file a petition with the Tax Court with respect to a deficiency in income, estate, or gift tax imposed by subtitle A or B of the Code, has filed such petition within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, or of gift tax for the same calendar year or calendar quarter, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, shall be allowed or made, and no suit in any court for the recovery of any part of such tax shall be instituted by the taxpayer, except as to items set forth in subparagraph (2) of this paragraph.

* * * * *

(b) *Overpayment determined by Tax Court.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, or of gift tax for the same calendar year or calendar quarter, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the overpayment determined by the Tax Court shall be credited or refunded to the taxpayer when the decision of the Tax Court has become final. (See section 7481, relating to the date when Tax Court decision becomes final.) No such credit or refund shall be allowed or made of any

portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

* * * * *

PAR. 104a. Section 301.6601–1 is amended by revising paragraph (b)(2) to read as follows:

§ 301.6601–1 Interest on underpayments.

* * * * *

(b) *Exceptions to the general rule*— * * *

(2) *Time for payment of estate tax extended or postponed.* In the case of an estate tax—

(i) If an extension of time has been granted, in accordance with section 6161(a)(2) or section 6166, for paying any portion of the tax shown on an estate tax return, or

(ii) If the time for payment of the portion of the tax attributable to a reversionary or remainder interest is extended or postponed in accordance with the provisions of section 6163,

such portion shall bear interest at the rate of 4 percent per annum from the expiration of 9 months (15 months, if the decedent died on or before December 31, 1970) after the date of the decedent's death to the date of the expiration of the period of the extension or postponement or to the date on which payment is received, whichever is earlier. If any part of such portion is paid before the date of the expiration of the period of the extension or postponement, such part shall bear interest only to the date on which payment is received. If, however, the full amount of the tax to which the extension or postponement applies is not paid on or before the date of the expiration of the period of the extension or postponement, the unpaid amount shall bear interest at the rate of 6 percent per annum from the date of the expiration of the period of the extension or postponement to the date on which payment is received.

* * * * *

PAR. 105. The following sections are inserted immediately after § 301.6904.

§ 301.6905 Statutory provisions; discharge of executor from personal liability for decedent's income and gift taxes.

(a) Section 6905 as added by section 101(e) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

SEC. 6905. *Discharge of executor from personal liability for decedent's income and gift taxes*—(a) *Discharge of liability.* In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) for release from personal liability for such taxes, the Secretary or his delegate may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 1 year after receipt of the application if no notification is made by the Secretary or his delegate before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) *Definition of executor.* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross reference.* For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204.

[Sec. 6905 as added by sec. 101(e), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

§ 301.6905–1 Discharge of executor from personal liability for decedent's income and gift taxes.

(a) *Discharge of liability.* With respect to decedents dying after December 31, 1970, the executor of a decedent's estate may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091–1 of this chapter, for a determination of the income or gift taxes imposed upon the decedent by subtitle A or by chapter 12 of the Code, and for a discharge of personal liability therefrom. If no estate tax return is required to be filed, then such application should be filed where the decedent's final income tax return is required to be filed. The application must be filed after the return with respect to such income or gift taxes is filed. Within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after receipt of the application, the executor shall be notified of the amount of the income or gift tax and, upon payment thereof, he will be discharged from personal liability for any deficiency in income or gift tax thereafter found to be due. If no such notification is received, the executor is discharged at the end of such 9 month (1 year with respect to the estate of a decedent dying before January 1, 1974) period from personal liability for any deficiency thereafter found to be due. The discharge of the executor under this section from personal liability applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as executor to the extent of the assets of the estate in his possession or control. Further, the discharge does not operate as a release of any part of the property from the lien provided under section 6321 or the special lien provided under subsection (a) or (b) of section 6324.

(b) *Definition of "executor".* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross reference.* For provisions concerning the discharge of the executor from personal liability for estate taxes imposed by chapter 11 of the Code, see section 2204 and the regulations thereunder.

[FR Doc.72–22292 Filed 12–28–72;8:50 am]

[T.D. 7241]

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

PART 53—FOUNDATION EXCISE TAXES

Definitions and Special Rules

On April 3, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) and the Foundation Excise Tax Regulations (26 CFR Part 53) under sections 507(d)(2) and 4946 of the Internal Revenue Code of 1954 (relating to definitions and special rules for private foundations) to reflect the changes made by section 101 of the Tax Reform Act of 1969 (83 Stat. 492) was published in the FEDERAL REGISTER (36 F.R. 6429). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.507–6, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is changed by revising paragraph (a)(1) and (c)(3). These revised provisions read as set forth below.

PAR. 2. There is inserted immediately before § 53.4946, as set forth in paragraph 2 of the appendix to the notice of proposed rule making, a new heading for subpart G, as set forth below.

PAR. 3. Section 53.4946–1, as set forth in paragraph 2 of the appendix to the notice of proposed rule making, is changed by revising paragraph (a)(1)(ii), by adding new subparagraphs (5), (6), (7), and (8) to paragraph (a), and by revising paragraphs (d)(1) and (f). These amended and added provisions 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: December 26, 1972.

FREDERICK W. HICKMAN,
Assistant Secretary of the Treasury.

In order to provide Income Tax Regulations (26 CFR Part 1) and Foundation Excise Tax Regulations (26 CFR Part 53) under sections 507(d)(2) and 4946 of the Internal Revenue Code of 1954 as added by the Tax Reform Act of 1969 (83 Stat. 515), there are added the following regulations. In addition, temporary Treasury regulations §§ 143.4

(35 F.R. 4703 (1970)) and 143.3 (35 F.R. 5468 (1970)) are superseded.

PARAGRAPH 1. There is inserted where appropriate in Part 1 of the regulations the following new section:

§ 1.507-6 Substantial contributor defined.

(a) *Definition*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, the term "substantial contributor" means, with respect to a private foundation, any person (within the meaning of section 7701(a)(1)), whether or not exempt from taxation under section 501(a), who contributed or bequeathed an aggregate amount of more than $5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the private foundation before the close of the taxable year of the private foundation in which a contribution or bequest is received by the foundation from such person. In the case of a trust, the term "substantial contributor" also means the creator of the trust. Such term does not include a governmental unit described in section 170(c)(1).

(2) *Special rules.* For purposes of sections 170(b)(1)(E)(iii), 507(d)(1), 508(d), 509(a)(1) and (3), and chapter 42, the term "substantial contributor" shall not include an organization which is described in section 509(a)(1), (2), or (3) or any other organization which is wholly owned by such section 509(a)(1), (2) or (3) organization. Furthermore, taking section 4941 (relating to taxes on self-dealing) in context, it would unduly restrict the activities of private foundations if the term "substantial contributor" were to include any section 501(c)(3) organizations. It was not intended, for example, that a large grant for charitable purposes from one private foundation to another would forever preclude the latter from making any grants to, or otherwise dealing with, the former. Accordingly, for purposes of section 4941 only, the term "substantial contributor" shall not only include any organization which is described in section 501(c)(3) (other than an organization described in section 509(c)(4)).

(b) *Determination of substantial contributor*—(1) *In general.* In determining under paragraph (a) of this section whether the aggregate of contributions and bequests from a person exceeds 2 percent of the total contributions and bequests received by a private foundation, both the total of such amounts received by the private foundation, and the aggregate of such amounts contributed and bequeathed by such person, shall be determined as of the last day of each taxable year commencing with the first taxable year ending after October 9, 1969. Generally, under section 507(d)(2) and this section, except for purposes of valuation under section 507(d)(2)(B)(i), all contributions and bequests made before October 9, 1969, are deemed to have been made on October 9, 1969. For purposes of section 509(a)(2) and the support test described in § 1.509(a)-3(c), contributions and bequests before October 9, 1969, will be taken into account in the year when actually made. For example, in the case of a contribution or bequest of $6,000 in 1967, such contribution or bequest shall be treated as made by a substantial contributor in 1967 for purposes of section 509(a)(2) and § 1.509(a)-3(c) if such person met the $5,000—2 percent test as of December 31, 1967, and December 31, 1969 (in the case of a calendar year accounting period). Although the determination of the percentage of total contributions and bequests represented by a given donor's contributions and bequests is not made until the end of the foundation's taxable year, a donor is a substantial contributor as of the first date when the foundation received from him an amount sufficient to make him a substantial contributor. Except as otherwise provided in this subparagraph, such amount is treated for all purposes as made by a substantial contributor. Thus, the total contributions and bequests received by the private foundation from all persons, and the aggregate contributions and bequests made by a particular person, are to be determined as of December 31, 1969 (in the case of a calendar year organization which was in existence on that date), and the amounts included in each respective total would be all contributions and bequests received by the organization on or before that date, and all contributions and bequests made by the person on or before that date. Thereafter, a similar determination is to be made with respect to such private foundation as of the end of each of its succeeding taxable years. Status as a substantial contributor, however, will date from the time when the donor first met the $5,000 and 2 percent test. Once a person is a substantial contributor with respect to a private foundation, he remains a substantial contributor even though he might not be so classified if a determination were first made at some later date. For instance, even though the aggregate contributions and bequests of a person become less than 2 percent of the total received by a private foundation (for example, because of subsequent contributions and bequests by other persons), such person remains a substantial contributor with respect to the foundation.

(2) *Examples.* The provisions of paragraph (a) of this section and this paragraph (b) may be illustrated by the following examples:

Example (1). On January 1, 1968, A, an individual, gave $4,500 to M, a private foundation on a calendar year basis. On June 1, 1969, A gave M the further sum of $1,500. Throughout its existence, through December 31, 1969, M has received $250,000 in contributions and bequests from all sources. As of June 1, 1969, A is a substantial contributor to M for purposes of section 509(a)(2).

Example (2). On September 9, 1966, B, an individual, gave $3,500 to N, a private foundation on a calendar year basis. On March 15, 1970, B gave N the further sum of $3,500. Throughout its existence, through December 31, 1970, N has received $200,000 in contributions and bequests from all sources. B is a substantial contributor to N as of March 15, 1970, since that is the first date on which his contributions met the 2 percent-$5,000 test.

Example (3). On July 21, 1964, X, a corporation, gave $2,000 to O, a private foundation on a calendar year basis. As of December 31, 1969, O had received $150,000 from all sources. On September 17, 1970, X gave O the further sum of $3,100. Through September 17, 1970, O had received $245,000 from all sources as total contributions and bequests. Between September 17, 1970, and December 31, 1970, however, O received $50,000 in contributions and bequests from others. X is not a substantial contributor to O, since X's contributions to O were not more than 2 percent of the total contributions and bequests received by O by December 31, 1970, the end of O's taxable year, even though X's contributions met that test at one point during the year.

Example (4). On September 16, 1970, C, an individual, gave $10,000 to P, a private foundation on a calendar year basis. Throughout its existence, and through December 31, 1970, the close of its taxable year, P had received a total of $100,000 in contributions and bequests. On January 3, 1971, P received a bequest of $1 million. C is a substantial contributor to P since he was a substantial contributor as of September 16, 1970, and therefore remains one even though he no longer meets the 2-percent test on a later date after the end of the taxable year of the foundation in which he first became a substantial contributor.

(c) *Special rules*—(1) *Contributions defined.* The term "contribution" shall, for purposes of section 507(d)(2), have the same meaning as such term has under section 170(c) and also include bequests, legacies, devises, and transfers within the meaning of section 2055 or 2106(a)(2). Thus, for purposes of section 507(d)(2), any payment of money or transfer of property without adequate consideration shall be considered a "contribution". Where payment is made or property transferred as consideration for admissions, sales of merchandise, performance of services, or furnishing of facilities to the donor, the qualification of all or any part of such payment or transfer as a contribution under section 170(c) shall determine whether and to what extent such payment or transfer constitutes a "contribution" under section 507(d)(2).

(2) *Valuation of contributions and bequests.* Each contribution or bequest to a private foundation shall be valued at fair market value when actually received by the private foundation.

(3) *Contributions and bequests by a spouse.* An individual shall be considered, for purposes of this section, to have made all contributions and bequests made by his spouse during the period of their marriage. Thus, for example, where W contributed $500,000 to P, a private foundation, in 1941 and that amount exceeded 2 percent of the total contributions received by P as of the end of P's first taxable year ending after October 9, 1969, H (W's spouse at the time of the 1941 gift) is considered to have made such contribution (even if W died prior to October 9, 1969, or their marriage was otherwise terminated prior to such date). Similarly, any bequest or devise shall be treated as having been made by the decedent's surviving spouse.

Subpart G—Definitions and Special Rules

§ 53.4946 Statutory provisions; Definitions and special rules.

SEC. 4946. *Definitions and special rules*—(a) *Disqualified person*—(1) *In general.* For purposes of this chapter, the term "disqualified person" means, with respect to a private foundation, a person who is—

(A) A substantial contributor to the foundation,

(B) A foundation manager (within the meaning of subsection (b)(1)),

(C) An owner of more than 20 percent of—

(i) The total combined voting power of a corporation,

(ii) The profits interest of a partnership, or

(iii) The beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor to the foundation,

(D) A member of the family (as defined in subsection (d)) of any individual described in subparagraph (A), (B), or (C),

(E) A corporation of which persons described in subparagraph (A), (B), (C), or (D) own more than 35 percent of the total combined voting power,

(F) A partnership in which persons described in subparagraph (A), (B), (C), or (D) own more than 35 percent of the profits interest,

(G) A trust or estate in which persons described in subparagraph (A), (B), (C), or (D) hold more than 35 percent of the beneficial interest,

(H) Only for purposes of section 4943, a private foundation—

(i) Which is effectively controlled (directly or indirectly) by the same person or persons who control the private foundation in question, or

(ii) Substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (A), (B), or (C), or members of their families (within the meaning of subsection (d)), who made (directly or indirectly) substantially all of the contributions to the private foundation in question, and

(I) Only for purposes of section 4941, a government official (as defined in subsection (c)).

(2) *Substantial contributors.* For purposes of paragraph (1), the term "substantial contributor" means a person who is described in section 507(d)(2).

(3) *Stockholdings.* For purposes of paragraphs (1)(C)(i) and (1)(E), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of subsection (d).

(4) *Partnerships; trusts.* For purposes of paragraphs (1)(C)(ii) and (iii), (1)(F), and (1)(G), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of subsection (d).

(b) *Foundation manager.* For purposes of this chapter, the term "foundation manager" means, with respect to any private foundation—

(1) An officer, director, or trustee of a foundation (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the foundation), and

(2) With respect to any act (or failure to act), the employees of the foundation having authority or responsibility with respect to such act (or failure to act).

(c) *Government official.* For purposes of subsection (a)(1)(I) and section 4941, the term "government official" means, with respect to an act of self-dealing described in section 4941, an individual who, at the time of such act, holds any of the following offices or positions (other than as a "special Government employee", as defined in section 202(a) of title 18, United States Code):

(1) An elective public office in the executive or legislative branch of the Government of the United States,

(2) An office in the executive or judicial branch of the Government of the United States, appointment to which was made by the President,

(3) A position in the executive, legislative, or judicial branch of the Government of the United States—

(A) which is listed in schedule C of rule VI of the Civil Service Rules, or

(B) the compensation for which is equal to or greater than the lowest rate of compensation prescribed for GS-16 of the General Schedule under section 5332 of title 5, United States Code,

(4) a position under the House of Representatives or the Senate of the United States held by an individual receiving gross compensation at an annual rate of $15,000 or more,

(5) an elective or appointive public office in the executive, legislative, or judicial branch of the government of a State, possession of the United States, or political subdivision or other area of any of the foregoing, or of the District of Columbia, held by an individual receiving gross compensation at an annual rate of $15,000 or more, or

(6) a position as personal or executive assistant or secretary to any of the foregoing.

(d) *Members of family.* For purposes of subsection (a)(1), the family of any individual shall include only his spouse, ancestors, lineal descendants, and spouses of lineal descendant.

[Sec. 4946 as added by Tax Reform Act 1969 (83 Stat. 515)]

§ 53.4946–1 Definitions and special rules.

(a) *Disqualified person.* (1) For purposes of chapter 42 and the regulations thereunder, the following are disqualified persons with respect to a private foundation—

(i) All substantial contributors to the foundation, as defined in section 507(d)(2) and the regulations thereunder,

(ii) All foundation managers of the foundation as defined in section 4946(b)(1) and paragraph (f)(1)(i) of this section,

(iii) An owner of more than 20 percent of—

(*a*) The total combined voting power of a corporation,

(*b*) The profits interest of a partnership,

(*c*) The beneficial interest of a trust or unincorporated enterprise,

which is (during such ownership) a substantial contributor to the foundation, as defined in section 507(d)(2) and the regulations thereunder,

(iv) A member of the family, as defined in section 4946(d) and paragraph (h) of this section, of any of the individuals described in subdivision (i), (ii), or (iii) of this subparagraph,

(v) A corporation of which more than 35 percent of the total combined voting power is owned by persons described in subdivision (i), (ii), (iii), or (iv) of this subparagraph,

(vi) A partnership of which more than 35 percent of the profits interest is owned by persons described in subdivision (i) (ii), (iii), or (iv) of this subparagraph, and

(vii) A trust, estate, or unincorporated enterprise of which more than 35 percent of the beneficial interest is owned by persons described in subdivision (i), (ii), (iii), or (iv) of this subparagraph.

(2) For purposes of subparagraphs (1)(iii)(*b*) and (vi) of this paragraph, the profits interest of a partner shall be equal to his distributive share of income of the partnership, as determined under section 707(b)(3) and the regulations thereunder as modified by section 4946(a)(4).

(3) For purposes of subparagraph (1)(iii)(*c*) and (vii) of this paragraph, the beneficial interest in an unincorporated enterprise (other than a trust or estate) includes any right to receive a portion of distributions from profits of such enterprise, and, if the portion of distributions is not fixed by an agreement among the participants, any right to receive a portion of the assets (if any) upon liquidation of the enterprise, except as a creditor or employee. For purposes of this subparagraph, a right to receive distributions of profits includes a right to receive any amount from such profits other than as a creditor or employee, whether as a sum certain or as a portion of profits realized by the enterprise. Where there is no agreement fixing the rights of the participants in such enterprise, the fraction of the respective interests of each participant in such enterprise shall be determined by dividing the amount of all investments or contributions to the capital of the enterprise made or obligated to be made by such participant by the amount of all investments or contributions to capital made or obligated to be made by all of them.

(4) For purposes of subparagraph (1)(iii)(*c*) and (vii) of this paragraph, a person's beneficial interest in a trust shall be determined in proportion to the actuarial interest of such person in the trust.

(5) For purposes of subparagraph (1)(iii)(*a*) and (v) of this paragraph, the term "combined voting power" includes voting power represented by holdings of voting stock, actual or constructive (under section 4946(a)(3)), but does not include voting rights held only as a director or trustee.

(6) For purposes of subparagraph (1)(iii)(*a*) and (v) of this paragraph, the term "voting power" includes outstanding voting power and does not include voting power obtainable but not obtained, such as, for example, voting power obtainable by converting securities or nonvoting stock into voting stock or by exercising warrants or options to obtain voting stock, and voting power which will vest in preferred stockholders only if and when the corporation has failed to pay preferred dividends for a specified period of time or has otherwise

failed to meet specified requirements. Similarly, for purposes of subparagraph (1)(iii) (*b*) and (*c*), (vi), and (vii) of this paragraph, the terms "profits interest" and "beneficial interest" include any such interest that is outstanding, but do not include any such interest that is obtainable but has not been obtained.

(7) For purposes of sections 170(b)(1)(E)(iii), 507(d)(1), 508(d), 509(a)(1) and (3), and Chapter 42, the term "disqualified person" shall not include an organization which is described in section 509(a) (1), (2), or (3), or any other organization which is wholly owned by such section 509(a) (1), (2), or (3) organization.

(8) For purposes of section 4941 only, the term "disqualified person" shall not include any organization which is described in section 501(c)(3) (other than an organization described in section 509(a)(4)).

(b) *Section 4943.* (1) For purposes of section 4943 only, the term "disqualified person" includes a private foundation—

(i) Which is effectively controlled (within the meaning of § 1.482–1(a)(3) of this chapter), directly or indirectly, by the same person or persons (other than a bank, trust company, or similar organization acting only as a foundation manager) who control the private foundation in question, or

(ii) Substantially all the contributions to which were made, directly or indirectly, by persons described in subdivision (i), (ii), (iii), or (iv) of paragraph (a)(1) of this section who made, directly or indirectly, substantially all of the contributions to the private foundation in question.

(2) For purposes of subparagraph (1)(ii) of this paragraph, one or more persons will be considered to have made substantially all of the contributions to a private foundation, if such persons have contributed or bequeathed at least 85 percent (and each such person has contributed or bequeathed at least 2 percent) of the total contributions and bequests (within the meaning of section 507(d)(2) and the regulations thereunder) which have been received by such private foundation during its entire existence.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a private foundation, has a board of directors made up of X, Y, Z, M, N, and O. Foundation B's board of directors is made up of Y, M, N, and O. The board of directors in each case has plenary power to determine the manner in which the foundation is operated. For purposes of section 4943, foundation A is a disqualified person with respect to foundation B, and foundation B, is a disqualified person with respect to foundation A.

Example (2). Private foundation A has received contributions of $100,000 throughout its existence: $35,000 from X, $51,000 from Y (who is X's father), and $14,000 from Z (an unrelated person). Private foundation B has received $100,000 in contributions during its existence: $50,000 from X and $50,000 from W, X's wife.

For purposes of section 4943, private foundation A is a disqualified person with respect to private foundation B, and private foundation B is a disqualified person with respect to private foundation A.

(c) *Section 4941.* For purposes of section 4941, a government official, as defined in section 4946(c) and paragraph (g) of this section, is a disqualified person.

(d) *Attribution of stockholdings.* (1) For purposes of paragraph (a)(1)(iii) (*a*) and (v) of this section, indirect stockholdings shall be taken into account under section 267(c) and the regulations thereunder. However, for purposes of this paragraph—

(i) Section 267(c)(4) shall be treated as though it provided that the members of the family of an individual are the members within the meaning of section 4946(d) and paragraph (h) of this section; and

(ii) Any stockholdings which have been counted once (whether by reason of actual or constructive ownership) in applying section 4946(a)(1)(E) shall not be counted a second time.

For purposes of paragraph (a)(1)(v) of this section, section 267(c) shall be applied without regard to section 267(c)(3), and stock constructively owned by an individual by reason of the application of section 267(c)(2) shall not be treated as owned by him if he is described in section 4946(a)(1)(D) but not also in section 4946 (a)(1)(A), (B), or (C).

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). D is a substantial contributor to private foundation Y. D owns 20 percent of the outstanding stock of corporation P. E, D's wife, owns none of the outstanding stock of P. F, E's father, owns 10 percent of the outstanding stock of P. E is treated under section 507(d)(2) as a substantial contributor to Y. E is also treated under section 267(c)(2) as owning both D's 20 percent and F's 10 percent of P, but E is treated as owning nothing for purposes of section 4946(a)(1)(E) because D's 20 percent and F's 10 percent have already been taken into account once (because of their actual ownership of the stock of P) for such purposes. Hence, corporation P is not a disqualified person under section 4946(a)(1)(E) with respect to private foundation Y because persons described in section 4946(a)(1) (A), (B), (C), and (D) own only 30 percent of the stock of P.

Example (2). I, a substantial contributor to private foundation X, is the son of J. I owns 100 percent of the stock of corporation R, which in turn owns 18 percent of the stock of corporation S. J owns 18 percent of the stock of S. I constructively owns 36 percent of the stock of S (J's 18 percent plus R's 18 percent). Both J's actual holdings and R's actual holdings are counted in determining I's constructive holdings because this does not result in counting either of the holdings more than once for purposes of section 4946(a)(1)(E). Therefore, S is a disqualified person with respect to private foundation X, since I, a substantial contributor, constructively owns more than 35 percent of S's stock.

(e) *Attribution of profits or beneficial interests.* (1) For purposes of paragraph (a)(1)(iii)(*b*), (iii)(*c*), (vi), and (vii) of this section, ownership of profits or beneficial interests shall be taken into account as though such ownership related to stockholdings, if such stockholdings would be taken into account under section 267(c) and the regulations thereunder, except that section 267(c)(3) shall not apply to attribute the ownership of one partner to another solely by reason of such partner relationship. However, for purposes of this paragraph—

(i) Section 267(c)(4) shall be treated as though it provided that the members of the family of an individual are the members within the meaning of section 4946(d) and paragraph (h) of this section; and

(iii) Any profits interest or beneficial interest which has been counted once (whether by reason of actual or constructive ownership) in applying section 4946(a)(1) (F) or (G) shall not be counted a second time.

For purposes of paragraph (a)(1) (vi) and (vii) of this section, profits or beneficial interests constructively owned by an individual by reason of the application of section 267(c)(2) shall not be treated as owned by him if he is described in section 4946(a)(1)(D) but not in section 4946(a)(1) (A), (B) or (C).

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Partnership S is a substantial contributor to private foundation X. Trust T, of which G is sole beneficiary, owns 12 percent of the profits interest of S. G's husband, H, owns 10 percent of the profits interest of S. H is a disqualified person with respect to X (under section 4946(a)(1)(C)) because he is considered to own 22 percent of the profits interest of S (10 percent actual ownership, plus G's 12 percent constructively under section 267(c)(2)). G is a disqualified person with respect to X (under section 4946(a)(1)(C) because she is considered to own 22 percent of the profits interest of S (12 percent constructively by reason of her beneficial interest in trust T, plus 10 percent constructively under section 267(c)(2) by reason of being a member of the family of H).

(f) *Foundation manager.* (1) For purposes of chapter 42 and the regulations thereunder, the term "foundation manager" means—

(i) An officer, director, or trustee of a foundation (or a person having powers or responsibilities similar to those of officers, directors, or trustees of the foundation), and

(ii) With respect to any act or failure to act, any employee of the foundation having final authority or responsibility (either officially or effectively) with respect to such act or failure to act.

(2) For purposes of subparagraph (1)(i) of this paragraph, a person shall be considered an officer of a foundation if—

(i) He is specifically so designated under the certificate of incorporation, bylaws, or other constitutive documents of the foundation; or

(ii) He regularly exercises general authority to make administrative or policy decisions on behalf of the foundation.

With respect to any act or failure to act, any person described in subdivision (ii) of this subparagraph who has authority merely to recommend particular administrative or policy decisions, but not to implement them without approval of a superior, is not an officer. Moreover, such independent contractors as attorneys,

accountants, and investment managers and advisers, acting in their capacities as such, are not officers within the meaning of subparagraph (1)(i) of this paragraph.

(3) For purposes of subparagraph (1)(ii) of this paragraph, an individual rendering services to a private foundation shall be considered an employee of the foundation only if he is an employee within the meaning of section 3121(d)(2).

(4) Since the definition of the term "disqualified person" contained in section 4946(a)(1)(B) incorporates only so much of the definition of the term "foundation manager" as is found in section 4946(b)(1) and subparagraph (1)(i) of this paragraph, any references, in section 4946 and this section, to "disqualified persons" do not constitute references to persons who are "foundation managers" solely by reason of the definition of that term contained in section 4946(b)(2) and subparagraph (1)(ii) of this paragraph.

(g) *Government official*—(1) *In general.* Except as provided in subparagraph (3) of this paragraph, for purposes of section 4941 and paragraph (c) of this section, the term "government official" means, with respect to an act of self-dealing described in section 4941, an individual who, at the time of such act, is described in subdivision (i), (ii), (iii), (iv), or (v) of this subparagraph (other than a "special Government employee" as defined in 18 U.S.C. 202(a)):

(i) (*a*) An individual who holds an elective public office in the executive or legislative branch of the Government of the United States.

(*b*) An individual who holds an office in the executive or judicial branch of the Government of the United States, appointment to which was made by the President.

(ii) An individual who holds a position in the executive, legislative or judicial branch of the Government of the United States—

(*a*) Which is listed in schedule C of rule VI of the Civil Service Rules, or

(*b*) The compensation for which is equal to or greater than the lowest rate prescribed for GS–16 of the General Schedule under 5 U.S.C. 5332.

(iii) An individual who holds a position under the House of Representatives or the Senate of the United States, as an employee of either of such bodies, who receives gross compensation therefrom at an annual rate of $15,000 or more.

(iv) The holder of an elective or appointive public office in the executive, legislative, or judicial branch of the government of a State, possession of the United States, or political subdivision or other area of any of the foregoing, or of the District of Columbia, for which the gross compensation is at an annual rate of $15,000 or more, who is described in subparagraph (2) of this paragraph.

(v) The holder of a position as personal or executive assistant or secretary to any individual described in subdivision (i), (ii), (iii), or (iv) of this subparagraph.

(2) *Public office*—(i) *Definition.* In defining the term "public office" for purposes of section 4946(c)(5) and subparagraph (1)(iv) of this paragraph, such term must be distinguished from mere public employment. Although holding a public office is one form of public employment, not every position in the employ of a State or other governmental subdivision (as described in section 4946(c)(5)) constitutes a "public office". Although a determination whether a public employee holds a public office depends on the facts and circumstances of the case, the essential element is whether a significant part of the activities of a public employee is the independent performance of policymaking functions. In applying this subparagraph, several factors may be considered as indications that a position in the executive, legislative, or judicial branch of the government of a State, possession of the United States, or political subdivision or other area of any of the foregoing, or of the District of Columbia, constitutes a "public office". Among such factors to be considered in addition to that set forth above, are that the office is created by the Congress, a State constitution, or the State legislature, or by a municipality or other governmental body pursuant to authority conferred by the Congress, State constitution, or State legislature, and the powers conferred on the office and the duties to be discharged by such office are defined either directly or indirectly by the Congress, State constitution, or State legislature, or through legislative authority.

(ii) *Illustrations.* The following are illustrations of positions of public employment which do not involve policymaking functions within the meaning of subdivision (i) of this subparagraph and which are thus not a "public office" for purposes of section 4946(c)(5) and subparagraph (1)(iv) of this paragraph:

(*a*) The chancellor, president, provost, dean, and other officers of a State university who are appointed, elected, or otherwise hired by a State Board of Regents or equivalent public body and who are subject to the direction and supervision of such body;

(*b*) Professors, instructors, and other members of the faculty of a State educational institution who are appointed, elected, or otherwise hired by the officers of the institution or by the State Board of Regents or equivalent public body;

(*c*) The superintendent of public schools and other public school officials who are appointed, elected, or otherwise hired by a Board of Education or equivalent public body and who are subject to the direction and supervision of such body;

(*d*) Public school teachers who are appointed, elected, or otherwise hired by the superintendent of public schools or by a Board of Education or equivalent public body;

(*e*) Physicians, nurses, and other professional persons associated with public hospitals and State boards of health who are appointed, elected, or otherwise hired by the governing board or officers of such hospitals or agencies; and

(*f*) Members of police and fire departments, except for those department heads who, under the facts and circumstances of the case, independently perform policymaking functions as a significant part of their activities.

(3) *Certain government officials on leave of absence.* For purposes of this paragraph, an individual who is otherwise described in section 4946(c) and this paragraph who was on leave of absence without pay on December 31, 1969, from his position or office pursuant to a commitment entered into on or before such date to engage in certain activities for which he is paid by one or more private foundations, is not to be treated as holding such position or office for any continuous period after December 31, 1969, and prior to January 1, 1971, during which such individual remains on leave of absence to engage in the same activities for which he is paid by such foundations. For purposes of this subparagraph, a commitment is considered entered into on or before December 31, 1969, if on or before such date, the amount and nature of the payments to be made and the name of the individual receiving such payments were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee orally or in writing.

(h) *Members of the family.* For purposes of this section, the members of the family of an individual include only—

(1) His spouse,

(2) His ancestors,

(3) His lineal descendants, and

(4) Spouses of his lineal descendants.

For example, a brother or sister of an individual is not a member of his family for purposes of this section. However, for example, the wife of a grandchild of an individual is a member of his family for such purposes. For purposes of this paragraph, a legally adopted child of an individual shall be treated as a child of such individual by blood.

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[T.D. 7240]

PART 53—FOUNDATION EXCISE TAXES

Taxes on Investments Which Jeopardize Charitable Purpose

On June 24, 1971, notice of proposed rule making with respect to the amendment of the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4944 of the Internal Revenue Code of 1954 (relating to taxes on investments which jeopardize the exempt purposes of private foundations) to reflect the changes made by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 498) was published in the FEDERAL REGISTER (36 F.R. 12025). After consideration of all such relevant matter as was presented by interested persons regarding

the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 53.4944–1, as set forth in the notice of proposed rule making is changed by revising paragraph (a)(2)(i), adding subdivision (iv) to paragraph (a)(2), revising paragraph (b)(2)(i), (ii), (iii), (v), and (vi), and by revising Examples (1) and (2) of paragraph (c) to read as set forth below.

PAR. 2. Section 53.4944–3, as set forth in the notice of proposed rule making, is changed by adding a new subdivision (iv) to paragraph (a)(2), by revising paragraph (a)(3)(i), by deleting paragraph (b) and redesignating paragraph (c) as paragraph (b), by revising Examples (1), (3), (5), and (6) of new paragraph (b), and by adding new Examples (9) and (10) to new paragraph (b). These amended and added provisions read as set forth below.

PAR. 3. Paragraph (b) of § 53.4944–4, as set forth in 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: December 26, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

Subpart E—Taxes on Investments Which Jeopardize Charitable Purpose

§ 53.4944 Statutory provisions; private foundations; taxes on investments which jeopardize charitable purpose.

SEC. 4944. *Taxes on investments which jeopardize charitable purpose*—(a) *Initial taxes*—(1) *On the private foundation.* If a private foundation invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, there is hereby imposed on the making of such investment a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the making of the investment.

(b) *Additional taxes*—(1) *On the foundation.* In any case in which an initial tax is imposed by subsection (a)(1) on the making of an investment and such investment is not removed from jeopardy within the correction period, there is hereby imposed a tax equal to 25 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the removal from jeopardy, there is hereby imposed a tax equal to 5 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the removal from jeopardy.

(c) *Exception for program-related investments.* For purposes of this section, investments, the primary purpose of which is to accomplish one or more of the purposes described in section 170(c)(2)(B), and no significant purpose of which is the production of income or the appreciation of property, shall not be considered as investments which jeopardize the carrying out of exempt purposes.

(d) *Special rules.* For purposes of subsections (a) and (b)—

(1) *Joint and several liability.* If more than one person is liable under subsection (a)(2) or (b)(2) with respect to any one investment, all such persons shall be jointly and severally liable under such paragraph with respect to such investment.

(2) *Limit for management.* With respect to any one investment, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

(e) *Definitions.* For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on whichever of the following is the earlier: (A) The date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212; or (B) the date on which the amount so invested is removed from jeopardy.

(2) *Removal from jeopardy.* An investment which jeopardizes the carrying out of exempt purposes shall be considered to be removed from jeopardy when such investment is sold or otherwise disposed of, and the proceeds of such sale or other disposition are not investments which jeopardize the carrying out of exempt purposes.

(3) *Correction period.* The term "correction period" means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which such investment is entered into and ending 90 days after the mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to bring about removal from jeopardy.

[Sec. 4944 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 498)]

§ 53.4944–1 Initial taxes.

(a) *On the private foundation*—(1) *In general.* If a private foundation (as defined in section 509) invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, section 4944(a)(1) of the Code imposes an excise tax on the making of such investment. This tax is to be paid by the private foundation and is at the rate of 5 percent of the amount so invested for each taxable year (or part thereof) in the taxable period (as defined in section 4944(e)(1)). The tax imposed by section 4944(a)(1) and this paragraph shall apply to investments of either income or principal.

(2) *Jeopardizing investments.* (i) Except as provided in section 4944(c), § 53.4944–3, § 53.4944–6(a), and subdivision (ii) of this subparagraph, an investment shall be considered to jeopardize the carrying out of the exempt purposes of a private foundation if it is determined that the foundation managers, in making such investment, have failed to exercise ordinary business care and prudence, under the facts and circumstances prevailing at the time of making the investment, in providing for the long- and short-term financial needs of the foundation to carry out its exempt purposes. In the exercise of the requisite standard of care and prudence the foundation managers may take into account the expected return (including both income and appreciation of capital), the risks of rising and falling price levels, and the need for diversification within the investment portfolio (for example, with respect to type of security, type of industry, maturity of company, degree of risk and potential for return). The determination whether the investment of a particular amount jeopardizes the carrying out of the exempt purposes of a foundation shall be made on an investment by investment basis, in each case taking into account the foundation's portfolio as a whole. No category of investments shall be treated as a per se violation of section 4944. However, the following are examples of types or methods of investment which will be closely scrutinized to determine whether the foundation managers have met the requisite standard of care and prudence: Trading in securities on margin, trading in commodity futures, investments in working interests in oil and gas wells, the purchase of "puts," "calls," and "straddles," the purchase of warrants, and selling short. The determination whether the investment of any amount jeopardizes the carrying out of a foundation's exempt purposes is to be made as of the time that the foundation makes the investment and not subsequently on the basis of hindsight. Therefore, once it has been ascertained that an investment does not jeopardize the carrying out of a foundation's exempt purposes, the investment shall never be considered to jeopardize the carrying out of such purposes, even though, as a result of such investment, the foundation subsequently realizes a loss. The provisions of section 4944 and the regulations thereunder shall not exempt or relieve any person from compliance with any Federal or State law imposing any obligation, duty, responsibility, or other standard of conduct with respect to the operation or administration of an organization or trust to which section 4944 applies. Nor shall any State law exempt or relieve any person from any obligation, duty, responsibility, or other standard of conduct provided in section 4944 and the regulations thereunder.

(ii) (*a*) Section 4944 shall not apply to an investment made by any person which is later gratuitously transferred to a private foundation. If such foundation furnishes any consideration to such person upon the transfer, the foundation will be treated as having made an investment (within the meaning of section 4944 (a) (1)) in the amount of such consideration.

(*b*) Section 4944 shall not apply to an investment which is acquired by a private foundation solely as a result of a corporate reorganization within the meaning of section 368(a).

(iii) For purposes of section 4944, a private foundation which, after December 31, 1969, changes the form or terms of an investment (regardless of whether subdivision (ii) of this subparagraph applies to such investment), will be considered to have entered into a new investment on the date of such change, except as provided in subdivision (ii) (*b*) of this subparagraph. Accordingly, a determination, under subdivision (i) of this subparagraph, whether such change in the investment jeopardizes the carrying out of the foundation's exempt purposes shall be made at such time.

(iv) It is not intended that the taxes imposed under chapter 42 be exclusive. For example, if a foundation purchases a sole proprietorship in a business enterprise within the meaning of section 4943 (d) (4), in addition to tax under section 4943, the foundation may be liable for tax under section 4944 if the investment jeopardizes the carrying out of any of its exempt purposes.

(b) *On the management*—(1) *In general.* In any case in which a tax is imposed by section 4944(a) (1) and paragraph (a) of this section, section 4944 (a) (2) of the Code imposes on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 5 percent of the amount so invested for each taxable year of the foundation (or part thereof) in the taxable period (as defined in section 4944(e) (1)), subject to the provisions of section 4944(d) and § 53.4944–4, unless such participation is not willful and is due to reasonable cause. The tax imposed under section 4944(a) (2) shall be paid by the foundation manager.

(2) *Definitions and special rules*—(i) *Knowing.* For purposes of section 4944, a foundation manager shall be considered to have participated in the making of an investment "knowing" that it is jeopardizing the carrying out of any of the foundation's exempt purposes only if he has actual knowledge that it is a jeopardizing investment under paragraph (a) (2) of this section. Actual knowledge will ordinarily exist if a foundation manager knows sufficient facts so that, based solely upon such facts, such investment would be a jeopardizing investment, and the foundation manager is generally aware that such an investment under these circumstances might be inconsistent with the law governing foundations. For purposes of this part and chapter 42 the term "knowledge" does not mean "have reason to know." However, evidence tending to show that a foundation manager has reason to know that an investment is a jeopardizing investment is relevant in determining whether a person has actual knowledge regarding such an investment.

(ii) *Willful.* A foundation manager's participation in a jeopardizing investment is willful if it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the incurrence of any tax is necessary to make such participation willful. However, a foundation manager's participation in a jeopardizing investment is not willful if he does not know that it is a jeopardizing investment under paragraph (a) (2) of this section.

(iii) *Due to reasonable cause.* A foundation manager's actions are due to reasonable cause if he has exercised his responsibility on behalf of the foundation with ordinary business care and prudence.

(iv) *Participation.* The participation of any foundation manager in the making of an investment shall consist of any manifestation of approval of the investment.

(v) *Advice of counsel.* If a foundation manager, after full disclosure of the factual situation to legal counsel (including house counsel), relies on the advice of such counsel expressed in a reasoned written legal opinion that a particular investment would not jeopardize the carrying out of any of the foundation's exempt purposes (because, as a matter of law, the investment is excepted from such classification, for example, as a program-related investment under section 4944(c)), then although such investment is subsequently held to be a jeopardizing investment under paragraph (a) (2) of this section, the foundation manager's participation in such investment will ordinarily not be considered "knowing" or "willful" and will ordinarily be considered "due to reasonable cause" within the meaning of section 4944(a) (2). In addition, if a foundation manager, after full disclosure of the factual situation to qualified investment counsel, relies on the advice of such counsel, such advice being derived in a manner consistent with generally accepted practices of persons who are such a qualified investment counsel and being expressed in writing that a particular investment will provide for the long and short term financial needs of the foundation under paragraph (a) (2) of this section, then although such investment is subsequently held not to provide for such long and short term financial needs, the foundation manager's participation in failing to provide for such long and short term financial needs will ordinarily not be considered "knowing" or "willful" and will ordinarily be considered "due to reasonable cause" within the meaning of section 4944(a) (2). For purposes of this subdivision, a written legal opinion will be considered "reasoned" even if it reaches a conclusion which is subsequently determined to be incorrect so long as such opinion addresses itself to the facts and applicable law. However, a written legal opinion will not be considered "reasoned" if it does nothing more than recite the facts and express a conclusion. However, the absence of advice of legal counsel or qualified investment counsel with respect to the investment shall not, by itself, give rise to any inference that a foundation manager participated in such investment knowingly, willfully, or without reasonable cause.

(vi) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue whether a foundation manager has knowingly participated in the making of a jeopardizing investment, see section 7454(b).

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

Example (1). A is a foundation manager of B, a private foundation with assets of $100,000. A approves the following three investments by B after taking into account with respect to each of them B's portfolio as a whole: (1) An investment of $5,000 in the common stock of corporation X; (2) an investment of $10,000 in the common stock of corporation Y; and (3) an investment of $8,000 in the common stock of corporation Z. Corporation X has been in business a considerable time, its record of earnings is good and there is no reason to anticipate a diminution of its earnings. Corporation Y has a promising product, has had earnings in some years and substantial losses in others, has never paid a dividend, and is widely reported in investment advisory services as seriously undercapitalized. Corporation Z has been in business a short period of time and manufactures a product that is new, is not sold by others, and must compete with a well-established alternative product that serves the same purpose. Z's stock is classified as a high-risk investment by most investment advisory services with the possibility of substantial long-term appreciation but with little prospect of a current return. A has studied the records of the three corporations and knows the foregoing facts. In each case the price per share of common stock purchased by B is favorable to B. Under the standards of paragraph (a) (2) (i) of this section, the investment of $10,000 in the common stock of Y and the investment of $8,000 in the common stock of Z may be classified as jeopardizing investments, while the investment of $5,000 in the common stock of X will not be so classified. B would then be liable for an initial tax of $500 (i.e., 5 percent of $10,000) for each year (or part thereof) in the taxable period for the investment in Y, and an initial tax of $400 (i.e., 5 percent of $8,000) for each year (or part thereof) in the taxable period for the investment in Z. Further, since A had actual knowledge that the investments in the common stock of Y and Z were jeopardizing investments, A would then be liable for the same amount of initial taxes as B.

Example (2). Assume the facts as stated in Example (1), except that: (1) In the case of corporation Y, B's investment will be made for new stock to be issued by Y and there is reason to anticipate that B's investment, together with investments required by B to be made concurrently with its own, will satisfy the capital needs of corporation Y and will thereby overcome the difficulties that have resulted in Y's uneven earnings record; and (2) in the case of corporation Z, the management has a demonstrated capacity for getting new businesses started successfully and Z has received substantial orders for its new product. Under the standards of paragraph (a) (2) (i) of this section, neither the invest-

ment in Y nor the investment in Z will be classified as a jeopardizing investment and neither A nor B will be liable for an initial tax on either of such investments.

Example (3). D is a foundation manager of E, a private foundation with assets of $200,000. D was hired by E to manage E's investments after a careful review of D's training, experience and record in the field of investment management and advice indicated to E that D was well qualified to provide professional investment advice in the management of E's investment assets. D, after careful research into how best to diversify E's investments, provide for E's long-term financial needs, and protect against the effects of long-term inflation, decides to allocate a portion of E's investment assets to unimproved real estate in selected areas of the country where population patterns and economic factors strongly indicate continuing growth at a rapid rate. D determines that the short-term financial needs of E can be met through E's other investments. Under the standards of paragraph (a)(2)(i) of this section, the investment of a portion of E's investment assets in unimproved real estate will not be classified as a jeoparidizing investment and neither D nor E will be liable for an initial tax on such investment.

§ 53.4944–2 Additional taxes.

(a) *On the private foundation.* Section 4944(b)(1) of the Code imposes an excise tax in any case in which an initial tax is imposed by section 4944(a)(1) and § 53.4944–1(a) on the making of a jeopardizing investment by a private foundation and such investment is not removed from jeopardy within the correction period (as defined in section 4944(e)(3)). The tax imposed under section 4944(b)(1) is to be paid by the private foundation and is at the rate of 25 percent of the amount of the investment. This tax shall be imposed upon the portion of the investment which has not been removed from jeopardy within the correction period.

(b) *On the management.* Section 4944(b)(2) of the Code imposes an excise tax in any case in which an additional tax is imposed by section 4944(b)(1) and paragraph (a) of this section and a foundation manager has refused to agree to part or all of the removal of the investment from jeopardy. The tax imposed under section 4944(b)(2) is at the rate of 5 percent of the amount of the investment, subject to the provisions of section 4944(d) and § 53.4944–4. This tax is to be paid by any foundation manager who has refused to agree to the removal of part or all of the investment from jeopardy, and shall be imposed upon the portion of the investment which has not been removed from jeopardy within the correction period.

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

Example (1). X is a foundation manager of Y, a private foundation. On the advice of X, Y invests $5,000 in the common stock of corporation M. Assume that both X and Y are liable for the taxes imposed by section 4944(a) on the making of the investment. Assume further that no part of the investment is removed from jeopardy within the correction period and that X refused to agree to such removal. Y will be liable for an additional tax of $1,250 (i.e., $5,000×25%). X will be liable for an additional tax of $250 (i.e., $5,000×5%).

Example (2). Assume the facts as stated in Example (1), except that X is not liable for the tax imposed by section 4944(a)(2) for his participation in the making of the investment, because such participation was not willful and was due to reasonable cause. X will nonetheless be liable for the tax of $250 imposed by section 4944(b)(2) since an additional tax has been imposed upon Y and since X refused to agree to the removal of the investment from jeopardy.

Example (3). Assume the facts as stated in Example (1), except that Y removes $2,000 of the investment from jeopardy within the correction period, with X refusing to agree to the removal from jeopardy of the remaining $3,000 of such investment. Y will be liable for an additional tax of $750, imposed upon the portion of the investment which has not been removed from jeopardy within the correction period (i.e., $3,000×25%). Further X will be liable for an additional tax of $150, also imposed upon the same portion of the investment (i.e., $3,000×5%).

§ 53.4944–3 Exception for program-related investments.

(a) *In general.* (1) For purposes of section 4944 and §§ 53.4944–1 through 53.4944–6, a "program-related investment" shall not be classified as an investment which jeopardizes the carrying out of the exempt purposes of a private foundation. A "program-related investment" is an investment which possesses the following characteristics:

(i) The primary purpose of the investment is to accomplish one or more of the purposes described in section 170(c)(2)(B);

(ii) No significant purpose of the investment is the production of income or the appreciation of property; and

(iii) No purpose of the investment is to accomplish one or more of the purposes described in section 170(c)(2)(D).

(2) (i) An investment shall be considered as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B) if it significantly furthers the accomplishment of the private foundation's exempt activities and if the investment would not have been made but for such relationship between the investment and the accomplishment of the foundation's exempt activities. For purposes of section 4944 and §§ 53.4944–1 through 53.4944–6, the term "purposes described in section 170(c)(2)(B)" shall be treated as including purposes described in section 170(c)(2)(B) whether or not carried out by organizations described in section 170(c).

(ii) An investment in an activity described in section 4942(j)(5)(B) and the regulations thereunder shall be considered, for purposes of this paragraph, as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B).

(iii) In determining whether a significant purpose of an investment is the production of income or the appreciation of property, it shall be relevant whether investors solely engaged in the investment for profit would be likely to make the investment on the same terms as the private foundation. However, the fact that an investment produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

(iv) An investment shall not be considered as made to accomplish one or more of the purposes described in section 170(c)(2)(D) if the recipient of the investment appears before, or communicates to, any legislative body with respect to legislation or proposed legislation of direct interest to such recipient, provided that the expense of engaging in such activities would qualify as a deduction under section 162.

(3) (i) Once it has been determined that an investment is "program-related" it shall not cease to qualify as a "program-related investment" provided that changes, if any, in the form or terms of the investment are made primarily for exempt purposes and not for any significant purpose involving the production of income or the appreciation of property. A change made in the form or terms of a program-related investment for the prudent protection of the foundation's investment shall not ordinarily cause the investment to cease to qualify as program-related. Under certain conditions, a program-related investment may cease to be program-related because of a critical change in circumstances, as, for example, where it is serving an illegal purpose or the private purpose of the foundation or its managers. For purposes of the preceding sentence, an investment which ceases to be program-related because of a critical change in circumstances shall in no event subject the foundation making the investment to the tax imposed by section 4944(a)(1) before the 30th day after the date on which such foundation (or any of its managers) has actual knowledge of such critical change in circumstances.

(ii) If a private foundation changes the form or terms of an investment, and if, as a result of the application of subdivision (i) of this subparagraph, such investment no longer qualifies as program-related, the determination whether the investment jeopardizes the carrying out of exempt purposes shall be made pursuant to the provisions of § 53.4944–1(a)(2).

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

Example (1). X is a small business enterprise located in a deteriorated urban area and owned by members of an economically disadvantaged minority group. Conventional sources of funds are unwilling or unable to provide funds to X on terms it considers economically feasible. Y, a private foundation, makes a loan to X bearing interest below the market rate for commercial loans of comparable risk. Y's primary purpose for making the loan is to encourage the economic development of such minority groups. The loan has no significant purpose involving the production of income or the appreciation of property. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities. Accordingly, the loan is a program-related investment even though Y may earn income from the investment in an amount comparable to or higher than earnings from conventional portfolio investments.

Example (2). Assume the facts as stated in Example (1), except that after the date of execution of the loan Y extends the due date of the loan. The extension is granted in order to permit X to achieve greater financial stability before it is required to repay the loan. Since the change in the terms of the loan is made primarily for exempt purposes and not for any significant purpose involving the production of income or the appreciation of property, the loan shall continue to qualify as a program-related investment.

Example (3). X is a small business enterprise located in a deteriorated urban area and owned by members of an economically disadvantaged minority group. Conventional sources of funds are unwilling to provide funds to X at reasonable interest rates unless it increases the amount of its equity capital. Consequently, Y, a private foundation, purchases shares of X's common stock. Y's primary purpose in purchasing the stock is to encourage the economic development of such minority group, and no significant purpose involves the production of income or the appreciation of property. The investment significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the investment and Y's exempt activities. Accordingly, the purchase of the common stock is a program-related investment, even though Y may realize a profit if X is successful and the common stock apreciates in value.

Example (4). X is a business enterprise which is not owned by low-income persons or minority group members, but the continued operation of X is important to the economic well-being of a deteriorated urban area because X employs a substantial number of low-income persons from such area. Conventional sources of funds are unwilling or unable to provide funds to X at reasonable interest rates. Y, a private foundation, makes a loan to X at an interest rate below the market rate for commercial loans of comparable risk. The loan is made pursuant to a program run by Y to assist low-income persons by providing increased economic opportunities and to prevent community deterioration. No significant purpose of the loan involves the production of income or the appreciation of property. The investment significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities. Accordingly, the loan is a program-related investment.

Example (5). X is a business enterprise which is financially secure and the stock of which is listed and traded on a national exchange. Y, a private foundation, makes a loan to X at an interest rate below the market rate in order to induce X to establish a new plant in a deteriorated urban area which, because of the high risks involved, X would be unwilling to establish absent such inducement. The loan is made pursuant to a program run by Y to enhance the economic development of the area by, for example, providing employment opportunities for low-income persons at the new plant, and no significant purpose involves the production of income or the appreciation of property. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities. Accordingly, even though X is large and established, the investment is program-related.

Example (6). X is a business enterprise which is owned by a nonprofit community development corporation. When fully operational, X will market agricultural products, thereby providing a marketing outlet for low-income farmers in a depressed rural area. Y, a private foundation, makes a loan to X bearing interest at a rate less than the rate charged by financial institutions which have agreed to lend funds to X if Y makes the loan. The loan is made pursuant to a program run by Y to encourage economic redevelopment of depressed areas, and no significant purpose involves the production of income or the appreciation of property. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities. Accordingly, the loan is a program-related investment.

Example (7). X, a private foundation, invests $100,000 in the common stock of corporation M. The dividends received from such investment are later applied by X in furtherance of its exempt purposes. Although there is a relationship between the return on the investment and the accomplishment of X's exempt activities, there is no relationship between the investment per se and such accomplishment. Therefore, the investment cannot be considered as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B) and cannot qualify as program-related.

Example (8). S, a private foundation, makes an investment in T, a business corporation, which qualifies as a program-related investment under section 4944(c) at the time that it is made. All of T's voting stock is owned by S. T experiences financial and management problems which, in the judgment of the foundation, require changes in management, in financial structure or in the form of the investment. The following three methods of resolving the problems appear feasible to S, but each of the three methods would result in reduction of the exempt purposes for which the program-related investment was initially made:

(*a*) *Sale of stock or assets.* The foundation sells its stock to an unrelated person. Payment is made in part at the time of sale; the balance is payable over an extended term of years with interest on the amount outstanding. The foundation receives a purchase-money mortgage.

(*b*) *Lease.* The corporation leases its assets for a term of years to an unrelated person, with an option in the lessee to buy the assets. If the option is exercised, the terms of payment are to be similar to those described in (*a*) of this example.

(*c*) *Management contract.* The corporation enters into a management contract which gives broad operating authority to one or more unrelated persons for a term of years. The foundation and the unrelated persons are obligated to contribute toward working capital requirements. The unrelated persons will be compensated by a fixed fee or a share of profits, and they will receive an option to buy the stock held by S or the assets of the corporation. If the option is exercised, the terms of payment are to be similar to those described in (*a*) of this example.

Each of the three methods involves a change in the form or terms of a program-related investment for the prudent protection of the foundation's investment. Thus, under § 53.4944-3(a)(3)(i), none of the three transactions (nor any debt instruments or other obligations held by S as a result of engaging in one of these transactions) would cause the investment to cease to qualify as program-related.

Example (9). X is a socially and economically disadvantaged individual. Y, a private foundation, makes an interest-free loan to X for the primary purpose of enabling X to attend college. The loan has no significant purpose involving the production of income or the appreciation of property. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities. Accordingly, the loan is a program-related investment.

Example (10). Y, a private foundation, makes a high-risk investment in low-income housing, the indebtedness with respect to which is insured by the Federal Housing Administration. Y's primary purpose in making the investment is to finance the purchase, rehabilitation, and construction of housing for low-income persons. The investment has no significant purpose involving the production of income or the appreciation of property. The investment significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the investment and Y's exempt activities. Accordingly, the investment is program-related.

§ 53.4944-4 Special rules.

(a) *Joint and several liability.* In any case where more than one foundation manager is liable for the tax imposed under section 4944(a)(2) or (b)(2) with respect to any one jeopardizing investment, all such foundation managers shall be jointly and severally liable for the tax imposed under each such paragraph with respect to such investment.

(b) *Limits on liability for management.* With respect to anyone jeopardizing investment, the maximum aggregate amount of tax collectible under section 4944(a)(2) from all foundation managers shall not exceed $5,000, and the maximum aggregate amount of tax collectible under section 4944(b)(2) from all foundation managers shall not exceed $10,000.

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

Example (1). A, B, and C are foundation managers of X, a private foundation. Assume that A, B, and C are liable for both initial and additional taxes under sections 4944(a)(2) and 4944(b)(2), respectively, for the following investments by X: an investment of $5,000 in the common stock of corporation M, and an investment of $10,000 in the common stock of corporation N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of $250 (i.e., 5 percent of $5,000) for each year (or part thereof) in the taxable period (as defined in section 4944(e)(1)) for the investment in M, and a tax of $500 (i.e., 5 percent of $10,000) for each year (or part thereof) in the taxable period for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of $250 (i.e., 5 percent of $5,000) for the investment in M, and a tax of $500 (i.e., 5 percent of $10,000) for the investment in N.

Example (2). Assume the facts as stated in Example (1), except that X has invested $500,000 in the common stock of M, and $1 million in the common stock of N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of $5,000 for the investment in M, and a tax of $5,000 for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of $10,000 for the investment in M, and a tax of $10,000 for the investment in N.

§ 53.4944-5 Definitions.

(a) *Taxable period*—(1) *In general.* For purposes of section 4944, the term "taxable period" means, with respect

to any investment which jeopardizes the carrying out of a private foundation's exempt purposes, the period beginning with the date on which the amount is so invested and ending on whichever of the following is the earlier:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the making of the investment by section 4944(a)(1); or

(ii) The date on which the amount so invested is removed from jeopardy.

(2) *Special rule.* Where a notice of deficiency referred to in subparagraph (1)(i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(b) *Removal from jeopardy.* An investment which jeopardizes the carrying out of a private foundation's exempt purposes shall be considered to be removed from jeopardy when—

(1) The foundation sells or otherwise disposes of the investment, and

(2) The proceeds of such sale or other disposition are not themselves investments which jeopardize the carrying out of such foundation's exempt purposes.

A change by a private foundation in the form or terms of a jeopardizing investment shall result in the removal of the investment from jeopardy if, after such change, the investment no longer jeopardizes the carrying out of such foundation's exempt purposes. For purposes of section 4944, the making by a private foundation of one jeopardizing investment and a subsequent exchange by the foundation of such investment for another jeopardizing investment will be treated as only one jeopardizing investment, except as provided in § 53.4944–6 (b) and (c). For the treatment of a jeopardizing investment which is removed from jeopardy or otherwise transferred by a private foundation by the making of a grant or by bargain-sale, see sections 4941 and 4945 and the regulations thereunder. A jeopardizing investment cannot be removed from jeopardy by a transfer from a private foundation to another private foundation which is related to the transferor foundation within the meaning of section 4946(a)(1)(H)(i) or (ii), unless the investment is a program-related investment in the hands of the transferee foundation.

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

Example (1). X, a private foundation on the calendar year basis, makes a $1,000 jeopardizing investment on January 1, 1970. X thereafter sells the investment for $1,000 on January 3, 1971. The taxable period is from January 1, 1970, to January 3, 1971. X will be liable for an initial tax of $100, that is, a tax of 5 percent of the amount of the investment for each year (or part thereof) in the taxable period.

Example (2). Assume that both C and D are investments which jeopardize exempt purposes. X, a private foundation, purchases C in 1971 and later exchanges C for D. Such exchange does not constitute a removal of C from jeopardy. In addition, no new taxable period will arise with respect to D, since, for purposes of section 4944, only one jeopardizing investment has been made.

Example (3). Assume the facts as stated in Example (2), except that X sells C for cash and later reinvests such cash in D. Two separate investments jeopardizing exempt purposes have resulted. Since the cash received in the interim is not of a jeopardizing nature, the amount invested in C has been removed from jeopardy and, thus, the taxable period with respect to C has been terminated. The subsequent reinvestment of such cash in D gives rise to a new taxable period with respect to D.

(d) *Correction period*—(1) *In general.* For purposes of section 4944, the correction period shall begin with the date on which the investment which jeopardizes the exempt purposes of the private foundation is entered into and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4944(b)(1).

(2) *Extensions of correction period.* (i) The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period shall be extended in accordance with subdivisions (ii), (iii), and (iv) of this subparagraph, except that such subdivision (iii) or (iv) shall not operate to extend a correction period with respect to which a taxpayer has filed a petition with the Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(ii) The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determined is reasonable and necessary to bring about removal of an investment from jeopardy. The Commissioner ordinarily will not extend the correction period pursuant to this subdivision unless all of the following factors are present:

(*a*) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively in good faith seeking to remove the investment from jeopardy;

(*b*) The investment cannot reasonably be expected to be removed from jeopardy during the unextended correction period; and

(*c*) The jeopardizing investment appears to have been an isolated occurrence and it appears unlikely that the foundation will make similar investments in the future.

The fact that a jeopardizing investment is decreasing in value shall not, by itself, prevent an extension of the correction period with respect to such investment.

(iii) If, within the unextended correction period, the tax imposed by section 4944(a)(1) is paid, then the Commissioner shall extend the correction period to the later of—

(*a*) A period of 90 days after the payment of such tax, or

(*b*) The correction period determined without regard to this subdivision.

(iv) If prior to the expiration of the correction period (including extensions) a claim for refund with respect to a tax imposed by section 4944(a)(1) is filed, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within such time, a suit or proceeding referred to in section 7422(g) with respect to such claim is filed, the Commissioner shall extend the correction period during the pendency of such suit or proceeding. See § 301.7422–1 of this chapter (Regulations on Procedure and Administration) for rules relating to pendency of such suit or proceeding.

§ 53.4944–6 Special rules for investments made prior to January 1, 1970.

(a) Except as provided in paragraph (b) or (c) of this section, an investment made by a private foundation prior to January 1, 1970, shall not be subject to the provisions of section 4944.

(b) If the form or terms of an investment made by a private foundation prior to January 1, 1970, are changed (other than as described in paragraph (c) of this section) on or after such date, the provisions of § 53.4944–1(a)(2)(iii) shall apply with respect to such investment.

(c) In the case of an investment made by a private foundation prior to January 1, 1970, which is exchanged on or after such date for another investment, for purposes of section 4944 the foundation will be considered to have made a new investment on the date of such exchange, unless the post-1969 investment is described in § 53.4944–1(a)(2)(ii)(*b*). Accordingly, a determination, under § 53.4944–1(a)(2)(i), whether the investment jeopardizes the carrying out of the foundation's exempt purposes shall be made at such time.

[FR Doc.72-22399 Filed 12-28-72;8:51 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

[General Order 8; 5th Rev.]

PART 221—DOCUMENTATION, TRANSFER, OR CHARTER OF VESSELS

Blanket Approval for Construction and Transfer to Foreign Ownership and Registry

Notice is hereby given that the regulations set forth below are hereby adopted by the Assistant Secretary of Commerce for Maritime Affairs under delegation of authority from the Secretary of Commerce.

The subject regulations were published in tentative form in the FEDERAL REGISTER, volume 37, No. 142, July 22, 1972, page 14726, and comments were requested. No unfavorable comments were received. Several technical changes have been made since publication in tentative form to take cognizance of the Government's embargo of goods and material to Southern Rhodesia, North Korea, Cuba, and the Communist-controlled

area of Vietnam, as well as to take cognizance of regulations administered by the Department of State pertaining to articles enumerated in the U.S. munitions list and licensing requirements of the Bureau of International Commerce.

Accordingly, Part 221 of Title 46, Chapter II, Code of Federal Regulations is hereby amended as follows.

1. Section 221.4 is amended to read as follows:

§ 221.4 Approval of certain transactions covered by section 37, Shipping Act, 1916, as amended.

The Department of Commerce, Maritime Administration, hereby grants approval under section 37 of the Shipping Act, 1916, as amended (40 Stat. 901; 46 U.S.C. 835) to the following transactions:

(a) The sale, mortgage, lease, charter, delivery, or transfer and agreement for the sale, mortgage, lease, charter, delivery, or transfer to any person not a citizen of the United States of vessels having an overall length of 65 feet or less, or any interest therein, owned in whole or in part by any person a citizen of the United States, or of any State, territory, district, or possession, thereof, and which are not documented under the laws of the United States, or the last documentation of which was not under the laws of the United States; and the transfer to or placing under foreign registry or flag of any such vessel;

(b) The making of agreements or the effecting of understandings whereby there is vested in or for the benefit of any person not a citizen of the United States, the controlling interest in or the majority of the voting power in a corporation which is organized under the laws of the United States or any State, territory, district, or possession thereof, and which owns a vessel covered by paragraph (a) of this section;

(c) The entrance into any contract, agreement, or understanding to construct any vessel of any size within the United States for, or to be delivered to, a person not a citizen of the United States; and the transfer to or placing under foreign registry or flag of any such vessel;

(d) The departure from any port of the United States of any vessel which was constructed in whole or in part within the United States, has not been documented under the laws of the United States, and has never been cleared for any foreign port.

(e) The approvals hereby granted shall not apply if a transaction involves a national of Southern Rhodesia, North Korea, Cuba, or the Communist-controlled area of Vietnam (unless (1) such national has been lawfully admitted into, and resides in, the United States and (2) such national does not remove the vessel from the territorial limits of the United States); nor shall they apply if the vessel is to be transferred to or placed under the registry or flag of any such country.

(f) The approvals hereby granted do not supersede the requirements of (1) the Department of State, 22 CFR Part 121 et seq. pertaining to articles enumerated in the U.S. munitions list and (2) the Bureau of International Commerce, Office of Export Control as to any navigational apparatus requiring a validated license.

§§ 221.5, 221.6 [Reserved]

2. The titles and provisions of §§ 221.5 and 221.6 are hereby deleted, and the sections are hereby designated "reserved."

Dated: December 20, 1972.

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

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-22392 Filed 12-28-72;8:49 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-18; Notice No. 72-24]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Liquid Fuel Systems of Commercial Motor Vehicles; Certification of Fuel Tanks

The Director of the Bureau of Motor Carrier Safety is amending the provisions of the Motor Carrier Safety Regulations which deal with liquid fuel systems. The amendments are concerned with provisions relating to the design and installation of fuel lines, with requirements for excess flow valves, and with certification of fuel tanks. As a result of the changes, § 393.65 of the regulations will relate primarily to installation of fuel systems in motor vehicles, and § 393.67 of the regulations will contain only requirements relating to the design, construction, and certification of fuel tanks.

As the Director indicated in the notice of proposed rule making, in which he announced his intention to consider these amendments (37 F.R. 23925), the purpose of the changes is to move provisions relating to installation of fuel system components from § 393.67 to § 393.65 so that the former section deals exclusively with requirements relating to fuel tanks. The transfer, in turn, makes more meaningful the certification requirements in paragraph (f) of § 393.67, since a fuel tank manufacturer is in a position to certify that his products meet all of the requirements of that section.

The Bureau received four comments on the notice of proposed rule making. None of the persons who commented objected to the proposed amendments. However, several fuel tank manufacturers indicated that the proposed amendments to the form of the certification in § 393.67(f) would present them with manufacturing lead time problems. They said that they had planned to install on tanks manufactured after December 31, 1972, certification labels in the format suggested by § 393.67(f) as it stood after it was amended in August 1971 (36 F.R. 15446). Therefore, they urged, any amendment which would make the wording proposed in the November 1972 notice mandatory could not be complied with by the January 1, 1973, effective date proposed in that later notice.

The Bureau has also received a number of inquiries outside of the context of this rule making proceeding, which indicate that there is still considerable confusion about the format of the required certification. There seems to be a general consensus that a uniform certification format would be desirable. Upon reconsidering this issue, the Director has concluded that it would be in the public interest to have all manufacturers use a specific form of certification, so that they, purchasers of their products, and Bureau investigators will know with certainty what the certificate means.

Consequently, the Director is amending § 393.67(f) to specify uniform, mandatory certification language. However, in view of the leadtime problems, discussed above, the required wording will not be mandatory until July 1, 1973. A certificate will be required on fuel tanks manufactured on and after January 1, 1973, but no specific language will be required until July 1, 1973. This means that between January 1, 1973 and July 1, 1973, a fuel tank manufacturer may either use the mandatory wording or use alternate language which meets the intent of the rule. During that 6-month period, manufacturers will be able to obtain new labels which have the mandatory language and can use up their stocks of labels which do not.

In consideration of the foregoing, §§ 393.65 and 393.67 of the Motor Carrier Safety Regulations (Subchapter B in Chapter III of Title 49, CFR) are amended as set forth below.

Effective date. These amendments are effective on January 1, 1973. In view of the fact that the only substantive change to the rules—the addition of a mandatory form of certificate for fuel tanks—will not take effect until July 1, 1973, the Director finds that there is good cause for making these amendments effective less than 30 days after their publication in the FEDERAL REGISTER.

(Sec. 204, Interstate Commerce Act, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4)

Issued on December 26, 1972.

KENNETH L. PIERSON,
Acting Director, Bureau of Motor Carrier Safety.

I. Section 393.65 is amended by adding the following new paragraphs (f) and (g) at the end thereof:

§ 393.65 All fuel systems.

* * * * *

(f) *Fuel lines.* A fuel line which is not completely enclosed in a protective housing must not extend more than 2 inches below the fuel tank or its sump. Diesel fuel crossover, return, and withdrawal

lines which extend below the bottom of the tank or sump must be protected against damage from impact. Every fuel line must be—

(1) Long enough and flexible enough to accommodate normal movements of the parts to which it is attached without incurring damage; and

(2) Secured against chafing, kinking, or other causes of mechanical damage.

(g) *Excess flow valve.* When pressure devices are used to force fuel from a fuel tank, a device which prevents the flow of fuel from the fuel tank if the fuel feed line is broken must be installed in the fuel system.

II. Section 393.67 is amended as follows:

a. The heading of § 393.67 is amended to read as set forth below.

b. Paragraph (c) (6) is deleted.

c. Paragraph (c) (5) and paragraph (f) are revised to read as follows:

§ 393.67 Liquid fuel tanks.

* * * * *

(c) * * *

(5) *Fuel withdrawal fittings.* Except for diesel fuel tanks, the fittings through which fuel is withdrawn from a fuel tank must be located above the normal level of fuel in the tank when the tank is full.

(6) [Reserved].

* * * * *

(f) *Certification.* Each liquid fuel tank shall be legibly and permanently marked with the month and year of its manufacture and with a certificate that it conforms to the rules in this section applicable to the tank. The certificate for a liquid fuel tank manufactured on or after July 1, 1973, must be in the form set forth in either subpargaraph (1) or (2) below:

(1) *If a tank conforms to all rules in this section pertaining to side-mounted fuel tanks.* "Meets all FHWA side-mounted tank requirements."

(2) *If a tank conforms to all rules in this section pertaining to tanks which are not side-mounted fuel tanks.* "Meets all FHWA requirements for non-side-mounted fuel tanks."

The form of certificate specified in subparagraph (1) or (2) of this paragraph may be used on a liquid fuel tank manufactured before July 1, 1973, but it is not mandatory for liquid fuel tanks manufactured before that date.

[FR Doc.72-22389 Filed 12-28-72;8:51 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Salt Plains National Wildlife Refuge, Oklahoma

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (12-29-72).

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

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Sport fishing on the Salt Plains National Wildlife Refuge, Oklahoma, is permitted only on areas designated by signs as open to fishing. These open areas, comprising 7,800 acres, are delineated on maps available at refuge headquarters, Jet, Okla., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from April 15 through October 15, 1973, inclusive, in Great Salt Plains Lake as posted, in Sand Creek, the three main channels of Salt Fork River, and north of the right-of-way of Oklahoma State Highway 11 as posted.

(2) It is illegal to take game fish by any means other than hook and line. Trotlines must be removed from waters at the close of the fishing season.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

RONALD S. SULLIVAN,
Refuge Manager, Salt Plains National Wildlife Refuge, Jet, Okla.

DECEMBER 12, 1972.

[FR Doc.72-22352 Filed 12-28-72;8:46 am]

PART 33—SPORT FISHING

Anahuac National Wildlife Refuge, Texas

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (12-29-72).

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

TEXAS

ANAHUAC NATIONAL WILDLIFE REFUGE

Sport fishing on the Anahuac National Wildlife Refuge, Texas, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 30 acres of inland water and 7 miles of shoreline, are delineated on maps available at refuge headquarters, Anahuac, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) The open season for inland water sport fishing on the refuge extends from April 1 through October 1973, inclusive.

(2) Boats and floating devices may not be used for fishing on inland waters.

(3) Trotlines, throw lines or setlines may not be used in inland waters.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1973.

RUSSEL W. CLAPPER,
Refuge Manager, Anahuac National Wildlife Refuge, Anahuac, Tex.

DECEMBER 5, 1972.

[FR Doc.72-22349 Filed 12-28-72;8:46 am]

PART 33—SPORT FISHING

Buffalo Lake National Wildlife Refuge, Texas

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (12-29-72).

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

TEXAS

BUFFALO LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Buffalo Lake National Wildlife Refuge, Texas, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2,358 acres, are delineated on maps available at refuge headquarters, Umbarger, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) The open season for sport fishing on the refuge extends from April 1 through October 31, 1973, inclusive, on all waters of the Buffalo Lake National Wildlife Refuge; from January 1 through February 28, 1973, inclusive, fishing is suspended. November 1 through December 31, 1973, inclusive, bank fishing is permitted along shorelines lying in the northeast ¼ Sec. 108.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1973.

PAUL E. FERGUSON,
Refuge Manager, Buffalo Lake National Wildlife Refuge, Umbarger, Tex.

DECEMBER 13, 1972.

[FR Doc.72-22348 Filed 12-28-72;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Treatment of Distributions to Shareholders of Domestic International Sales Corporations

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 January 29, 1973. 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 January 29, 1973. 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 request 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 certain provisions of sections 995, 996, and 997 of the Internal Revenue Code of 1954, as added by section 501 of the Revenue Act of 1971 (85 Stat. 535), such regulations are amended by adding the following new sections. The amendments in general are effective for taxable years ending after December 31, 1971.

PARAGRAPH 1. The following new sections are inserted immediately after § 1.995 as set forth in the notice of proposed rule making published at 37 F.R. 18736 for September 15, 1972.

§ 1.995–1 Taxation of DISC income to shareholders.

(a) *In general.* (1) Under § 1.991–1(a) (as proposed in 37 F.R. 10366 for May 20, 1972), a corporation which is a DISC for a taxable year is not subject to any tax imposed by Subtitle A of the Code (sections 1 through 1564) for the taxable year, except for the tax imposed by Chapter 5 thereof (sections 1491 through 1494) on certain transfers to avoid tax.

(2) Under section 995(a), the shareholders of a DISC, or a former DISC, are subject to taxation on the earnings and profits of the DISC in accordance with the provisions of Chapter 1 of the Code generally applicable to shareholders, but subject to the modifications provided in sections 995, 996, and 997.

(3) Under § 1.996–3, three divisions of earnings and profits of a DISC, or former DISC, are defined: "accumulated DISC income," "previously taxed income," and "other earnings and profits." Under § 1.995–2, certain amounts of the DISC's earnings and profits are deemed to be distributed as dividends to shareholders of the DISC at the close of the DISC's taxable year in which such earnings were derived. Such deemed distributions do not cause a reduction in the DISC earnings and profits, but are taken into account in § 1.996–3(c) as an increase in previously taxed income. To the extent the DISC's earnings and profits are paid out in a subsequent distribution which is, under § 1.996–1, treated as made out of such "previously taxed income" they will not be taxable to the shareholders a second time.

(4) In general, "accumulated DISC income" is the earnings and profits of the DISC which are not deemed to have been distributed and which may be deferred from taxation so long as they are not actually distributed with respect to its stock. However, deferral of taxation on "accumulated DISC income" may be terminated, in whole or in part, in the event of: (i) Producer's loans which have been converted into foreign investment (see § 1.995–2(a)(5) and § 1.995–5); (ii) revocation of the election to be treated as a DISC or other disqualification (see § 1.995–3); and (iii) certain dispositions of DISC stock in which gain is realized (see § 1.995–4).

(5) Since a DISC is not taxable on its taxable income, under section 246(d) and § 1.246–4 (to be proposed) the deduction otherwise allowed under section 243 shall not be allowed with respect to a dividend from a DISC, or former DISC, paid or treated as paid out of accumulated DISC income or previously taxed income or with respect to a deemed distribution in a qualified year under § 1.995–2(a).

(b) *Amounts and character of amounts includible in shareholder's gross income.* Each shareholder of a corporation which is a DISC, or former DISC, shall include in his gross income—

(1) Amounts actually distributed to him that are includible in his gross income in accordance with paragraph (c) of this section;

(2) Amounts which, pursuant to § 1.995–2, he is deemed to receive as a distribution taxable as a dividend on the last day of each of the corporation's taxable years for which it qualifies as a DISC;

(3) Amounts which, pursuant to § 1.995–3, he is deemed to receive as a distribution taxable as a dividend in the event the corporation revokes its election to be treated as a DISC or otherwise is disqualified as a DISC, and

(4) Gain realized on certain dispositions of stock in the corporation which, under § 1.995–4, is includible in his gross income as a dividend.

(c) *Treatment of actual distributions.* (1) Except as provided in subparagraph (3) of this paragraph, amounts actually distributed to a shareholder of a DISC, or former DISC, with respect to his stock are includible in his gross income in accordance with section 301.

(2) Since a deemed distribution does not reduce the earnings and profits of a DISC, it does not affect the determination as to whether a subsequent actual distribution is a "dividend" under section 316(a). Since, however, the amount of a deemed distribution increases "previously taxed income" it does affect the determination as to whether a subsequent actual distribution is excluded (as described in subparagraph (3) of this paragraph) from gross income.

(3) Under § 1.996–1(c), the amount of any actual distribution (including a deficiency distribution made pursuant to § 1.992–3, as proposed in 37 F.R. 18477 for September 12, 1972) with respect to stock in a DISC, or former DISC, which is treated under § 1.996–1 as made out of previously taxed income, is excluded by the distributee from gross income, but only to the extent that such amount does not exceed the adjusted basis of the distributee's stock. Under § 1.996–5(b), that portion of any actual distribution which is treated as made out of previously taxed income shall be applied against and reduce the adjusted basis of the stock and, to the extent that it exceeds the adjusted basis of the stock, it shall be treated as gain from the sale or exchange of property.

(4) A deficiency distribution pursuant to § 1.992–3 (as proposed in 37 F.R. 18477 for Sept. 12, 1972) may be made after the close of the DISC's taxable year with respect to which it is made. The determinations as to whether such deficiency distribution is a dividend under section 301 and as to which division of earnings and profits is the source thereof depend upon the status of the DISC's earnings and profits account and divisions thereof at the time distribution is actually made. See § 1.996–1(d) for the priority of such deficiency distribution over other actual distributions made during the same taxable year.

§ 1.995–2 Deemed distributions in qualified years.

(a) *General rule.* Under section 995 (b)(1), each shareholder of a DISC shall be treated as having received a distribution taxable as a dividend with respect to his stock on the last day of each taxable year of the DISC, in an amount which is equal to his pro rata share of the sum (as limited by the earnings and profits limitation of paragraph (b) of this section), of the following five items:

(1) An amount equal to the gross interest derived by the DISC during such year from producer's loans (as defined in § 1.993–4, as proposed 37 F.R. 20863 for Oct. 4, 1972).

(2) An amount equal to the lower of—

(i) Any gain recognized by the DISC during such year on the sale or exchange of property (other than property which in the hands of the DISC is a qualified export asset) which was previously transferred to it in a transaction in which the transferor did not recognize gain in whole or in part, or

(ii) The amount of the transferor's gain which was not recognized on the previous transfer of the property to the DISC.

See paragraph (d) of this section for special rules with respect to certain tax-free acquisitions of property by the DISC.

(3) An amount equal to the lower of—

(i) Any gain recognized by the DISC during such year on the sale or exchange of property which in the hands of the DISC is a qualified export asset (other than stock in trade or property described in section 1221(1)) and which was previously transferred to the DISC in a transaction in which gain was not recognized in whole or in part, or

(ii) The amount of the transferor's gain which was not recognized on the previous transfer of the property to the DISC and which would have been includible in the transferor's gross income as ordinary income if its entire realized gain had been recognized upon the transfer.

See paragraph (d) of this section for special rules with respect to certain tax-free acquisitions of property by the DISC.

(4) An amount equal to one-half of the excess (if any) of the taxable income of the DISC for such year computed as provided in § 1.991–1(b)(1) (as proposed in 37 F.R. 10366 for May 20, 1972) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), and (3) of this paragraph.

(5) The amount of foreign investment attributable to producer's loans of the DISC, as of the close of the "group taxable year" ending with such taxable year of the DISC, determined in accordance with § 1.995–5 (as proposed in 37 F.R. 18737 for Sept. 15, 1972). The amount of such foreign investment attributable to producer's loans so determined for any taxable year of a former DISC shall be deemed distributed as a dividend to the shareholders of such former DISC on the last day of such taxable year. See § 1.995–3(e) for the effect that such deemed distribution has on scheduled installments of deemed distributions of accumulated DISC income under § 1.995–3(a) upon disqualification.

(b) *Limitation on amount of deemed distributions under section 995(b)(1).* The total amount which under paragraph (a) of this section is deemed distributed to each shareholder as a dividend for any taxable year of the corporation shall be limited as follows:

(1) The sum of the amounts described in paragraph (a) (1), (2), (3), and (4) of this section shall not exceed earnings and profits for such year, and

(2) The amount of foreign investment attributable to producer's loans of the DISC described in paragraph (a)(5) of this section shall not exceed the corporation's accumulated earnings and profits at the beginning of such year, if any, plus any excess of the DISC's earnings and profits for such year over the sum of the amounts described in paragraph (a) (1) through (4) of this section. Thus, for example, if a DISC has a deficit in accumulated earnings and profits at the beginning of a taxable year of $10,000, current earnings and profits of $12,000, no amounts described in paragraph (a) (1) through (4) of this section for the year, and foreign investment attributable to producer's loans for the taxable year of $5,000, the DISC would have a deemed distribution described in paragraph (a) (5) of this section of $5,000 for the taxable year. On the other hand, if the DISC had accumulated earnings and profits of $10,000 at the beginning of the taxable year, a deficit in earnings and profits for the taxable year of $12,000, no amounts described in paragraph (a) (1) through (4) of this section for the taxable year, and foreign investment attributable to producer's loans for the taxable year of $5,000, the DISC would have no deemed distribution described in paragraph (a) (5) of this section because the current year's deficit in earnings and profits would reduce the accumulated earnings and profits below zero. For rules relating to the carryover of the $5,000 of foreign investment attributable to producer's loans, see § 1.995–5(a)(6).

(c) *Examples.* Paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). Y is a corporation which uses the calendar year as its taxable year and which elects to be treated as a DISC beginning with 1972. X is its sole shareholder. In 1972, X transfers certain property to Y in exchange for Y's stock in a transaction in which X does not recognize gain or loss by reason of the application of section 351(a). Included in the property transferred to Y is depreciable property described in paragraph (a)(3) of this section on which X realizes, but does not recognize by reason of the application of section 1245(b)(3), a gain of $20,000. If X had sold such property for cash, the $20,000 gain would have been recognized as ordinary income under section 1245. Also included in the transfer to Y is 100 shares of stock in a third corporation (which is not a related foreign export corporation) on which X realizes, but does not recognize, a gain of $5,000. In 1973, Y sells such property and recognizes a gain of $25,000 on the depreciable property and $8,000 on the 100 shares of stock. Y has accumulated earnings and profits at the beginning of 1973 of $5,000, earnings and profits for 1973 of $72,000, and taxable income for 1973 of $100,000. Under these facts and the additional facts assumed in the table below, X is treated as having received a deemed distribution taxable as a dividend of $76,000 on December 31, 1973.

(1) Gross interest derived by Y in 1973 from producer's loans	$7,000
(2) Amount of gain on depreciable property (lower of Y's recognized gain ($25,000) and X's gain not recognized on section 1245 property ($20,000))	20,000
(3) Amount of gain on stock (lower of Y's recognized gain ($8,000) or X's gain not recognized ($5,000))	5,000
(4) One-half excess of taxable income for 1973 over the sum of lines (1), (2), and (3) (½ of ($100,000 minus $32,000))	34,000
(5) Earnings and profits limitation on lines (1) through (4):	
(a) Sum of lines (1) through (4)	66,000
(b) Earnings and profits for 1973	72,000
(c) Lower of lines (a) and (b)	66,000
(6) Amount under paragraph (a) (5) of this section:	
(a) Foreign investment attributable to producer's loans under § 1.995–5	10,000
(b) Sum of accumulated earnings and profits at beginning of 1973 ($5,000) and excess of earnings and profits for 1973 over line (5)(c) ($72,000 minus $66,000)	11,000
(c) Lower of lines (a) and (b)	10,000
(7) Total deemed distribution (sum of lines (5)(c) and (6)(c))	76,000

Example (2). Assume the facts are the same as in example (1), except that earnings and profits for 1973 amount to only $60,000. Under these facts, X is treated as receiving a deemed distribution as a dividend of $65,000 on December 31, 1973, determined as follows:

(5) Earnings and profits limitation on lines (1) through (4):	
(a) Line (5)(a) of example (1)	$66,000
(b) Earnings and profits for 1973	60,000
(c) Lower of lines (a) and (b)	60,000
(6) Amount under paragraph (a) (5) of this section:	
(a) Line (6)(a) from example (1)	10,000
(b) Sum of accumulated earnings and profits at beginning of 1973 ($5,000) and excess of earnings and profits for 1973 over line (5)(c) ($60,000 minus $60,000)	5,000
(c) Lower of lines (a) and (b)	5,000
(7) Total deemed distributions (sum of lines (5)(c) and (6)(c))	65,000

Example (3). Assume the facts are the same as in example (1) except that Y has a deficit in accumulated earnings and profits at the beginning of 1973 of $4,000. Under these facts, X is treated as receiving a deemed distribution taxable as a dividend in the amount of $72,000 on December 31, 1973, determined as follows:

(5) Earnings and profits limitation on lines (1) through (4):	
(a) Line (5)(a) of example (1)	$66,000
(b) Earnings and profits for 1973	72,000
(c) Lower of lines (a) and (b)	66,000

(6) Amount under paragraph (a) (5) of this section:	
(a) Line (6) (a) of example (1)	10,000
(b) Sum of accumulated earnings and profits at beginning of 1973, if any ($0), and excess of earnings and profits for 1973 over amount in line (5) (c) ($72,000 minus $66,000)	6,000
(c) Lower of lines (a) and (b)	6,000
(7) Total deemed distribution (sum of lines (5) (c) and (6) (c))	72,000

(d) *Special rules for certain tax-free acquisitions of property by the DISC.* (1) For purposes of paragraph (a) (2) (i) and (3) (i) of this section, if—

(i) A DISC acquires property in a first transaction and in a second transaction it disposes of such property and,

(ii) By reason of the application of section 1031 (relating to like-kind exchanges) or section 1033 (relating to involuntary conversions), the basis in the DISC's hands of other property acquired in such second transaction is determined in whole or in part with reference to the basis of the property acquired in the first transaction,

then upon a disposition of such other property in a third transaction by the DISC such other property shall be treated as though it had been transferred to the DISC in the first transaction. Thus, if the first transaction is a purchase of the property for cash, then paragraph (a) (2) and (3) of this section will not apply to a sale by the DISC of the other property acquired in the second transaction.

(2) For purposes of paragraph (a) (2) (i) and (3) (i) of this section, if a DISC acquires property in a first transaction and it transfers such property to a transferee DISC in a second transaction in which the transferor DISC's gain is not recognized in whole or in part, then such property shall be treated as though it had been transferred to the transferee DISC in the same manner in which it was acquired in the first transaction by the transferor DISC. For example, if X and Y both qualify as DISC's and X transfers property to Y in a second transaction in which gain or loss is not recognized, paragraph (a) (2) or (3) of this section does not apply to a sale of such property by Y in a third transaction if X had acquired the property in a first transaction by a purchase for cash. If, however, X acquired the property from a transferor other than a DISC in the first transaction in which the transferor's realized gain was not recognized, then paragraph (a) (2) or (3) of this section may apply to the sale by Y if the other conditions of such paragraph (a) (2) or (3) are met.

(3) If a DISC acquires property in a second transaction described in subparagraph (1) or (2) of this paragraph in which it (or, in the case of a second transaction described in subparagraph (2) of this paragraph, the transferor DISC) recognizes a portion (but not all) of the realized gain, then the amount described in paragraph (a) (2) (ii) or (a) (3) (ii) of this section with respect to a disposition by the DISC of such acquired property in a third transaction shall not exceed the transferor's gain which was not recognized on the first transaction minus the amount of gain recognized by the DISC (or transferor DISC) on the second transaction.

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

Example (1). X and Y are corporations each of which qualifies as a DISC and uses the calendar year as its taxable year. In 1972, X acquires section 1245 property in a first transaction in which the transferor's entire realized gain of $17 is not recognized. In 1973, X transfers such property to Y in a second transaction in which X realizes a gain of $20 of which only $4 is recognized. (On Dec. 31, 1973 X's shareholders are treated as having received a deemed distribution of a dividend which includes such $4 under paragraph (a) (3) of this section, provided the earnings and profits limitation in paragraph (b) of this section is met.) In a third transaction in 1974, Y sells such property and recognizes a gain of $25. With respect to Y's shareholders on Dec. 31, 1974, the amount described in paragraph (a) (3) (ii) of this section would be limited to $13, which is the amount of the transferor's gain which was not recognized on the first transaction ($17) minus the amount of gain recognized by X on the second transaction ($4).

Example (2). Z is a DISC using the calendar year as its taxable year. In a first transaction in 1972, in exchange for its stock, Z acquires section 1245 property from A, an individual who is its sole shareholder, in a transaction in which A's realized gain of $30 is not recognized by reason of the application of section 351(a). In a second transaction in 1973, Z exchanges such property for other property in a like-kind exchange to which section 1031(b) applies and recognizes $10 of a realized gain of $35. (On December 31, 1973, A is treated as having received a deemed distribution of a dividend which includes such $10 under paragraph (a) (3) of this section, provided the earnings and profits limitation in paragraph (b) of this section is met.) In a third transaction in 1974, Z sells the property acquired in the like-kind exchange and recognizes a gain of $25. With respect to A on December 31, 1974, the amount described in paragraph (a) (3) (ii) of this section is limited to $20, which is the amount of A's gain which was not recognized on the first transaction ($30) minus the amount of gain recognized by Z and deemed distributed to A on the second transaction ($10).

(e) *Carryback of net operating loss and capital loss to prior DISC taxable year.* For purposes of sections 991, 995, and 996, the amount of the deduction for the taxable year under section 172 for a net operating loss carryback or carryover or under section 1212 for a capital loss carryback or carryover shall be determined in the same manner as if the DISC were a domestic corporation which had not elected to be treated as a DISC. Thus, the amount of the deduction will be the same whether or not the corporation was a DISC in the year of the loss or in the year to which the loss is carried. For provisions setting forth adjustments to the DISC's, or former DISC's, deemed distributions, adjustments to its divisions of earnings and profits, and other tax consequences arising from such carrybacks, see § 1.996–8.

§ 1.995–3 Distributions upon disqualification.

(a) *General rule.* Under section 995 (b) (2), a shareholder of a corporation which is disqualified from being a DISC, either because pursuant to § 1.992–2(e) (2) (as proposed in 37 F.R. 18477 for September 12, 1972) it revoked its election to be treated as a DISC or because it has failed to satisfy the requirements to be a DISC as set forth in § 1.992–1 (as proposed in 37 F.R. 10368 for May 20, 1972) to be a DISC for a taxable year, shall be deemed to have received (at the times specified in paragraph (b) of this section) distributions taxable as dividends aggregating an amount equal to his pro rata share of the accumulated DISC income (as defined in § 1.996–3(b)) of such corporation which was accumulated during the immediately preceding consecutive taxable years for which the corporation was a DISC. The pro rata share referred to in the preceding sentence shall be determined as of the close of the last of such consecutive taxable years for which the corporation was a DISC.

(b) *Time of receipt of deemed distributions.* Distributions described in paragraph (a) of this section shall be deemed to be received in equal installments on the last day of each of the 10 taxable years of the corporation following the year of the disqualification described in paragraph (a) of this section, except that in no case may the number of equal installments exceed the number of the immediately preceding consecutive taxable years for which the corporation was a DISC.

(c) *Transfers of shares.* Deemed distributions are includible under paragraphs (a) and (b) of this section in a shareholder's gross income as a dividend only so long as he continues to hold the shares with respect to which the distribution is deemed made. Thus, the transferee of such shareholder will include in his gross income under paragraphs (a) and (b) of this section the remaining installments of the deemed distribution which the transferor would have included in his gross income as a dividend had he not transferred the shares. However, if the transferee acquires the shares in a transaction in which the transferor's gain is treated under § 1.995–4 in whole or in part as a dividend, then under § 1.996–4 (a) such transferee does not include subsequent installments in his gross income to the extent that the transferee treats such subsequent installments as made out of previously taxed income.

(d) *Effect of requalification.* Deemed distributions under paragraphs (a) and (b) of this section continue and are includible in gross income as dividends by the shareholders whether or not the corporation subsequently requalifies and is treated as a DISC.

(e) *Effect of actual distributions and deemed distributions under section 995 (b) (1) (E).* If, during the period a shareholder of a DISC is taking into account deemed distributions under paragraphs (a) and (b) of this section, an actual distribution is made to him out of accumulated DISC income or a deemed distribution because of foreign investment attributable to producer's loans is made under § 1.995–2(a) (5) out of accumulated DISC income, such actual or

deemed distribution shall first reduce the last installment of the deemed distributions scheduled to be included in the shareholder's gross income as a dividend, and then the preceding scheduled installments in reverse order. If deemed distributions are scheduled to be included in gross income for two or more disqualifications, an actual distribution or a deemed distribution under § 1.995–2(a)(5) which is treated as made out of accumulated DISC income reduces the deemed distributions resulting from the earlier disqualification first.

(f) *Examples.* This section may be illustrated by the following examples:

Example (1). X corporation, which uses the calendar year as its taxable year elects to be treated as a DISC beginning with 1972. X qualifies as a DISC for taxable years 1972 through 1975, but, pursuant to § 1.992–2(e)(2), revokes its election as of January 1, 1976, and is disqualified as a DISC. On that date, X has $24,000 of accumulated DISC income. X's shareholders will be deemed to receive $6,000 in distributions taxable as a dividend on the last day of each of X's 4 succeeding taxable years (1977, 1978, 1979, and 1980).

Example (2). Assume the same facts as in example (1), except that in 1978 X makes an actual distribution of $22,000 to its shareholders of which $10,000 is treated under § 1.996–1 as made out of accumulated DISC income. (The remaining $12,000 of such distribution is treated as paid out of previously taxed income.) The actual distribution would first reduce the $6,000 deemed distribution scheduled for 1980 to zero and then reduce the $6,000 deemed distribution scheduled for 1979 to $2,000. Thus, X's shareholders include in 1978, $16,000 in gross income as dividends ($10,000 of actual distributions and the $6,000 deemed distribution scheduled for that year) and $2,000 as a dividend in 1979.

Example (3). Assume the same facts as in example (2), except that X requalifies as a DISC for taxable year 1977 during which it accumulates $7,000 of DISC income, but is again disqualified in 1978. In 1977, X's shareholders include in gross income as dividends the $6,000 deemed distribution upon disqualification (without regard to deemed distributions, if any, under § 1.995–2 for 1977 when it was treated as a DISC). The actual distribution in 1978 still reduces the installments resulting from the earlier disqualification. Thus, in 1978, X's shareholders include $16,000 in gross income as dividends as in example (2). In 1979, X's shareholders include $9,000 in gross income as dividends (the final installment of $2,000 from the earlier disqualification plus the single deemed distribution of $7,000 resulting from the later disqualification).

§ 1.995–4 Gain on certain dispositions of stock in a DISC.

(a) *Purpose.* Under section 995(c), if a shareholder disposes of stock in a DISC or former DISC in a transaction in which gain is recognized, part or all of such gain is includible in his gross income as a dividend to the extent provided in paragraph (b) of this section. If a shareholder disposes of such stock in a transaction in which gain is not recognized, part or all of such gain otherwise not recognized is, under section 995(c), recognized and includible in his gross income as a dividend to the extent provided in paragraph (c) of this section. The purpose of the provisions of section 995(c) and this section is to insure that accumulated DISC income, the taxation of which is deferred by reason of sections 991 and 995, eventually becomes subject to tax, at ordinary income rates. Therefore, to the extent that an amount of gain recognized on a disposition of DISC stock reflects such deferred accumulated DISC income such amount is to be treated as a dividend in order to eliminate tax avoidance potential arising from the fact that the basis of such stock will be increased in the hands of the purchaser. In the case of certain transactions in which gain is not recognized, such tax avoidance potential arises not from an increased basis, but rather from the possible absorption by a non-DISC entity of, and therefore disappearance of, special DISC tax attributes (e.g., accumulated DISC income) that insure ultimate taxability at ordinary income rates. Therefore, gain realized in a nontaxable disposition will be treated as a dividend to the extent it reflects accumulated DISC income but only where, as part of the transaction, the DISC tax attributes no longer exist in a corporation qualified as a DISC. For provisions which disallow the deduction under section 243 for dividends under this section, see § 1.246–4 (to be proposed).

(b) *Sale or exchange of DISC stock—*(1) *In general.* Under the first sentence of section 995(c), if a shareholder disposes of stock in a DISC, or former DISC, then any gain recognized on such disposition shall be included in his gross income as a dividend notwithstanding any other provision of the Code, to the extent of the amount of accumulated DISC income which is attributable to such stock and which was accumulated in taxable years of such corporation during the period or periods such stock was held or treated under paragraph (d) of this section as held by such shareholder. To the extent his recognized gain exceeds such amount of accumulated DISC income, it is taxable as gain from the sale or exchange of the stock.

(2) *Nonapplication of subparagraph (1).* The provisions of subparagraph (1) of this paragraph do not apply (i) to the extent gain is not recognized (such as, for example, in the case of a gift or an exchange of stock to which section 354 applies) and (ii) to the amount of any recognized gain which is taxable as a dividend (such as, for example, under section 301 or 356(a)(2)) or as gain from the sale or exchange of property which is not a capital asset. The amount taxable as a dividend under section 301 or 356(a)(2) is subject to the rules provided in § 1.995–1(c) for the treatment of actual distributions by a DISC.

(c) *Certain exchanges in which gain is not recognized—*(1) *General.* Under the second sentence of section 995(c), if stock in a corporation which is a DISC, or former DISC, is disposed of in a transaction in which its separate corporate existence as a DISC, or former DISC, is terminated then, notwithstanding any other provision of the Code, any gain realized on such transaction shall be recognized and includible in the transferor's gross income as a dividend, but only to the extent that such gain—

(i) Would not have been recognized but for the provisions of this paragraph, and

(ii) Does not exceed the amount of the accumulated DISC income of such corporation attributable to such stock and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held or treated under paragraph (d) of this section as held by the transferor.

(2) *Cessation of separate corporate existence as a DISC, or former DISC.* For purposes of subparagraph (1) of this paragraph, separate corporate existence as a DISC, or former DISC, will be treated as having ceased if as a result of the transaction there is no separate entity which is a DISC and to which is carried over the accumulated DISC income and other tax attributes of the DISC, or former DISC, the stock of which is disposed of. Thus, for example, if stock in a DISC, or former DISC, is exchanged in a transaction described in section 381(a) (relating to carryovers in certain corporate acquisitions), the gain realized on the transfer of such stock will not be recognized under subparagraph (1) of this paragraph if the assets of such DISC, or former DISC, are acquired by a corporation which immediately after the acquisition qualifies as a DISC. For a further example, if a DISC, or former DISC, is liquidated in a transaction to which section 332 (relating to complete liquidations of subsidiaries) applies, the transaction will be subject to subparagraph (1) of this paragraph if the basis to the transferee corporation of the assets acquired on the liquidation are determined under section 334(b)(2) or if immediately after such liquidation the transferee of such assets does not qualify as a DISC. However, the separate corporate existence as a DISC, or former DISC, will not be treated as having ceased in the case of a mere change in place of organization, however effected. See § 1.996–8 for rules for the carryover of the divisions of a DISC's earnings and profits to one or more DISC's.

(d) *Holding period of stock.* For purposes of this paragraph, the period during which a shareholder has held stock includes the period he is considered to have held it by reason of the application of section 1223 and, if his basis is determined in whole or in part under the provisions of section 1014(d) (relating to special rule for DISC stock acquired from decedent), the holding period of the decedent. Such holding period is to exclude the day of acquisition but include the day of disposition. Thus, for example, if A purchases stock in a DISC on December 31, 1972, and makes a gift of such stock to B on June 30, 1973, then on December 31, 1974, B will be treated as having held the stock for 2 full years. If the basis of the stock in C's hands is determined under section 1014(d) upon a transfer from B's estate on December 31, 1976, by reason of B's death on June 30, 1974, then on December 31, 1976, C will be treated as having held the stock for 4 full years.

(e) *Accumulated DISC income allocable to shareholder under section 995*

(c)—(1) *In general.* Under this paragraph, rules are prescribed for purposes of paragraphs (b) and (c) of this section as to the manner of determining with respect to the stock of a DISC, or former DISC, disposed of, the amount of accumulated DISC income which is attributable to such stock and which was accumulated in taxable years of the corporation during the period or periods the stock disposed of was held or treated under paragraph (d) of this section as held by the transferor. Subparagraphs (2), (3), and (4) of this paragraph set forth a method of computation which may be employed to determine such amount. Any other method may be employed so long as the result obtained would be the same as the result obtained under such method.

(2) *Step 1.* Determine the increase (or decrease) in accumulated DISC income for each taxable year of the DISC, or former DISC, by subtracting from the amount of accumulated DISC income (as defined in § 1.996–3(b)) at the close of each taxable year, the amount thereof as of the close of the immediately preceding taxable year.

(3) *Step 2.* (i) Determine for each taxable year of the DISC, or former DISC, the increase (or decrease) in accumulated DISC income per share by dividing such increase (or decrease) for the year by the number of shares outstanding or deemed outstanding on each day of such year.

(ii) If the number of shares of stock in the corporation outstanding on each day of a taxable year of the DISC, or former DISC, is not constant, then the number of such shares deemed outstanding on each day of such year shall be the sum of the fractional amounts in respect of each share outstanding on any day of the taxable year. The fractional amount in respect of a share shall be determined by dividing the number of days in the taxable year on which such share was outstanding (excluding the day the share became outstanding, but including the day the share ceased to be outstanding), by the total number of days in such taxable year.

(iii) If for any taxable year of a DISC, or former DISC, the share disposed of was not held (or treated under paragraph (d) of this section as held) by the disposing shareholder for the entire year, then the amount of increase (or decrease) in accumulated DISC income attributable to such share for such year is the amount determined as if he held the share until the end of such year multiplied by a fraction the numerator of which is the number of days in the taxable year on which the shareholder held (or under paragraph (d) of this section is treated as having held) such share and the denominator of which is the total number of days in the taxable year.

(4) *Step 3.* Add the amounts computed in step 2 for each taxable year of the DISC, or former DISC, in which the shareholder held such share of stock.

(5) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). X Corporation uses the calendar year as its taxable year and elects to be a DISC for the first time for 1973. On January 1, 1973, X has 20 shares issued and outstanding. A and B each own 10 shares. On July 1, 1976, X issues 10 shares to C. On December 31, 1977, A sells his 10 shares to D and recognizes a gain of $120. Under these facts and other facts assumed in the table below, A includes in his gross income for 1977 a dividend under paragraph (a) of this section of $61.30 and long-term capital gain of $58.70.

Year	(a) Year end accumulated DISC income	(b) Increase (decrease) in accumulated DISC income	(c) Shares outstanding	(d) Increase (decrease) per share (column (b) ÷ column (c))
1973	$80	$80	20	$4.00
1974	50	(30)	20	(1.50)
1975	80	30	20	1.50
1976	100	20	[1] 25	.80
1977	140	40	30	1.33

[1] Under subparagraph (3)(i) of this paragraph the aggregate fractional amounts of the 10 shares issued on July 1, 1976, is 5 shares, i.e., 10 shares, multiplied by (183 days/366 days). Thus the number of shares deemed outstanding for 1976 is 25 shares, i.e., 20 shares plus 5 shares.

(1) Total increase in accumulated DISC income for each share disposed of	$6.13
Multiply by number of shares disposed of	10
(2) Total amount of accumulated DISC income attributable to all shares disposed of	61.30
(3) A's gain	120.00
(4) Portion of A's gain taxable as a dividend (lower of lines (2) and (3))	61.30
(5) Portion of A's gain taxable as long-term capital gain (line (3) minus line (4))	58.70

Example (2). Assume the same facts as in example (1), except that A sells his 10 shares to D on July 1, 1977. Under subparagraph (3)(ii) of this paragraph, the amount of increase in accumulated DISC income for 1977 which is attributable to each share disposed of is limited to $.67, i.e., $1.33 multiplied by 183 days/366 days. Under these facts, A would include in his gross income for 1977 a dividend of $54.70 and long-term capital gain of $65.30 determined as follows.

(1) Total increase in accumulated DISC income for each share disposed of	$5.47
Multiplied by number of shares disposed of	10
(2) Total amount of accumulated DISC income attributable to all shares disposed of	$54.70
(3) A's gain	$120.00
(4) Portion of A's gain taxable as a dividend (lower lines (2) and (3))	$54.70
(5) Portion of A's gain taxable as long-term capital gain (line (3) minus line (4))	$65.30

PAR. 2. The following new sections are added immediately after § 1.994–5.

§ 1.996 Statutory provisions; rules for allocation in the case of distributions and losses.

(a) RULES FOR ACTUAL DISTRIBUTIONS AND CERTAIN DEEMED DISTRIBUTIONS.—

(1) IN GENERAL.—Any actual distribution (other than a distribution described in paragraph (2) or to which section 995(c) applies) to a shareholder by a DISC (or former DISC) which is made out of earnings and profits shall be treated as made—

(A) First, out of previously taxed income, to the extent thereof,

(B) Second, out of accumulated DISC income, to the extent thereof, and

(C) Finally, out of other earnings and profits.

(2) QUALIFYING DISTRIBUTIONS.—Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements), and any deemed distribution pursuant to section 995(b)(1)(E) (relating to foreign investment attributable to producer's loans), shall be treated as made—

(A) First, out of accumulated DISC income, to the extent thereof,

(B) Second, out of the earnings and profits described in paragraph (1)(C), to the extent thereof, and

(C) Finally, out of previously taxed income.

(3) EXCLUSION FROM GROSS INCOME.—Amounts distributed out of previously taxed income shall be excluded by the distributee from gross income except for gains described in subsection (e)(2), and shall reduce the amount of the previously taxed income.

(b) ORDERING RULES FOR LOSSES.—If for any taxable year a DISC, or a former DISC, incurs a deficit in earnings and profits, such deficit shall be chargeable—

(1) First, to earnings and profits described in subsection (a)(1)(C), to the extent thereof,

(2) Second, to accumulated DISC income, to the extent thereof, and

(3) Finally, to previously taxed income, except that a deficit in earnings and profits shall not be applied against accumulated DISC income which has been determined is to be deemd distributed to the shareholders (pursuant to section 995(b)(2)(A)) as a result of a revocation of election or other disqualification.

(c) PRIORITY OF DISTRIBUTIONS.—Any actual distribution made during a taxable year shall be treated as being made subsequent to any deemed distribution made during such year. Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements) shall be treated as being made before any other actual distributions during the taxable year.

(d) SUBSEQUENT EFFECT OF PREVIOUS DISPOSITION OF DISC STOCK.—

(1) SHAREHOLDER PREVIOUSLY TAXED INCOME ADJUSTMENT—If—

(A) gain with respect to a share of stock of a DISC or former DISC is treated under section 995(c) as a dividend or as gain from the sale or exchange of property which is not a capital asset, and

(B) any person subsequently receives an actual distribution made out of accumulated DISC income, or a deemed distribution made pursuant to section 995(b)(2), with respect to such share,

Example (2). Assume the same facts as in example (1), except that A sells his 10 shares to D on July 1, 1977. Under subparagraph (3)(ii) of this paragraph, the amount of increase in accumulated DISC income for 1977 which is attributable to each share disposed of is limited to $0.67, i.e., $1.33 multiplied by 183 days/366 days. Under these facts, A would include in his gross income for 1977 a dividend of $54.70 and long term capital gain of $65.30 determined as follows:

(1) Total increase in accumulated DISC income for each share disposed of	$5.47
Multiplied by number of shares disposed of	10
(2) Total amount of accumulated DISC income attributable to all shares disposed of	$54.70
(3) A's gain	120.00
(4) Portion of A's gain taxable as a dividend (lower lines (2) and (3))	54.70
(5) Portion of A's gain taxable as long term capital gain (line (3) minus line (4))	65.30

PAR. 2. The following new sections are added immediately after § 1.995–5.

§ 1.996 Statutory provisions; rules for allocation in the case of distributions and losses.

(a) *Rules for actual distributions and certain deemed distributions.*—

(1) *In general.*—Any actual distribution (other than a distribution described in Paragraph (2) or to which section 995(c) applies) to a shareholder by a DISC (or former DISC) which is made out of earnings and profits shall be treated as made—

(A) First, out of previously taxed income, to the extent thereof,

(B) Second, out of accumulated DISC income, to the extent thereof, and

(C) Finally, out of other earnings and profits.

(2) *Qualifying distributions.*—Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements), and any deemed distribution pursuant to section 995(b)(1)(E) (relating to foreign investment attributable to producer's loans), shall be treated as made—

(A) First, out of accumulated DISC income, to the extent thereof,

(B) Second, out of the earnings and profits described in Paragraph (1)(C), to the extent thereof, and

(C) Finally, out of previously taxed income.

(3) *Exclusion from gross income.*—Amounts distributed out of previously taxed income shall be excluded by the distributee from gross income except for gains described in subsection (e)(2), and shall reduce the amount of the previously taxed income.

(b) *Ordering rules for losses.*—If for any taxable year a DISC, or a former DISC, incurs a deficit in earnings and profits, such deficit shall be chargeable—

(1) First, to earnings and profits described in subsection (a)(1)(C), to the extent thereof,

(2) Second, to accumulated DISC income, to the extent thereof, and

(3) Finally, to previously taxed income, except that a deficit in earnings and profits shall not be applied against accumulated DISC income which has been determined is to be deemed distributed to the shareholders (pursuant to section 995(b)(2)(A)) as a result of a revocation of election or other disqualification.

(c) *Priority of distributions.*—Any actual distribution made during a taxable year shall be treated as being made subsequent to any deemed distribution made during such year. Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements) shall be treated as being made before any other actual distributions during the taxable year.

(d) *Subsequent effect of previous disposition of DISC stock.*—

(1) *Shareholder previously taxed income adjustment.*—If—

(A) Gain with respect to a share of stock of a DISC or former DISC is treated under section 995(c) as a dividend or as gain from the sale or exchange of property which is not a capital asset, and

(B) Any person subsequently receives an actual distribution made out of accumulated DISC income, or a deemed distribution made pursuant to section 995(b)(2), with respect to such share,

such person shall treat such distribution in the same manner as a distribution from previously taxed income to the extent that (i) the gain referred to in Subparagraph (A) exceeds (ii) any other amounts with respect to such share which were treated under this paragraph as made from previously taxed income. In applying this paragraph with respect to a share of stock in a DISC or former DISC, gain on the acquisition of such share by the DISC or former DISC or gain on a transaction prior to such acquisition shall not be considered gain referred to in Subparagraph (A).

(2) *Corporate adjustment upon redemption.*—If section 995(c) applies to a redemption of stock in a DISC or former DISC, the accumulated DISC income shall be reduced by an amount equal to the gain described in section 995(c) with respect to such stock which is (or has been) treated as gain from the sale or exchange of property which is not a capital asset, except to the extent distributions with respect to such stock have been treated under Paragraph (1).

(e) *Adjustment to basis.*—

(1) *Additions to basis.*—Amounts representing deemed distributions as provided in section 995(b) shall increase the basis of the stock with respect to which the distribution is made.

(2) *Reductions of basis.*—The portion of an actual distribution made out of previously taxed income shall reduce the basis of the stock with respect to which it is made, and to the extent that it exceeds the adjusted basis of such stock, shall be treated as gain from the sale or exchange of property. In the case of stock includible in the gross estate of a decedent for which an election is made under section 2032 (relating to alternate valuation), this paragraph shall not apply to any distribution made after the date of the decedent's death and before the alternate valuation date provided by section 2032.

(f) *Definitions of divisions of earnings and profits.*—For purposes of this part:

(1) *DISC income.*—The earnings and profits derived by a corporation during a taxable year in which such corporation is a DISC, before reduction for any distributions during the year, but reduced by amounts deemed distributed under section 995(b)(1), shall constitute the DISC income for such year. The earnings and profits of a DISC for a taxable year include any amounts includible in such DISC's gross income pursuant to section 951(a) for such year. Accumulated DISC income shall be reduced by deemed distributions under section 995(b)(2).

(2) *Previously taxed income.*—Earnings and profits deemed distributed under section 995(b) for a taxable year shall constitute previously taxed income for such year.

(3) *Other earnings and profits.*—The earnings and profits for a taxable year which are described in neither Paragraph (1) nor (2) shall constitute the other earnings and profits for such year.

(g) *Effectively connected income.*—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, gains referred to in section 995(c) and all distributions out of accumulated DISC income including deemed distributions shall be treated as gains and distributions which are effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

[Sec. 996 as added by sec. 501 Rev. Act, 1971 (85 Stat. 547)]

§ 1.996–1 Rules for actual distributions and certain deemed distributions.

(a) *General rule.* Under section 996(a)(1), any actual distribution (other than a distribution described in paragraph (b) of this section or to which § 1.995–4 applies) to a shareholder by a DISC, or former DISC, which is made out of earnings and profits shall be treated as made—

(1) First, out of "previously taxed income" (as defined in § 1.996–3(c)) to the extent thereof,

(2) Second, out of "accumulated DISC income" (as defined in § 1.996–3(b)) to the extent thereof, and

(3) Third, out of "other earnings and profits" (as defined in § 1.996–3(d)) to the extent thereof.

(b) *Special rule for qualifying distributions and deemed distributions under section 995(b)(1)(E).* Under section 996(a)(2), any actual distribution to meet qualification requirements made pursuant to § 1.992–3 (as proposed in 37 F.R. 18477 for September 12, 1972), and any deemed distribution pursuant to § 1.995–2(a)(5) (relating to foreign investment attributable to producer's loans), which is made out of earnings and profits shall be treated as made—

(1) First, out of "accumulated DISC income" (as defined in § 1.996–3(b)) to the extent thereof,

(2) Second, out of "other earnings and profits" (as defined in § 1.996–3(d)) to the extent thereof, and

(3) Third, out of "previously taxed income" (as defined in § 1.996–3(c)) to the extent thereof.

(c) *Exclusion from gross income.* Under section 996(a)(3), amounts distributed out of previously taxed income shall be excluded by the distributee from gross income. However, see § 1.996–5(b) for treatment as gain from the sale or exchange of property of the portion of an actual distribution out of previously taxed income to the extent it exceeds the adjusted basis of the stock with respect to which the distribution is made.

(d) *Priority of distributions.* Under section 996(c), for purposes of determining their treatment under paragraphs (a), (b), and (c) of this section, distributions made during a taxable year shall be treated as being made in the following order—

(1) Deemed distributions under §§ 1.995–2 and 1.995–3,

(2) Actual distributions to meet qualification requirements made pursuant to § 1.992–3 (as proposed in 37 F.R. 18477 for September 12, 1972), and

(3) Other actual distributions.

Thus, the treatment of any distribution shall be determined after the divisions of earnings and profits have been properly adjusted by taking into account distributions of higher priority which are made or deemed made during the same taxable year.

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

Example (1). (i) *Facts.* Y corporation which uses the calendar year as its taxable year, for the first time elects to be treated as a DISC beginning with 1972. X corporation is its sole shareholder. At the beginning of 1974, Y has a deficit in earnings and profits of $60 all of which is composed of "other earnings and profits." Because of actual distributions in 1973, Y at the beginning of 1974 does not have any previously taxed income or accumulated DISC income. For 1974, Y has earnings and profits of $80 before reduction for any distributions and taxable income of $70. On June 15, 1974, Y makes a cash distribution to X of $60, with respect to its stock, to which section 301 applies. On August 15, 1974, Y makes a cash distribution to X of $30 designated as a distribution to meet qualification requirements pursuant to § 1.992–3. Under § 1.995–2(a), X is deemed to receive, on December 31, 1974, a distribution of a dividend equal to ½ of Y's taxable income (i.e., $35). The tax consequences of these facts to X and their effect on Y's earnings and profits are set forth in the subsequent subparagraphs of this example.

(ii) *Treatment of actual distributions.* Since X had $80 of earnings and profits for 1974 and a deficit in accumulated earnings and profits at the beginning of 1974, only $80 of the actual distributions ($90) are treated as dividends under sections 301(c)(1) and 316(a)(2). (Ten dollars of the actual distribution, which is not treated as a dividend is treated in the manner specified in section 301(c)(2) and (3).)

(iii) *Priority of distributions.* Under paragraph (d) of this section, for purposes of adjusting the divisions of Y's earnings and profits, the sequence in which the distributions are treated as having been made is:

(*a*) First, the deemed distribution of $35,

(*b*) Second, the actual qualifying distribution of $30 made on August 15, 1974, pursuant to § 1.992–3, and

(*c*) Finally, the actual distribution of $60 on June 15, 1974.

(iv) *Effect of the deemed distribution and addition of DISC income.* The deemed distribution of $35 is taxable to Y's shareholders as a dividend under § 1.995–2 and Y's previously taxed income is increased by $35. The remainder of X's earnings and profits for 1974 of $45 (i.e., $80 less $35 deemed distributed) constitutes DISC income as defined in § 1.996–3(b) and is added to accumulated DISC income.

(v) *Effect of actual qualifying distribution.* Under paragraph (b) of this section, the actual qualifying distribution of $30 on August 15, 1974, reduces accumulated DISC income to the extent it is paid out of Y's earnings and profits. Under § 1.316–2(b), the proportionate amount of the $30 distribution paid out of earnings and profits is $26.67, i.e., $30 x $80/$90. Thus, Y's accumulated DISC income is reduced by the $26.67 dividend. Since no part of such dividend is paid out of previously taxed income X includes it in gross income in accordance with section 301(c)(1). No deduction is allowable to X under section 243.

(vi) *Effect of actual distribution $60 on June 15.* Under paragraph (a) of this section, to the extent the actual distribution of $60 on June 15, 1974, is paid out of earnings and profits, it first reduces previously taxed income to the extent thereof and secondly it reduces accumulated DISC income to the extent thereof. Under § 1.316–2(b) the proportionate amount of the $60 distribution paid out of earnings and profits is $53.33, i.e., $60 x $80/$90. Thus, the DISC's previously taxed income is reduced by $35 (to zero) and its accumulated DISC income is reduced by $18.33 (to zero). Under paragraph (c) of this section, X excludes from gross income the $35 paid out of previously taxed income and, under section 301(c)(1), includes the balance of $18.33 in gross income as a dividend.

(vii) *Summary.* As a result of the deemed and actual distributions for 1974, X includes in its gross income as dividends $80 of which $35 is attributable to the deemed distribution on December 31, 1974, $26.67 is attributable to the qualifying distribution on August 15, 1974, and $18.33 is attributable to the actual distribution on June 15, 1974. Thirty-five dollars of such actual distribution on June 15, 1974, is excluded from X's gross income as made out of previously taxed income. X also receives a return of capital of $10 of which $3.33 is attributable to the qualifying distribution and $6.67 is attributable to the actual distribution on June 15, 1974. As a result of such distributions, Y's divisions of earnings and profits on January 1, 1975, are: accumulated DISC income of $0, previously taxed income of $0, and a deficit in other earnings and profits of ($60).

Example (2). Assume the facts are the same as in example (1), except that at the beginning of 1974 Y's accumulated earnings and profits amount to $60 consisting of accumulated DISC income of $20, previously taxed income of $10, and other earnings and profits of $30. In addition on August 1, 1974, Z acquires all of X's stock in Y in a tax-free "B" reorganization. Under these facts, X includes in its gross income for 1974 a dividend of $15 which is attributable to the actual distribution of $60 paid out of earnings and profits on June 15, 1974. Under paragraph (c) of this section, X excludes from gross income the balance of the $60 distribution ($45) paid out of earnings and profits because, under paragraph (a), it is treated as paid out of previously taxed income. Z includes in its gross income for 1974 a dividend of $65 of which $35 is attributable to the deemed distribution of a dividend to Z on December 31, 1974, under § 1.995–2(a) and $30 is attributable to the qualifying distribution paid out of earnings and profits to Z on August 15, 1974. The adjustments to Y's earnings and profits are summarized in the following table.

	Earnings and profits for year	Accumulated earnings and profits	Accumulated DISC income	Previously taxed income	Other earnings and profits
(1) Balance Jan. 1, 1974		$60	$20	$10	$30
(2) Earnings and profits for year before reduction for distributions	$80				
(3) Deemed distribution of $35 to Z on Dec. 31, 1974 under § 1.995–2(a)				35	
(4) DISC income for 1974 of $45 as defined in § 1.996–2 (b) (line 2 ($80) minus line 3 ($35))			45		
(5) Balance before actual distributions	80	60	65	45	30
(6) Qualifying distribution of $30 to Z on Aug. 15 pursuant to § 1.992–3	(26.67)	(3.33)	(30)		
(7) Actual distribution to X of $60 on June 15, 1974	(53.33)	(6.67)	(15)	(45)	
(8) Balance Jan. 1, 1974		50	20	0	30

§ 1.996–2 Ordering rules for losses.

(a) *In general.* Under section 996(b), if for any taxable year a DISC, or a former DISC, incurs a deficit in earnings and profits, such deficit shall be charged—

(1) First, to other earnings and profits (as defined in § 1.996–3(d)), to the extent thereof,

(2) Second, to accumulated DISC income (as defined in § 1.996–3(b)), to the extent thereof, subject to the special rule in paragraph (b) of this section,

(3) Third, to previously taxed income (as defined in § 1.996–3(c)), to the extent thereof, and

(4) To the extent that the amount of such deficit exceeds the sum of the amounts charged in accordance with subparagraphs (1), (2), and (3) of this paragraph, to other earnings and profits (as defined in § 1.996–3(d)). Thus, the excess deficit charged to other earnings and profits under this subparagraph will create a deficit therein in the amount of such excess. For purposes of determining the portion of any such deficit which is chargeable to such divisions of earnings and profits prior to determining the treatment of distributions under § 1.996–1, the rules of § 1.316–2(b) shall apply.

(b) *Deficits subsequent to a disqualification.* A deficit in earnings and profits of a DISC, or former DISC, shall not be charged to accumulated DISC income which has been determined is to be deemed distributed to the shareholders pursuant to § 1.995–3 as a result of a revocation of election or other disqualification. Thus, in accordance with paragraph (a) of this section as modified by this paragraph, a deficit incurred by a former DISC following such a revocation or disqualification shall be charged first to other earnings and profits and then to previously taxed income with any balance being charged to other earnings and profits and creating a deficit therein. The preceding sentence shall also apply in the case of a deficit incurred by a DISC which has no accumulated DISC income accumulated during its current taxable year and all immediately preceding consecutive taxable years for which it was a DISC.

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

Example (1). X Corporation, which uses the calendar year as its taxable year, becomes a DISC beginning with 1976. In addition to other facts assumed in the table below, X incurs a deficit in earnings and profits for 1979 of $70. Such deficit is charged to the divisions of X's earnings and profits pursuant to paragraph (a) of this section in the manner set forth in such table.

	Accumulated DISC income	Previously taxed income	Other earnings and profits
Balance Jan. 1, 1976			$50
Increase for 1976	$10	$8	
Increase for 1977	10	8	
Increase for 1978	10	8	
Balance Jan. 1, 1979	30	24	50
Deficit for 1979 of $70:			
Charge No. 1			(50)
Charge No. 2	(20)		
Balance Jan. 1, 1980	10	24	0

Example (2). Assume the same facts as in example (1), except that effective for taxable years beginning with 1979, X revokes its election to be treated as a DISC. Under § 1.995–3, X has $30 of accumulated DISC income which has been determined is to be distributed over the following 3 years, or a deemed distribution of $10 per year in 1980, 1981, and 1982. The deficit in earnings and profits for 1979 is charged to the divisions of X's earnings and profits pursuant to paragraph (b) of this section in the manner set forth in the table below:

	Accumulated DISC income	Previously taxed income	Other earnings and profits
Balance Jan. 1, 1979	$30	$24	$50
Deficit for 1979 of $70:			
Charge No. 1			(50)
Charge No. 2		(20)	
Balance Jan. 1, 1980	30	4	0

Example (3). Assume the same facts as in example (2), except that the deficit in earnings and profits for 1979 is $120. Assume further that for 1980, 1981, and 1982 during which years X's shareholders are receiving scheduled installments of the deemed distributions of accumulated DISC income under § 1.995–3, X, a former DISC, has neither earnings and profits nor a deficit in earnings and profits. The $120 deficit for 1979 is charged to the divisions of X's earnings and profits pursuant to paragraph (b) of this section in the manner, and with the results, set forth in the table below:

	Accumulated DISC income	Previously taxed income	Other earnings and profits	Accumulated earnings and profits
Balance Jan. 1, 1979	$30	$24	$50	$104
Deficit for 1979 of $120				(120)
Charge No. 1			(50)	
Charge No. 2		(24)		
Charge No. 3			(46)	
Balance Jan. 1, 1980	30	0	(46)	(16)
Deemed distributions in 1980 under § 1.995-3	(10)			
Balance Jan. 1, 1981	20	10	(46)	(16)

§ 1.996–3 Divisions of earnings and profits.

(a) *In general.* For purposes of sections 991 through 997, the earnings and profits of a DISC, or former DISC, shall be treated as composed of the following three divisions:

(1) Accumulated DISC income (as defined in paragraph (b) of this section),

(2) Previously taxed income (as defined in paragraph (c) of this section), and

(3) Other earnings and profits (as defined in paragraph (d) of this section).

(b) *Accumulated DISC income defined*—(1) *In general.* Accumulated DISC income is that portion of a corporation's earnings and profits which were derived during taxable years for which it qualified as a DISC and which were deferred from taxation. Accumulated DISC income as of the close of each taxable year of the corporation is—

(i) The amount of accumulated DISC income as of the close of the immediately preceding taxable year increased by

(ii) The amount of DISC income for the year (as determined in subparagraph (2) of this paragraph) and reduced (but not below zero) by

(iii) The items enumerated in subparagraph (3) of this paragraph.

(2) Under section 996(f)(1), DISC income is (i) the earnings and profits derived by the corporation during a taxable year for which such corporation is a DISC minus (ii) amounts deemed distributed under § 1.995–2 other than the amount of foreign investment attributable to producer's loans described in § 1.995–2(a)(5). For example, the earnings and profits of a DISC for a taxable year include any amounts includible in such DISC's gross income pursuant to section 951(a) (relating to controlled foreign corporations). Deemed distributions under § 1.995–2(a)(5) are taken into account under subparagraph (3) of this paragraph as a reduction in computing accumulated DISC income.

(3) The accumulated DISC income (as increased by DISC income for the year determined under subparagraph (2) of this section) is reduced by each of the following items in the following order:

(i) Any amount deemed distributed for such year under § 1.995–3 (relating to deemed distributions upon disqualification),

(ii) Any amount of foreign investment attributable to producer's loans deemed distributed as a dividend for such year under § 1.995–2(a)(5) to the extent it is charged to accumulated DISC income under § 1.996–1(b)(1),

(iii) The amount of any adjustment to accumulated DISC income for such year under § 1.996–4(b)(1),

(iv) The amounts of any actual qualifying distributions pursuant to § 1.992–3 (as proposed in 37 F.R. 18477 for September 12, 1972) in the order in which they are made and finally the amounts of any other actual distributions in the order in which they are made, except that prior to each actual distribution accumulated DISC income shall be reduced by the portion of any deficit in earnings and profits chargeable to it as of that time.

(4) Every distribution or other reduction in accumulated DISC income pursuant to subparagraph (3) of this paragraph shall be charged to the most recently accumulated DISC income and every reduction under subparagraph (3) (iii) of this paragraph shall be charged thereto in the order in which the actual distributions are made or deemed to be made under § 1.996–1(d).

(c) *Previously taxed income.* Under section 996(f)(2), previously taxed income at the close of each taxable year of the corporation is—

(1) The sum of (i) the amount of previously taxed income as of the close of the immediately preceding taxable year, and (ii) amounts deemed distributed for the current year under § 1.995–2 (relating to deemed distributions in qualified years) and §1.995–3 (relating to deemed distributions upon disqualifications) reduced (but not below zero) in the following order by—

(2) The amounts of any actual qualifying distributions pursuant to § 1.992–3 (as proposed in 37 F.R. 18477 for September 12, 1972) in the order in which they are made and finally the amounts of any other actual distributions in the order in which they are made, except that prior to each actual distribution accumulated DISC income shall be reduced by the portion of any deficit in earnings and profits chargeable to it as of that time.

(d) *Other earnings and profits.* Under section 996(f)(3), the earnings and profits which are not described in either paragraph (b) or (c) of this section constitute the other earnings and profits. In general, other earnings and profits represent amounts derived in taxable years for which the corporation was not a DISC. Other earnings and profits shall be reduced by amounts treated as distributed out of them under § 1.996–1 (relating to treatment of distributions) and deficits in earnings and profits for the year charged against them under § 1.996–2.

§ 1.996–4 Subsequent effect of previous disposition of DISC stock.

(a) *Shareholder adjustment for previously taxed income.* (1) Under section 996(d)(1), except as provided in subparagraph (2) of this paragraph, if—

(i) Gain with respect to a share of stock of a DISC, or former DISC, is treated under § 1.995–4 as a dividend, and

(ii) With respect to such share, any person subsequently receives an actual distribution made out of accumulated DISC income, or a deemed distribution made, pursuant to § 1.995–3, by reason of disqualification, out of accumulated DISC income,

then such person shall treat such distribution in the same manner as a distribution from previously taxed income (and thus excludable from gross income under § 1.996–1(c)) to the extent that the gain referred to in subdivision (i) of this subparagraph exceeds the aggregate amount of any other distributions with respect to such share which were treated under this subparagraph as made from previously taxed income.

(2) In applying subparagraph (1) of this section with respect to a share of stock in a DISC, or former DISC, the gain referred to in subparagraph (1)(i) does not include any gain to a share-

holder on a redemption of such share which qualifies as an exchange under section 302(a) or any gain on a disposition of such share prior to such redemption. Distributions described in subparagraph (1)(ii) of this paragraph do not include a distribution in a redemption which qualifies as an exchange under section 302(a). For adjustments to accumulated DISC income by reason of dividends under § 1.995–4 upon DISC stock and upon a prior disposition of such stock, see paragraph (b) of this section.

(3) *Example:* The application of this paragraph may be illustrated by the following example:

Example. In 1974, under § 1.995–4, A, a shareholder of a DISC, on the sale of his DISC stock to B, is required to treat $20 of his gain as a dividend. The DISC has no previously taxed income and $40 of accumulated DISC income. Subsequently in the same year, B, the purchaser of the stock, receives an actual dividend distribution of $15 with respect to such stock which, under § 1.996–1(a) is treated as made out of accumulated DISC income. The amounts of the DISC's previously taxed income and accumulated DISC income were not adjusted by reason of the dividend on the prior sale. However, even though the DISC had no previously taxed income, the purchaser would treat the $15 as though it had been paid out of previously taxed income and, therefore, would not include the $15 in gross income. If in 1975, B receives another actual distribution of $10 with respect to such stock, $5 (i.e., $20 dividend on A's sale less the $15 distribution to B in 1974 which was treated under subparagraph (1) of this paragraph as made from previously taxed income) is treated as made from previously taxed income and excluded from gross income. The result would be the same if, on January 1, 1974, B had transferred such stock to C by gift and the $10 distribution had been made to C. C would receive the $5 tax-free.

(b) *Corporate adjustment upon redemption.* (1) Under section 996(d)(2), if by reason of § 1.995–4 gain on a redemption of stock in a DISC, or former DISC, is included in the shareholder's gross income as a dividend, then the accumulated DISC income shall be reduced by an amount equal to the sum of—

(i) The amount of gain on such redemption which, under § 1.995–4, is treated as a dividend, and

(ii) The amount of any gain with respect to such redeemed stock which, under § 1.995–4, was treated as a dividend on a disposition prior to such redemption minus the amount of distributions with respect to such stock which have been treated as made out of previously taxed income by reason of the application of paragraph (a)(1) of this section.

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

Example (1). The entire stock of a DISC, which uses the calendar year as its taxable year, has been owned equally by A, B, C, and D since it was organized. At the close of 1976, when the DISC has $100 of accumulated DISC income, it redeems all of A's shares in a transaction qualifying as an exchange under section 302(a) and A, under § 1.995–4 includes $25 in his gross income as a dividend. The redemption has the effect of reducing accumulated DISC income by $25 to $75.

Example (2). Assume the same facts as in example (1) except that the stock of the DISC has not been held equally by A, B, C, and D since its organization. A purchases his shares from X in 1974 in a transaction in which X, under § 1.995–4, includes in his gross income $30 as a dividend. In 1975, A receives a distribution of $10 out of accumulated DISC income which, under paragraph (a)(1) of this section, is treated as made out of previously taxed income. Under these facts, the redemption of A's stock in 1976 has the effect of reducing accumulated DISC income by $45 to $55 determined as follows:

(a) Accumulated DISC income	$100
(b) Minus sum of:	
(1) Dividend on redemption of A's stock	25
(2) Excess of dividend on X's sale ($30) over distribution to A treated as made out of previously taxed income ($10)	20
Total	45
(c) Accumulated DISC income on Dec. 31, 1976	55

§ 1.996–5 Adjustment to basis.

(a) *Addition to basis.* Under section 996(e)(1), amounts representing deemed distributions as provided in section 995(b) shall increase the basis of the stock with respect to which the distribution is made.

(b) *Reductions of basis.* Under section 996(e)(2), the portion of an actual distribution treated as made out of previously taxed income shall reduce the basis of the stock with respect to which it is made and, to the extent that it exceeds the adjusted basis of such stock, shall be treated as gain from the sale or exchange of property. In the case of stock includible in the gross estate of a decedent for which an election is made under section 2032 (relating to alternate valuation), this paragraph shall not apply to any distribution made after the date of the decedent's death and before the alternate valuation date provided by section 2032. See section 1014(d) for a special rule for determining the basis of stock in a DISC, or former DISC, acquired from a decedent.

§ 1.996–6 Effectively connected income.

In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, amounts taxable as dividends by reason of the application of § 1.995–4 (relating to gain on disposition of stock in a DISC), amounts treated under § 1.996–1 as distributed out of accumulated DISC income, and amounts deemed distributed under § 1.995–2(a)(1) through (4) shall be treated as gains and distributions which are effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States, and shall be subject to tax in accordance with the provisions of section 871(b) and the regulations thereunder in the case of nonresident alien individuals, trusts, or estates, or section 882 and the regulations thereunder in the case of foreign corporations. In no case, however, shall other income of such shareholder be taxable as effectively connected with the conduct of a trade or business through a permanent establishment in the United States solely because of the application of this section.

§ 1.996–7 Carryover of DISC tax attributes.

(a) *In general.* Carryover of a DISC's divisions of earnings and profits to acquiring corporations in nontaxable transactions shall be subject to rules generally applicable to other corporate tax attributes. For example, a DISC which acquires the assets of another DISC in a transaction to which section 381(a) applies shall succeed to, and take into account, the divisions of the earnings and profits of the transferor DISC in accordance with section 381(c)(2).

(b) *Allocation of divisions of earnings and profits in corporate separations.* If one DISC transfers part of its assets to another controlled DISC in a transaction to which section 368(a)(1)(D) applies and immediately thereafter the stock of the controlled DISC is distributed in a distribution or exchange to which section 355 (or so much of section 356 as relates to section 355) applies, then—

(1) The earnings and profits of the distributing DISC immediately before the transaction shall be allocated between the distributing DISC and the controlled DISC in accordance with the provisions of § 1.312–10.

(2) Each of the divisions of such earnings and profits, namely previously taxed income, accumulated DISC income, and other earnings and profits, shall be allocated on the same basis as the earnings and profits are allocated.

(3) Any qualified export assets of the distributing DISC which are limited by its accumulated DISC income (e.g., producer's loans; Export-Import Bank and other obligations described in § 1.993–2(h); and financing obligations described in § 1.993–2(i) (as proposed in 37 F.R. 20859 for Oct. 4, 1972)), shall be allocated on the same basis as the earnings and profits are allocated.

(c) *Accumulated DISC income accounts of separate DISC's maintained after corporate combination.* If two or more DISC's combine to form a new DISC, or if the assets of one DISC are acquired by another DISC, in a transaction described in section 381(a), accumulated DISC income of the acquired DISC or DISC's, shall carry over and be taken into account by the acquiring or new DISC, except that a separate account shall be maintained for the accumulated DISC income of any DISC scheduled to be received as a deemed distribution by its shareholders under § 1.995–3 (relating to deemed distributions upon disqualification).

§ 1.996–8 Effect of carryback of capital loss or net operating loss to prior DISC taxable year.

(a) Under § 1.995–2(e) the deduction under section 172 for a net operating loss carryback or under section 1212 for a capital loss carryback is determined as if the DISC were a domestic corporation which had not elected to be treated as a DISC. A carryback of a net operating loss or of a capital loss of any corporation which reduces its taxable income for a

preceding taxable year for which it qualified as a DISC will have the consequences enumerated in paragraphs (b) through (e) of this section.

(b) For such preceding taxable year, the amount of a deemed distribution of one-half of certain taxable income described in § 1.995–2(a)(4) is reduced in effect (but not below zero) by one-half of the sum of the amount of the deduction under section 172 for such year for net operating loss carrybacks and the amount of the deduction under section 1212 for such year for capital loss carrybacks.

(c) The amount of reduction in the deemed distribution under paragraph (b) of this section will have the effect of increasing the earnings and profits limitation, provided in § 1.995–2(b)(2), on the amount of foreign investment attributable to producer's loans which is deemed distributed under § 1.995–2(a)(5).

(d) If the amount of a deemed distribution for a preceding taxable year is reduced as described in paragraph (b) of this section, then for such preceding taxable year the previously taxed income (as defined in § 1.996–3(c)) shall be decreased by the amount of such reduction and the accumulated DISC income (as defined in § 1.996–3(b)) shall be increased by the amount of such reduction. Such adjustments shall be made as of the time the deemed distribution for such preceding taxable year is treated as having occurred. See § 1.996–1(d) for the priority of such deemed distribution in relation to other distributions made in that preceding taxable year.

(e) The amount and treatment of any actual distribution made in such preceding taxable year or a year subsequent to such preceding year, and the treatment of gain on a disposition (in any such year) of the DISC's stock to which § 1.995–4 applies, shall be properly adjusted to reflect the adjustments to previously taxed income and accumulated DISC income described in paragraph (d) of this section.

§ 1.997 Statutory provisions; special subchapter C rules.

Sec. 997. For purposes of applying the provisions of subchapter C of chapter 1, any distribution in property to a corporation by a DISC or former DISC which is made out of previously taxed income or accumulated DISC income shall—

(1) Be treated as a distribution in the same amount as if such distribution of property were made to an individual, and

(2) Have a basis, in the hands of the recipient corporation, equal to the amount determined under paragraph (1).

[Sec. 997 as added by sec. 501 Revenue Act, 1971 (85 Stat. 544)]

§ 1.997–1 Special rules for subchapter C of the Code.

(a) For purposes of applying the provisions of sections 301 through 395 of the Code, any distribution in property to a corporation by a DISC, or former DISC, which is made out of previously taxed income or accumulated DISC income shall be treated as a distribution in the same amount as if such distribution of property were made to an individual, and have a basis, in the hands of the recipient corporation, equal to such amount treated as having been distributed.

(b) This section may be illustrated by the following example:

Example. X corporation is the sole shareholder of Y corporation which is a DISC. Y makes an actual distribution of property to X with respect to X's stock in Y. The property has a basis of $50 and a fair market value of $100. The distribution is treated as made out of accumulated DISC income under section 996(a) and is taxable as a dividend under section 301(c)(1). Even though X is a corporation the amount of the distribution is $100 notwithstanding the provisions of section 301(b)(1)(B) and the basis of the property in X's hands is $100 notwithstanding the provisions of section 301(d)(2).

[FR Doc.72–22291 Filed 12–28–72;8:45 am]

[26 CFR Part 1]

INCOME TAX

Withdrawal of Proposal Regarding Investment Credit Provisions

Notice is hereby given that the regulations proposed to be prescribed under section 47 of the Internal Revenue Code of 1954, relating to the investment credit, which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER on September 12, 1970 (35 F.R. 14405) are withdrawn.

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

[FR Doc.72–22398 Filed 12–28–72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 72–CE–34–AD]

BEECH MODEL 65 AND 65–80 SERIES AIRPLANES

Advance Notice of Proposed Rule Making

The FAA is considering rule making action with respect to Beech Model 65 and 65–80 series airplanes. This action would amend Part 39 of the Federal Aviation Regulations by issuing an Airworthiness Directive which would deal with a problem involving the detection and control of inflight fires resulting from massive engine disintegration in these series airplanes. Proposed improvements in fire protection include features required for transport category aircraft certification. In view of the installation and maintenance costs associated with these modifications, opinions and recommendations from Queen Air owners and operators regarding the proposed or equivalent airplane modifications are needed before considering issuance of an AD.

This advance notice of proposed rule making is being issued in accordance with the FAA's policy for the early institution of public rule making proceedings. An "advance" notice is issued when it is found that the resources of the FAA and reasonable inquiry outside of the FAA do not yield a sufficient basis to identify and select a tentative course or alternate courses of action, or where it would be helpful to invite public participation in the identification and selection of a course or alternative courses of action with respect to a particular rule making problem. The subject matter of this notice involves a situation contemplated by that policy.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, view, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, 1548 Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received on or before February 27, 1973, will be considered by the Administrator before taking action upon the proposed rule. All comments will be available, both before and after the closing date for comments, in the Regional Office for examination by interested persons. If it is determined to be in the public interest to proceed further, after consideration of the available data and comments received in response to this notice, a notice of proposed rule making will be issued.

There are approximately 800 Beech Model 65 and 65–80 series aircraft now in service. Recent accidents have indicated that engine powerplant fires in these aircraft have not been discovered or appropriate corrective action was not taken in time to prevent spread of the fire and resultant structural damage. The pilot may not discover the fire in the initial stage because the smoke or flame will egress through the augmentor tubes which are shielded from the pilot's view by the wing.

The FAA has already taken certain actions to preclude inflight fires in these airplanes. Specifically, the following has been accomplished:

(1) The agency has written owners and operators of all light twin airplanes warning them of the necessity of immediate corrective action upon the discovery of an inflight powerplant fire and urging them to observe good maintenance and operational practices on these airplanes.

(2) AD 72–18–7 has been issued requiring installation of an emergency engine shutdown procedure placard on the instrument panel of 65 and 65–80 series airplanes.

(3) AD 72–18–8 has been issued requiring compliance with Beechcraft service instructions covering installation of flexible fuel lines and inspection of existing fuel lines for damage in certain models of this series and a general inspection of all fuel system components in 65 and 65–80 series airplanes.

(4) AD 72-21-6 has been issued requiring inspection and modification of Lycoming IGSO-540-A and -B engines to detect incipient failures and improve reliability. These engines are used in Beech 65 and 65-80 series airplanes.

The manufacturer proposes to develop Service Kit No. 65-9008-1 (Nacelle Interior Fire Seal Installation) and Service Kit No. 65-9007-1 (Engine Fire Detector System Installation) which will improve the fire containment characteristics of the engine nacelle and provide a cockpit indication of an engine nacelle or wheel well fire in its early stages. The estimated cost of the Fire Detector System Installation is approximately $1,800 for the kit and 50 man-hours for installation. The Nacelle Interior Fire Seal Kit will cost approximately $300 and will require about 25 man-hours for installation. The installation of the Nacelle Interior Fire Seal Kit will provide additional time for the pilot to discover a powerplant fire and take appropriate action and therefore may lessen the need for the installation of the fire detector system. The manufacturer advises that the aforementioned kit prices are contingent upon a predetermined number of unit sales.

Recognizing that the existing actions have substantially reduced but not totally eliminated the possibility of massive engine disintegration and subsequent inflight fire in Beech 65 and 65-80 series airplanes, the agency is considering the necessity for additional rule making action which would decrease the fire detection time and increase the time interval in which action taken by the pilot to control and contain an inflight fire would be effective. In this regard the agency is especially interested in field comments and viewpoints on the following:

(1) Mandatory installation of both kits.

(2) Mandatory installation of only Service Kit 65-9008-1 nacelle interior fire seal modification.

(3) No additional regulatory action.

Since the purpose of an advance notice is to obtain public participation in the identification or selection of a course or courses of action, the agency asks that comments contain sufficient supporting statements and data to justify all recommendations and conclusions. If the justifications are based on an actual powerplant fire, the data should include:

(a) Origin of fire.

(b) Means of detection.

(c) Fire duration.

(d) Engine shutdown procedure.

(e) Aircraft and engine damage.

This advance notice of proposed rule making was authorized under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on December 15, 1972.

JOHN R. WALLS,
Acting Director, Central Region.

[FR Doc.72-22378 Filed 12-28-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-70]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Millersburg, Ohio.

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 Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. 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, 2300 East Devon Avenue, Des Plaines, IL 60018.

An instrument approach procedure based on a non-Federal NDB has been developed for the Holmes County Airport. Accordingly, it is necessary to alter the Millersburg, Ohio transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

MILLERSBURG, OHIO

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Holmes County Airport (latitude 40°32'20" N., longitude 81°57'05" W.) and within 3 miles each side of the 085° bearing from the airport extending from the 6-mile radius area to 12 miles east, and within 2 miles each side of the Tiverton, Ohio VOR 059° radial extending from the 6-mile radius area to the VOR.

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

Issued in Des Plaines, Ill., on December 8, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-22376 Filed 12-28-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-69]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Fayette County Airport, Washington Court House, Ohio.

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 Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. 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, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Fayette County Airport, Washington Court House, Ohio, utilizing a non-Federal NDB as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Washington Court House, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

WASHINGTON COURT HOUSE, OHIO

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Fayette County Airport (latitude 39°34'15" N., longitude 83°25'13" W.) and within 3 miles each side of the 037° bearing from the airport extending from the 5½-mile radius area to 10 miles northeast.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1438; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on December 8, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-22377 Filed 12-28-72;8:47 am]

[14 CFR Part 93]

[Docket No. 12457; Notice No. 72-34]

JOHN F. KENNEDY AIRPORT

Proposed Shift of Peak Hour Air Carrier IFR Reservations

The Federal Aviation Administration proposes to shift 10 air carrier (except air taxi) peak hour IFR reservations at John F. Kennedy Airport from the hour between 7 and 8 p.m. to the hour between 4 and 5 p.m.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 21, 1973, will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in the light of comments and will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Current § 93.123, *high density traffic airports*, specifies, in the table in paragraph (a) thereof, the hourly number of allocated IFR operations (takeoffs and landings) that may be reserved for specified classes of users of John F. Kennedy and other airports. That table provides for 70 such operations for air carriers, other than air taxis, at John F. Kennedy Airport. Current paragraph (b)(2) of § 93.123 modifies the provisions in the table by providing for 80 IFR reservations per hour for air carriers (except air taxis) at the John F. Kennedy Airport "from 5 p.m. to 8 p.m."

It now appears that the current regulation mismatches supply and demand for air carrier service at John F. Kennedy Airport in that the demand for air carrier service (other than a taxi service) significantly exceeds the 70 reservations allocated between 4 and 5 p.m., whereas the demand does not fully utilize the 80 reservations allocated between 7 and 8 p.m. This is concluded from information submitted by the Air Transport Association, Inc. (ATA), and the National Air Carriers Association, Inc. (NACA) in connection with the recent extension of the determination date for the high density traffic airports regulations (see Amdt. 93-25, published in the FEDERAL REGISTER on Oct. 25, 1972, at 37 F.R. 22793).

The information submitted indicates that, while the current allowance for peak period demand from 5 p.m. to 8 p.m. coincides with actual peak demands in 1969 and 1970, there has been a gradual shift in demand so that the peak now begins at 4 p.m. and ends at 7 p.m. The information also indicates that, from a scheduling standpoint, to meet expected future demand for public air transportation, much greater disruption of proposed air carrier schedules, including schedules for international operations, would result from continuing the current 5 p.m. to 8 p.m. peak reservation allowance than would result if the allowance for extra operations is shifted forward 1 hour (to the period from 4 p.m. to 7 p.m.). The details of the comments from ATA and NACA in support of their request for a shift in peak hour IFR reservations have been placed in the docket for this proposed amendment for review by interested persons.

It should be noted that this proposal would merely shift the air carrier peak hour IFR reservations provisions forward 1 hour. No substantive change is proposed with respect to the total number of IFR reservations for air carriers during the 3 hours of peak demand, nor is any substantive change proposed with respect to the IFR reservations allocated to other users of John F. Kennedy Airport.

In consideration of the foregoing, § 93.123(b)(2) of Part 93 of the Federal Aviation Regulations would be amended to read as follows (with brackets placed around the proposed change):

§ 93.123 High density traffic airports.

* * * * *

(b) * * *

(2) The allocation of IFR reservations for air carriers except air taxis at the John F. Kennedy Airport is 80 IFR reservations per hour from 4 p.m. to 7 p.m.

* * * * *

This proposed amendment is issued under the authority of sections 103, 307 (a), (b), and (c), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348 (a), (b), and (c), 1354(a), and 1421); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 22, 1972.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.72-22379 Filed 12-28-72;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 126]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Proposed Forms and Guidelines for Acquisition of Information From Owners and Operators of Point Sources; Extension of Time for Comments

The Environmental Protection Agency proposed forms and guidelines for acquisition of information from owners and operators of point sources in a notice of proposed rule making which was published in the FEDERAL REGISTER on December 5, 1972 (37 F.R. 25898). Four short application forms, a discharge monitoring report form, and accompanying instructions were proposed, pursuant to the authority contained in section 304(h)(1) of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C. — (1972)) (hereinafter referred to as the "Act").

The American Farm Bureau Federation, the Texas Farm Bureau, the Virginia Farm Bureau Federation, and a number of other persons have requested additional time to submit comments on the proposed short Form B relating to agriculture, forestry, and fishing activities. Due to the very large number of potential applicants engaged in agriculture, forestry, and fishing operations covered by short Form B, the desirability of establishing a form suitable for agricultural-related discharges, and the lack of prior experience in permitting discharges from agricultural point sources, the Environmental Protection Agency finds that good cause exists for the extension of the period for comment on short Form B and that the extension is in the public interest.

The Agency also recognizes that there may exist a large number of persons which engage in agricultural and related activities covered by short Form B and which may have an intermittent, infrequent, or small discharge which has little or no effect upon the quality of any waters covered by the Act. During the extended period for comment, the Agency invites information, statistics, and comments from interested persons on any such categories of dischargers (including any classes, types, and sizes within any category that should be excluded from NPDES application and filing requirements.

All such information, statistics, and comments should be submitted in writing to the Office of Enforcement and General Counsel, Environmental Protection Agency, Washington, D.C. 20460. The Environmental Protection Agency will consider all comments on the proposed short Form B relating to agricultural, forestry, and fishing activities received on or before January 20, 1973.

Dated: December 22, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-22332 Filed 12-28-72;8:50 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

TRUTH IN LENDING

Advertising of Open End Credit Terms

1. Pursuant to the authority contained in the Truth in Lending Act (15 U.S.C. section 1601 et seq.), the Board of Governors proposes to amend Part 226 (Regulation Z) in the manner and for the reasons set forth below:

Amend §§ 226.6(a) and 226.10 (c) and (d) to read as follows:

§ 226.6 General disclosure requirements.

(a) *Disclosures; general rule.* The disclosures required to be given by this part

shall be made clearly, conspicuously, in meaningful sequence, in accordance with the further requirements of this section, and at the time and in the terminology prescribed in applicable sections. Except with respect to the requirements of § 226.10, where the terms "finance charge" and "annual percentage rate" are required to be used, they shall be printed more conspicuously than other terminology required by this part and all numerical amounts and percentages shall be stated in figures and shall be printed in not less than the equivalent of 10 point type, .075 inch computer type, or elite size typewritten numerals, or shall be legibly handwritten.

* * * * *

§ 226.10 Advertising credit terms.

* * * * *

(c) *Advertising of open end credit.* No advertisement to aid, promote, or assist directly or indirectly the extension of open end credit may set forth any of the terms described in paragraph (a) of § 226.7, the Comparative Index of Credit Cost, or that a specified downpayment or periodic payment is required (either in dollars or as a percentage), the period of repayment or any of the following items, unless it also clearly and conspicuously sets forth all the following items in terminology prescribed under paragraph (b) of § 226.7:

(1) An explanation of the time period, if any, within which any credit extended may be paid without incurring a finance charge.

(2) The method of determining the balance upon which a finance charge may be imposed.

(3) The method of determining the amount of the finance charge, including the determination of any minimum, fixed, check service, transaction, activity, or similar charge, which may be imposed as a finance charge.

(4) Where one or more periodic rates may be used to compute the finance charge, the corresponding annual percentage rate determined by multiplying the periodic rate by the number of periods in a year.

(d) *Advertising of credit other than open end.* No advertisement to aid, promote, or assist directly or indirectly any credit sale including the sale of residential real estate, loan, or other extension of credit, other than open end credit, subject to the provisions of this part, shall state:

(1) The rate of the finance charge except as an "annual percentage rate," using that term. No other rate of finance charge may be stated, except that:

(i) Where the total finance charge includes, as a component, interest computed at a simple annual rate, the simple annual rate may be stated in conjunction with, but not more conspicuously than, the annual percentage rate, or

(ii) Where the finance charge is computed merely by the application of a periodic rate to an unpaid balance, the periodic rate may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(2) That no downpayment is required, or the amount of the downpayment or of any installment payment required (either in dollars or as a percentage), the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless it also clearly and conspicuously sets forth all of the following items in terminology prescribed under § 226.8:

(i) The cash price or the amount of the loan, as applicable.

(ii) In a credit sale, the amount of the downpayment required or that no downpayment is required, as applicable.

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.

(iv) The amount of the finance charge expressed as an annual percentage rate. The exemptions from disclosure of an annual percentage rate permitted in paragraph (b)(2) of § 226.8 shall not apply to this subdivision.

(v) Except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price in a credit sale, or the total of payments in a loan or other extension of credit which is not a credit sale, as applicable.

* * * * *

2. The proposed amendments are designed to stimulate the competitive advertising of specific open end credit terms. They would also harmonize the separate requirements for open and closed end credit, where appropriate. In addition, numerous technical changes are proposed.

3. Section 226.6(a) has been clarified to provide that the requirement that the "annual percentage rate" and "finance charge" be shown more conspicuously than other terminology does not apply to advertising since such a requirement may be either impractical (e.g., in radio advertisements) or inequitable (where a creditor wishes to emphasize a favorable term for competitive purposes). However, an addition has been made to § 226.10(d) specifying that all required disclosures must be made "clearly and conspicuously." This requirement (which is already contained in § 226.10(c) with respect to open end credit) would prevent the advertiser from burying the required disclosures with insufficient emphasis in the text of the advertisement.

4. The amendments would simplify § 226.10(c) by deleting the present requirements of showing a number of items in open end credit advertisements once a specific credit term is advertised. The deleted terms are the periodic rates, the range of balances to which each is applicable, the conditions under which other charges may be imposed, the method by which other charges will be determined, and the minimum periodic payment required. The simplification is intended to encourage the advertising of specific open end credit terms. Such advertisements would still have to include the annual percentage rates, and free ride period, and the method of determining finance charges and the balances on which they are imposed. "No downpayment" has been removed as a specific term which triggers full disclosure since the term is implied in almost any statement about an open end credit plan e.g., "charge it with your credit card."

5. The "period of repayment" has been added to § 226.10(c) as one of the specific terms requiring full disclosure. This harmonizes the requirements of open end credit with those presently applicable to closed end credit.

6. Section 226.10(d)(1) would clarify the fact that any expression of the finance charge on an annual basis in closed end credit must solely be as an "annual percentage rate" and not in conjunction, for example, with the add-on rate. However, the simple interest component of the finance charge could be shown along with the annual percentage rate. For example, the interest rate on a home mortgage could also be advertised where points may result in a higher annual percentage rate. Likewise, where finance charges are computed based upon the application of a periodic rate, that rate may be shown in conjunction with the annual percentage rate—e.g., a monthly periodic rate. These additional rates could not, however, be shown more conspicuously than the APR.

7. Sections 226.10(c) and 226.10(d)(2) would be clarified to provide that advertisement of the amount of the downpayment or other payment, either in dollars or percentages, would trigger the full disclosure requirements (whether or not the cash price was also given). The requirement for closed end credit that the amount of the downpayment must be given once full disclosure is otherwise triggered has been clarified to refer only to credit sales. (§ 226.10(d)(2)(ii).) The provision has also been modified to specify that the "deferred payment price" disclosure is required in a credit sale, while the "total of payments" is required in a loan or other nonsale transaction. (§ 226.10(d)(2)(v).)

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to any Federal Reserve Bank for transmittal to the Board, to be received at the Board not later than January 31, 1973. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

By order of the Board of Governors, December 18, 1972.

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

[FR Doc.72-22341 Filed 12-28-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-9908]

ELIMINATION OF EMPLOYMENT DISCRIMINATION

Necessity or Appropriateness of Rule Making Proceeding; Request for Comments

The Securities and Exchange Commission is seeking public comment concerning its authority to adopt, and the merits of adopting, rules under sections 6 and 15 of the Securities Exchange Act of 1934, 15 U.S.C. 78f and 78o, to require "national securities exchanges, national securities associations and their members and registered broker-dealers to take affirmative action to eliminate discrimination in employment and to file annual reports thereon * * *."

The Commission is not now proposing the adoption of such rules, but it has received a petition requesting that it do so, and this action is being undertaken to assist the Commission in its consideration of whether a rule requiring such action would be necessary or appropriate in the public interest or for the protection of investors. A copy of the petition is available for public inspection in the public reference room of the Commission, 500 North Capitol Street NW., Washington, DC 25049.

Interested persons are requested to submit their comments in writing to the Office of the Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549. Reference should be made to Commission file No. 4-160. All material submitted will be considered a matter of public record. The Commission requests that all comments be mailed in time to be received no later than January 26, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

DECEMBER 21, 1972.

[FR Doc.72-22356 Filed 12-28-72;8:46 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 512]

ARIZONA

Notice of Filing of Plat of Survey

DECEMBER 21, 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., February 5, 1973.

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 35 N., R. 12 W.,
Secs. 1 thru 36, totaling 22, 959.07 acres.

2. The area surveyed is located about 65 miles south of St. George, Utah. The land is mostly rolling except for the broken west slope of Poverty Mountain in sections 24 and 25. The soil is rocky clay loam. Timber consists of juniper trees and scattered pine with sagebrush, bunchgrass, and cacti the predominant vegetation.

3. All rights of the State of Arizona to sections 2, 16, 32, and 36 have been conveyed to the United States.

4. All of the lands in the township are classified for multiple use management and will be opened only to such forms of disposition as are allowed under the provisions of the multiple use classification on the effective date of the filing of this plat.

5. The SW¼SE¼ of section 26 is withdrawn under Public Water Reserve No. 107 under authority of Executive order of April 17, 1926.

6. The lands have been and still are subject to the operation of the mining and mineral leasing laws, except for the N½ of section 33, which is segregated from the operation of the mining laws by virtue of the aforementioned multiple use classification. 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.72-22347 Filed 12-28-72;8:46 am]

Office of Oil and Gas

NATIONAL PETROLEUM COUNCIL

Notice of Public Meeting

Pursuant to Executive Order No. 11686 notice is hereby given of the following subcommittee meeting:

Technical Subcommittee of the National Petroleum Council Committee on Petroleum Resources Under the Ocean Floor, January 9, 1973, 9:30 a.m. to 5:30 p.m., NPC Conference Room, 1625 K Street NW., Washington, DC. This meeting is being held to discuss and approve the report of the legal task force. Attendance by the public will be limited to space available.

The purpose of the National Petroleum Council is solely to advise, inform, and make recommendations to the Secretary of the Interior on any matter relating to petroleum or the petroleum industry.

R. W. SNYDER, Jr.,
Acting Director.

DECEMBER 22, 1972.

[FR Doc.72-22351 Filed 12-28-72;8:48 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Allocations of Quotas for Calendar Year 1973 Among Producers Located in Virgin Islands, Guam, and American Samoa

CROSS REFERENCE: For a document pertaining to allocations for quotas for watches and watch movements for calendar 1973 among producers in the Virgin Islands, Guam, and American Samoa, issued jointly by the Departments of Commerce and the Interior, see F.R. Doc. 72-22397, *infra*.

DEPARTMENT OF COMMERCE

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Allocation of Quotas for Calendar Year 1973 Among Producers Located in Virgin Islands, Guam, and American Samoa

On November 25, 1972, the Departments of Commerce and the Interior published a joint notice of proposed rule making under Public Law 89-805, setting out the proposed formula for allocation of 1973 watch quotas among producers located in the Virgin Islands, Guam, and American Samoa (37 F.R. 25062). Interested parties were invited to participate in the proposed rule making by submitting their written views within 15 days from the filing date of the notice of proposed rule making with the FEDERAL REGISTER. The Departments have reviewed carefully the comments received and have concluded that the proposed rules should not be changed or modified in substance.

Watch producers located in the Virgin Islands, Guam, and American Samoa must receive their initial quota allocations for calendar year 1973 to avoid any interruption in their assembly operations and to enable these producers to contract for their inventory requirements and to accept and fill purchase orders for their 1973 production. Time is then of the essence in promulgating rules for calendar year 1973 quota allocations. Accordingly, good cause exists for making the following rules effective as of the date of filing with the FEDERAL REGISTER.

SECTION 1. Upon effective date of these rules, or as soon thereafter as practicable, each producer located in the Virgin Islands, Guam, and American Samoa which received a duty-free watch quota allocation for calendar year 1972, will receive an initial quota allocation for calendar year 1973 equal to 50 percent of the number of watch units assembled by such producer in the particular territory and entered duty-free into the customs territory of the United States during the first 10 months of calendar year 1972, or 5,000 units, whichever is greater.

SEC. 2. Each producer to which an initial quota has been allocated pursuant to section 1 hereof must, on or before April 1, 1973, have assembled and entered duty-free into the customs territory of the United States at least 30 percent of its initial quota allocation. Any producer failing to enter duty-free into the customs territory of the United States on or before April 1, 1973, a number of watch units assembled by it in a particular territory equal to, or greater than, 30 percent of the number of units initially allocated to such producer for duty-free entry from that territory will, upon receipt of a show cause order from the Departments, be given an opportunity, within 30 days from such receipt, to show cause why the duty-free quota which it would otherwise be entitled to receive should not be cancelled or reduced by the Departments. Such a show cause order may also be issued whenever there is reason to believe that shipments through December 31, 1973, by any producer under the quota allocated to it for calendar year 1973 will be less than 90 percent of the number of units allocated to it. Upon failure of any such producer to show good cause, deemed satisfactory by the Departments, why the remaining, unused portion of the quota to which it would otherwise be entitled should not be cancelled or reduced, said remaining, unused portion of its quota shall be either cancelled or reduced, whichever is appropriate under the show cause order. In the event of a quota cancellation or reduction under this section, the Departments will promptly reallocate the quota involved, in a manner best suited to contribute to the economy of the territories, among the remaining producers: *Provided however*, That if in the judgment of the Departments it is appropriate, applications from new firms may, in lieu of such reallocation, be invited for any part or all of any unused portions of quotas remaining unallocated as a result of cancellation or reduction hereunder. Every producer to which a quota is granted is required to file a report on April 15, July 15, and

October 15, of each year covering the periods January 1 to March 31, April 1 to June 30, and July 1 to September 30 respectively via registered mail on Form OIPF–844, copies of which will be forwarded to each producer at its territorial address of record at least 15 days prior to the required reporting date. Copies of this form may also be obtained from the Special Import Programs Division, Office of Import Programs, U.S. Department of Commerce, Washington, D.C. 20230. Form OIPF–844 will provide the Departments with information regarding the producer's watch movement assembly operation in the insular possessions. Such information may include the status of beginning and ending inventories of finished watch movements and component parts, scheduled delivery dates, and number of watch movement parts and components ordered, number of watch movements assembled, number of watch movements entered into the customs territory of the United States, and a list of confirmed orders for shipment of finished watch movements into the customs territory of the United States prior to December 31, 1973. Each producer to which a quota is granted will also report on Form OIPF–844 any change in ownership and control which has occurred subsequent to the filing of an application for a watch quota on Form OIPF–764 (see section 8, below).

SEC. 3. Application forms will be mailed to recipients of initial quota allocations as soon as practicable and must be filed with the Departments on or before January 31, 1973. All data required must be supplied as a condition for annual allocations and are subject to verification by the Departments. In order to accomplish this verification it will be necessary for representatives of the Departments to meet with appropriate officials of quota recipients in the insular possessions in order to have access to company records. Representatives of the Departments plan to perform this verification beginning on or about February 15, 1973 in Guam and American Samoa and beginning on or about March 1, 1973 in the Virgin Islands, and will contact each producer locally regarding the verification of its data.

SEC. 4. (Virgin Islands only) The annual quotas for calendar year 1973 for the Virgin Islands will be allocated as soon as practicable after April 1, 1973, on the basis of (1) the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1972, (2) the total dollar amount of wages subject to FICA taxes paid by such producer in the territory during calendar year 1972 to persons whose pay was attributable to its headnote 3(a) watch assembly operation, and (3) the total net dollar amount of income taxes applicable to its calendar year 1972 headnote 3(a) watch assembly operation, irrespective of whether such taxes are partially or fully exempt by the territorial government. In making allocations under this formula, an equal weight of 40 percent will be assigned to production and shipment history and to wages subject to FICA taxes, and a weight of 20 percent will be assigned to the total net dollar amount of income taxes applicable to calendar year 1972 headnote 3(a) watch assembly operations.

SEC. 5. (Guam only) The annual quotas for calendar year 1973 for Guam will be allocated as soon as practicable after April 1, 1973, on the basis of the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1972, and the total dollar amount of wages subject to FICA taxes paid by such producer in the territory during calendar year 1972 to persons whose pay was attributable to its headnote 3(a) watch assembly operation. In making allocations under this formula, equal weight will be assigned to production and shipment history and to wages subject to FICA taxes.

SEC. 6. (Virgin Islands and Guam) For purposes of allocating watch quotas for calendar year 1973 under sections 4 and 5 above, any watches or watch movements shipped from the Virgin Islands or Guam during calendar year 1972 for duty-free entry into the customs territory of the United States against a producer's 1972 watch quota, and which were lost prior to entry into the customs territory of the United States, shall nevertheless be considered as having been entered into the customs territory for purposes of quota fulfillment: *Provided*, That the Departments have been satisfied that shipment was in fact made but lost prior to entry into the customs territory.

SEC. 7. (Virgin Islands only) With respect to the Virgin Islands quota, in the event that the quantity of any unused calendar year 1972 quota plus any increase (or minus any decrease) in the amount of quota available for calendar year 1973 in comparison with that for 1972, equals or exceeds 200,000 units, the Departments may set aside 200,000 units of the calendar year 1973 Virgin Islands quota for new firms and invite quota applications from new firms on Form OIPF–764. The Departments may also require new firms to provide information regarding the applicant's experience in watch movement assembly and distribution; anticipated employment of local workers and proposed wage rates; watch movement assembly operations to be performed in the Virgin Islands and estimated direct labor costs; anticipated capital investment in the Virgin Islands and proposed source of financing.

(By "new firm" is meant an entity which has not heretofore been allocated a quota under Public Law 89–805 and which is completely separate and unassociated with any present or previous producer in terms of ownership and control.)

Based on the Departments' evaluation of the information submitted by applicants, the Departments may allocate the set-aside portion of the calendar year 1973 Virgin Islands quota among those applicants whose proposals, in the judgment of the Departments, offer the likelihood of the greatest contribution to the economy of the Virgin Islands, and in such a manner as, in the judgment of the Departments, will best serve the interests of the territory.

SEC. 8. The rules restricting transfers of duty-free quotas issued on January 29, 1968 and published in the FEDERAL REGISTER on January 31, 1968 (33 F.R. 2399), are hereby incorporated by reference as applicable to transfers of quotas issued during calendar year 1973 except that detailed reporting of ownership and control will be reported on an annual basis on Form OIPF–764 at the time the producer applies for an annual duty-free watch quota for calendar year 1973. Subsequent change in ownership and control will be reported on April 15, July 15, and October 15, 1973, on Form OIPF–844 required in section 2 above.

Any interested party has the right to petition for the amendment or repeal of the foregoing rules and may seek relief from the application of any of their provisions upon a showing of good cause under the procedures relating to reviews by the Secretaries of Commerce and the Interior which were published in the FEDERAL REGISTER on November 17, 1967 (32 F.R. 15818).

Dated: December 22, 1972.

STANLEY NEHMER,
Deputy Assistant Secretary, and Director, Bureau of Resources and Trade Assistance, Department of Commerce.

HARRISON LOESCH,
Assistant Secretary for Public Land Management, Department of the Interior.

[FR Doc.72–22397 Filed 12–26–72;3:18 pm]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

MEDICINAL CHEMISTRY A AND MEDICINAL CHEMISTRY B STUDY SECTIONS

Amended Notice of Meetings

Pursuant to Executive Order 11671, notice is hereby given of the meetings of the following study sections/committees and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

The Information Officer of the Division of Research Grants, Mr. Richard Turlington, will furnish summaries of the closed meetings and rosters of committee members. Substantive information may be obtained from each executive secretary whose name, room number, and telephone extension are listed below his study section. Mr. Turlington and the executive secretaries are all located in the Westwood Building, National Institutes of Health, Bethesda, Md., 20014. Mr. Turlington's room number is 433, telephone 496–7441.

These meetings will be open to the public to discuss administrative details

relating to study section business for approximately 1 hour at the beginning of the first session of the first day of the meeting and closed thereafter in accordance with section 13(d) of Executive Order 11671 and the Secretary's Determination of September 27, 1972, in order to review, discuss, and evaluate and/or rank grant applications. Attendance by the public will be limited to space available.

Notice of December 12, 1972 (37 F.R. 28088), is hereby amended as follows:

Study section, date, time, and location of meeting

Medicinal Chemistry A:[1]
Dr. Asher Hyatt, Room 222; January 12 to 14; Telephone 496–7286; 7 p.m.; Holiday Inn, La Jolla Village Drive, La Jolla, Calif.

Medicinal Chemistry B:[1]
Mr. Richard Bratzel, Room 222; January 12 to 14; Telephone 496–7286; 1 p.m.; Holiday Inn, La Jolla Village Drive, La Jolla, Calif.

Dated: December 21, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72–22346 Filed 12–28–72;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–72–133; Administrative Division Docket No. Z–104]

ANCHOR LAKE ET AL.

Notice of Hearing

Notice is hereby given that:

1. Anchor Lake, 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 an amended notice of proceedings and opportunity for hearing dated October 31, 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 Anchor Lake 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 received November 27, 1972, in answer to the allegations of the amended notice of proceedings and opportunity for a hearing.

3. In said answer the respondent requested a hearing on the allegations contained in the amended 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 amended 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 January 5, 1973, 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 December 29, 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.

By the Secretary.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72–22384 Filed 12–28–72;8:49 am]

[Docket No. N–72–132; Administrative Division Docket No. Z–103]

LAKE SERENE ET AL.

Notice of Hearing

Notice is hereby given that:

1. Lake Serene, 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 an amended notice of proceedings and opportunity for hearing dated October 31, 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 Lake Serene 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 received November 21, 1972, in answer to the allegations of the amended notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the amended 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 amended 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 January 5, 1973, 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 December 29, 1972.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings 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.

By the Secretary.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72–22383 Filed 12–28–72;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–344]

PORTLAND GENERAL ELECTRIC CO. ET AL.

Notice of Hearing

In the matter of Portland General Electric Co., the city of Eugene, Oreg., and Pacific Power and Light Co. (Trojan Nuclear Plant).

The Portland General Electric Co., the city of Eugene, Oreg., and Pacific Power and Light Co. (the licensees), are the holders of Construction Permit No. CPPR–79 (the construction permit), issued by the Atomic Energy Commission on February 8, 1971. The construction permit authorizes the licensees to construct a pressurized water nuclear reactor, designated as the Trojan Nuclear Plant, at the licensees' site on the west shore of the Columbia River in Columbia County, Oreg. The reactor is designed for initial operation at approximately 3,423 megawatts (thermal).

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 operating licenses were issued in the period January 1, 1970–September 9, 1971. Notice is hereby given, pursuant to the Atomic Energy Act of 1954, as amended, 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 con-

[1] Workshop being held jointly by medicinal chemistry A and B study sections at Scripps Institute, La Jolla, at 9 a.m. on Jan. 11. Attendance by public limited to space available.

sider 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 present notice in the FEDERAL REGISTER, any person whose interest may be affected by this proceeding may file a petition for leave to intervene 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. 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 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 may be delivered to 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).

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.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the licensees not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

In the event that this proceeding 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 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 licensees' Environmental Report dated May 29, 1970, as supplemented November 8, 1971, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m. Monday through Friday, and at the office of Richard Hogan, Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oreg., between the hours of 8:30 a.m. and 5 p.m. Monday through Friday. As they become available, the following documents also will be available at the above locations:

(1) The Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; and (2) the Commission's final detailed statement on environmental considerations. Copies of item (2), when available, 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, pursuant to 10 CFR 2.785 an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 19th day of December 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-22068 Filed 12-28-72;8:45 am]

[Docket No. 50-410A]

NIAGARA MOHAWK POWER CORP.

Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated December 19, 1972, which is set forth below.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed within thirty (30) days after publication of this notice in the FEDERAL REGISTER, either (1) by delivery to the AEC Public Document Room at 1717 H Street NW., Washington, DC, or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C., 20545, Attn.: Chief, Public Proceedings Branch.

For the Atomic Energy Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust and Indemnity, Directorate of Licensing.

[AEC Docket No. 50-410A; Department of Justice File No. 60-415-53]

NIAGARA MOHAWK POWER CORP.

NINE MILE POINT NUCLEAR STATION UNIT 2

DECEMBER 19, 1972.

You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act of 1954, as amended by Public Law 91-560 (December 19, 1970), in regard to the above cited application.

Introduction. Niagara Mohawk Power Corp. proposes to construct a nuclear generating facility with a capacity of 1,100 megawatts on a 900-acre site on the southeast shore of Lake Ontario, in the town of Scriba, Oswego County, N.Y. This location is presently the site of Niagara Mohawk's existing nuclear generating facility, the Nine Mile Point Nuclear Station, Unit 1. The total cost of the unit is estimated to be approximately $420 million including first core nuclear fuel inventory costs and transmission, distribution and general plant costs. Construction of the Nine Mile Point Nuclear Station Unit 2 is expected to be completed between January and June 1978 with commercial operation following shortly thereafter.

The applicant. Niagara Mohawk Power Corp., is a privately owned utility which supplies electric power to more than 1,250,000 customers in 37 counties of upstate New York. Its system covers more than 24,000 square miles and includes 31 cities and 639 towns and villages. The utility also markets natural gas to more than 410,000 customers. In 1971 total system revenues were $571,382,000 of which $440,327,000 (77 percent) was derived from electric revenues.

The Applicant's most recent peak load was 4,551,000 kilowatts. Total dependable capacity at the time of this peak was 5,674,000 kilowatts comprised of 574,000 kilowatts from owned and leased hydroelectric facilities, 3,376,000 kilowatts of owned thermal capacity and 1,724,000 kilowatts of purchased capacity. The internally generated capacity is produced at five steam stations (including the Nine Mile Point Nuclear Station Unit 1), 82 hydro stations and 20 combustion turbine and diesel units. Over the 10-year period from 1971-81 Niagara Mohawk estimates that its load will increase 2,949,000 kilowatts yielding a total load of approximately 7,500,000 kilowatts. The capacity of the Nine Mile Point Nuclear Unit Number 2 is part of the company's construction program intended to meet this additional load.[1]

Applicant's coordination and interconnections with other utilities. Niagara Mohawk plans its generation and transmission facilities as part of the New York Power Pool (NYPP) which encompasses virtually the entire State of New York. At present seven large investor-owned utilities and the Power Authority of the State of New York (PASNY) comprise the membership of the New York Power Pool.[2] These eight pool members generated approximately 99.5 percent of the total electric energy generated in the State in 1967. The investor-owned members of the pool supply the majority of the bulk power requirements of the five small investor-owned systems, one Federal, and 11 municipal systems in the State. PASNY sells its power at wholesale to Niagara Mohawk and two other upstate members of the Pool, to 41 municipal and cooperatively-owned electric systems in New York, to one in Pennsylvania, to three industrial plants in Massena, to the Plattsburgh Air Force Base and the State of Vermont. The Power Authority presently generates power at two sources, the St. Lawrence hydroelectric project and the Niagara Falls hydroelectric project. Substantial amounts of the power produced at these facilities are sold to Niagara Mohawk.[3]

In addition to these existing facilities, PASNY is presently constructing a nuclear plant with an expected output of approximately 820,000 kilowatts on property acquired from the Company adjacent to its Nine Mile Point site. For purposes of offsite transmission, the plant is to be tied in with the Company's nearby switchyard, and the Applicant will reconstruct, at PASNY expense, a section of one of its existing 115 kilowatt lines so as to provide a backup source of station service power between the plants of PASNY and the Applicant. When the plant goes into operation in 1973 Niagara Mohawk has contracted to provide operating and maintenance personnel for the facility at cost. PASNY is also constructing the 1,000,000 kilowatt Blenheim-Gilboa pump storage hydroelectric generating station in Schoharie County. This facility is also scheduled for completion in 1973. Niagara Mohawk expects to contract on a long term basis for some of the capacity of both of these plants.

Although PASNY presently supplies power to only three members of the Pool, benefits of its peaking capacity are passed on to all of the State's utilities through the coordinated operations of the Pool. The purpose of the New York Power Pool is to coordinate the development and operation of the generation and transmission facilities of its members to obtain optimum reliability and efficiency of operation of their interconnected systems. To carry out these objectives the Pool's Planning Committee coordinates the planning of additional generating capacity, the interconnecting of transmission facilities, and the forecasting of future load requirements. The Operating Committee establishes the rules and procedures to coordinate the operation of the pool, determines cost standards, establishes coordinated maintenance schedules, and determines the reserve requirements and load relief of the Pool members.[4]

Niagara Mohawk, as well as other members of NYPP, is also a member of the Northeast Power Coordinating Council. This agency, which includes in its membership the major utilities of New York and New England, as well as two Canadian utilities, was established for the purpose of promoting maximum reliability and efficiency of electric service by furthering interpool operations through coordination of system planning and operating procedures in the northeast. The Applicant is also a party to various agreements with other electric utilities which provide for the receipt or delivery of emergency power, deficiency power or unit power or other coordinating arrangements.

Applicant's competitors—1. *Privately-owned utilities.* Niagara Mohawk is interconnected with the various large privately-owned utilities that have service areas adjoining its territory, and to some limited extent may compete with them for load growth. Except to the extent that the Applicant exchanges limited amounts of energy with these utilities, it does not presently supply power on a firm basis to any investor-owned utility. It has wheeled power to several large utilities to meet their peak load requirements and may be expected to do so in the future.

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[1] In 1972 Applicant will add 240 megawatts of generation from its share of the jointly-owned (with Consolidated Edison Co. and Central Hudson Gas and Electric) Roseton No. 1 oil-fired unit. In 1973, the jointly-owned Roseton No. 2 Unit will provide an additional 240 megawatts. Applicant will add 875 megawatts when its Oswego No. 5 oil-fired plant comes on line in 1974. Nine Mile Point Unit 2 with its 1,100 megawatt capacity is planned for 1978 and an as yet undesignated nuclear-fired unit of similar size is expected in 1981. During 1977 Niagara Mohawk will lose 120 megawatts of capacity from the Roseton facility, as its share in that joint venture decreases. Throughout the period the Applicant will purchase power in varying amounts to meet its load requirements at any given point in time.

[2] In addition to Niagara Mohawk and PASNY, the members of the New York Power Pool are Central Hudson Gas and Electric Corp., Consolidated Edison Co. of New York, Inc., Long Island Lighting Co., New York State Electric and Gas Corp., Orange and Rockland Utilities Inc., and Rochester Gas and Electric Corp.

[3] The St. Lawrence hydroelectric project has 912,000 kilowatts of installed capacity on the U.S. side of which PASNY is selling 115,000 kilowatts of firm capacity to the Company under a contract terminating in 1985. The Niagara Falls hydroelectric project has 2,190,000 kilowatts of installed capacity of which Niagara Mohawk purchases up to 1,294,400 kilowatts of firm and peaking power and associated energy (of which 387,000 kilowatts is firm power with 137,000 kilowatts of that withdrawable) under a contract terminating in 1990.

[4] For a more detailed survey of the New York Power Pool, see the FPC's 1970 National Power Survey, Part II, pages II-1-75-77.

As noted above, the Applicant is a party to a joint venture with Consolidated Edison Co. and Central Hudson Gas and Electric to construct and operate the two Roseton 600 megawatt oil-fired generating units. Furthermore, the Applicant, Rochester Gas and Electric Corp. and New York State Electric and Gas Corp. are undertaking a study to determine the feasibility of jointly creating and operating a separate corporation to build and operate major generating plant installations. The study will determine whether a separate company for power production will best accommodate their total new generating facility requirements by improving efficiency and economy and allowing lower cost financing. It is proposed that if this joint venture generating company is created, it will take over construction and operation of the Nine Mile Point Nuclear Station's Unit 2 as well as the new fossil-fuel units under construction. With this single exception, no privately-owned electric utility has expressed an interest in participating in the Nine Mile Point unit.

2. *Municipal electric systems.* There are 27 municipal electric systems that distribute electric power within or adjacent to Niagara Mohawk's service area who compete with it for retail loads and load growth. Of these 27, the Applicant sells, at wholesale, all the bulk power requirements of the Villages of Brocton, Green Island, Holley, and Richmondville. Niagara Mohawk does not sell bulk power to any of the other systems. The City of Jamestown receives part of its bulk power supply from PASNY and generates the remainder. The City of Salamanca and 21 villages purchase all their bulk power requirements from PASNY. The Applicant, pursuant to contracts with PASNY, provides most of the transmission necessary to receive, transmit and deliver the bulk power from PASNY to the two cities and the villages.

None of the municipal systems own or operate any high voltage transmission capable of moving electric power in bulk. Consequently, for the most part, these systems have no reasonable economic alternative but to rely on Niagara Mohawk, which controls the high voltage transmission needed to wheel their power, for the delivery of bulk power.

Our investigation reveals that none of the municipal systems have advised the Applicant of a desire to obtain ownership participation in the Nine Mile Point Nuclear Station.

Our investigation further reveals at least one situation which warrants further comment. As noted above, the City of Jamestown, N.Y., is the only municipal system in Niagara Mohawk's service area with appreciable generation facilities of its own. At present Jamestown is generating 45 megawatts at its Samuel A. Carlson Electric Generating Station, a coal burning facility. To supplement this generation, Jamestown purchases an additional 15 megawatts of power from PASNY, and the City has requested that this total be increased to 21 megawatts in 1973. The PASNY power is delivered to Jamestown over two 115 kv transmission lines owned by Niagara Mohawk that extend from Dunkirk, N.Y., to an interconnection point at Falconer, N.Y., where Jamestown's transformers step down the voltage to 13.8 kv, the system voltage for Jamestown.

The City's generating facility currently does not comply with the New York State particulate emission standards which must be met in 1974 if the plant is to remain in operation. One of the alternatives being considered by the City is the phasing out of its own generating equipment and procuring all of its power requirements by purchases at wholesale. The two most logical sellers would be PASNY and Niagara Mohawk. Of the two, PASNY would probably be the lower cost supplier, and the City has informally approached PASNY about the possibility of supplying the additional power. It has also made a preliminary approach to the Applicant. Niagara Mohawk has indicated that it does not have any power available until 1976. It also indicated that, if Jamestown could purchase all its bulk power needs from PASNY, the capacity of its existing transmission facilities may not allow wheeling of more than the 20 megawatts that Niagara Mohawk is currently obligated to deliver from PASNY to Jamestown.[5] The Company apparently is not interested in entering into a joint venture with Jamestown for construction of a new high voltage transmission line between Dunkirk and Jamestown and is similarly disinclined to construct such a line on its own at this time.

As the situation currently stands, discussions between representatives of the City and of the Applicant are continuing and the Applicant has not foreclosed prospects of providing Jamestown with the necessary wheeling of PASNY power when and if the City determines to buy all its bulk power requirements. Accordingly, it is not possible to conclude that a situation inconsistent with the antitrust laws may presently exist. If the Applicant files any new application for a license under section 103 of the Atomic Energy Act of 1954, as amended, careful further consideration would have to be given to Niagara Mohawk's future conduct vis-a-vis the city of Jamestown in order to determine if a situation inconsistent with the antitrust laws will then be likely to exist.

Recommendation. As heretofore noted, no other electric utility systems formally have requested participation in the proposed Nine Mile Point Nuclear Station Unit No. 2. Furthermore, we have found no concrete evidence that Applicant has exercised or is exercising its control of high voltage transmission to the detriment of other utility systems in the area. Nevertheless, in the instances outlined above questionable activities seem to exist and may warrant further attention in the event of future license applications. At this time, however, there is no substantial reason to believe that the Commission's licensing of the requested nuclear unit would create or maintain a situation inconsistent with the antitrust laws. Accordingly, we conclude that the Commission need not conduct an antitrust hearing with respect to the application.

[5] The wheeling contract between Niagara Mohawk and PASNY provides that the Authority shall inform the Company at least annually of the estimated future load requirements of the Authority and its customers for the ensuing 5-year period, and within 90 days thereafter the Company will inform PASNY whether or not it will be able to deliver the power and energy to meet each load included in the estimate. This provision seems to be the basis for Applicant's assertion that it is obligated to deliver only 20 megawatts to Jamestown. It seems doubtful, however, that this contract can foreclose or prevent the delivery of PASNY power to Jamestown. The Niagara Power Project Act, 16 U.S.C. 836, which authorized the construction and operation of the Niagara Falls hydroelectric project by PASNY, provides that public bodies and cooperatives will be given preference and priority to 50 percent of the power produced at the project (§ 836 (b)(1)). The Act also imposes an absolute obligation on the Power Authority to deliver that power either by wheeling agreement or by the purchase or construction of the necessary transmission facilities. (§ 836(b)(4)).

[FR Doc.72-22340 Filed 12-28-72;8:46 am]

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued two new guides, Regulatory Guide 5.1, "Serial Numbering of Fuel Assemblies for Light-Water-Cooled Nuclear Power Reactors," and Regulatory Guide 5.2, "Classification of Unirradiated Plutonium and Uranium Scrap." These are the first guides in a series that has been developed to describe and make available to the public methods acceptable to the AEC regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guides are in Division 5, "Materials and Plant Protection Guides," of the Regulatory Guide series. One guide deals with an acceptable numbering method for item identification of fuel assemblies for light-water-cooled nuclear power reactors. The other identifies specific methods of categorizing unirradiated plutonium and uranium scrap to facilitate quantitative control of nuclear materials.

Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Copies of issued guides may be obtained by request to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Regulatory Standards.

Other Division 5 Regulatory Guides currently being developed include the following:

*Nuclear Material Control Systems and Procedures for Conversion Facilities.

*Statistical Terminology and Notation Guide for Nuclear Materials Management.

*Analytical Standards for the Measurement of Uranium Tetrafluoride (UF_4) and Uranium Hexafluoride (UF_6).

*Standard Methods for Chemical, Mass Spectrometric and Spectrochemical Analysis of Nuclear Grade Uranium Dioxide Powders and Pellets.

*Standard Methods for Chemical, Mass Spectrometric and Spectrochemical Analysis of Nuclear Grade Plutonium Dioxide Powders and Pellets.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 21st day of December 1972.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.72-22336 Filed 12-28-72;8:47 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

DECEMBER 21, 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, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of the Republic of China concerning exports of cotton textiles and cotton textile products from the Republic of China to the United States. Among the provisions of the agreement are those establishing specific export limitations on Categories 5/6, 9/10, 15/16, 18/19, 20/21, 22/23, 24/25, 26/27, 28/29, 30, 32, 34/35, 41/42, 43 and part of 62 (other knit shirts and blouses), 44, 45, 46/47, 50, 51, 52, 53, 54, 57, 59, 60, part of 62 (other knit wearing apparel), 63, and 64 for the agreement year beginning January 1, 1973.

Accordingly, there is published below a letter of December 21, 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 China which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning January 1, 1973, and extending through December 31, 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 and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

DECEMBER 21, 1972.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement 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 January 1, 1973 and for the twelve-month period extending through December 31, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 5/6, 9/10, 15/16, 18/19, 20/21, 22/23, 24/25, 26/27, 28/29, 30, 32, 34/35, 41/42, 43 and part of 62 (other knit shirts and blouses), 44, 45, 46/47, 50, 51, 52, 53, 54, 57, 59, 60, part of 62 (other knit wearing apparel), 63, and 64 produced or manufactured in the Republic of China, in excess of the following levels of restraint:

Category	*12-month level of restraint*
5/6	2,651,879 square yards.
9/10	31,186,578 square yards.
15/16	1,490,853 square yards.
18/19	1,687,259 square yards.
20/21	1,099,501 square yards.
22/23	3,346,457 square yards.
24/25	3,264,837 square yards.
26/27	5,807,801 square yards (of which not more than 3,264,837 square yards may be in duck fabric.[1])
28/29	2,074,967 pieces.
30	2,699,613 pieces.
32	402,389 dozen.
34/35	303,852 pieces.
41/42	139,839 dozen.
43 and part of 62 (only T.S.U.S.A. Nos. 382.-0002, 382.0605, and 382.0610).	102,883 dozen.
44	26,997 dozen.
45	16,199 dozen.
46/47	10,901,847 square yards.
50	219,569 dozen.
51	352,749 dozen.
52	224,968 dozen.
53	17,996 dozen.
54	37,796 dozen.
57	179,974 dozen.
59	44,994 dozen.
60	34,015 dozen.
Part of 62 (all T.S.U.S.A Nos. except those included in part of 62 combined in 43).	42,281 pounds.
63	224,968 pounds.
64	212,869 pounds.

[1] 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

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories produced or manufactured in the Republic of China, which have been exported to the United States from the Republic of China prior to January 1, 1973, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods for the twelve-month period beginning January 1, 1972 and extending through December 31, 1972. In the event that the levels of restraint for the twelve-month period ending December 31, 1972 has 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 December 30, 1971, between the Governments of the United States and the Republic of China, which provide in part that within the aggregate and applicable group limits, limits 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 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 China and with respect to imports of cotton textiles and cotton 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 yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.72-22331 Filed 12-28-72;8:47 am]

CIVIL AERONAUTICS BOARD

LOOMIS COURIER SERVICES, LTD.

Notice of Application for Tariff-Filing Authority Pickup and Delivery Zone

DECEMBER 22, 1972.

In accordance with Part 222 (14 CFR Part 222) of the Board's Economic Regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 25037, from Loomis Courier Services Inc., 808 Burlway Road, Burlingame, CA 94010, for authority to provide pickup and delivery service between Reno, Nev., and South Lake Tahoe, Calif., which is 37 miles from Reno.

Under the provisions of § 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application within fifteen (15) days after publication of this notice in the FEDERAL REGISTER. An executed original and 19 copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the

applicant and state the date of such service.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22401 Filed 12-28-72;8:50 am]

[Docket No. 24610]

MACKENZIE AIR LTD.

Notice of Hearing Regarding Canada-United States Charter With Large Aircraft

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on January 11, 1973, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 22, 1972.

[SEAL] ARTHUR S. PRESENT,
Administrative Law Judge.

[FR Doc.72-22402 Filed 12-28-72;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE EMISSION CONTROL DEFEAT DEVICES

Notice of Public Hearing

By letter of December 15, 1972, the Administrator of the Environmental Protection Agency ordered the following six motor vehicle manufacturers to eliminate certain emission control system disabling devices from their 1973 automobiles produced after specified dates: General Motors Corp.; Ford Motor Co.; Chrysler Corp.; American Motors Corp.; Toyota Motor Co., Ltd.; Nissan Motors Corp. Some defeat devices were ordered eliminated by February 1, 1973, and the balance were ordered eliminated by March 15, 1973.

The motor vehicle manufacturers were granted the right to appeal those orders by submitting written notice and five copies of a brief statement of the grounds for appeal to the Mobile Source Enforcement Division, Office of Enforcement and General Counsel, 401 M Street SW., Washington, DC 20460, no later than December 22, 1972.

A public hearing has been scheduled to be held in the Thomas Jefferson Memorial Auditorium, Department of Agriculture, South Agriculture Building, 14th and Independence Avenue, Washington, D.C., commencing at 10 a.m. on Tuesday, January 9, 1973, for the purpose of hearing appeals by manufacturers from all disallowances of defeat devices employed in 1973 model year vehicles.

Grounds for appeals shall be limited to:

a. Claims that a device identified in the orders is not a defeat device;

b. Claims that elimination of an indicated device and, where necessary, substitution of an acceptable device is not feasible within the times allowed by the orders;

c. Claims that removal of a device will create a safety hazard that cannot be substantially eliminated by substitution of acceptable devices;

d. Claims that overall emissions from the vehicle in actual use will be increased as a result of the elimination of a device and that such increased emissions cannot be controlled by substitution of acceptable devices.

Any written material which a manufacturer desires to have considered at the hearing should be submitted in advance of the hearing where practicable.

Any interested member of the public who wishes to present arguments or information relevant to the issues set forth above may do so at the hearing by providing notice to the Presiding Officer at any time before the hearing is concluded.

Dr. Norman D. Shutler is hereby designated Presiding Officer for this hearing. The hearing will be conducted informally. Technical rules of evidence will not apply.

WILLIAM D. RUCKELSHAUS,
Administrator.

DECEMBER 22, 1972.

[FR Doc.72-22333 Filed 12-28-72;8:50 am]

LOW-EMISSION VEHICLE

Notice of Receipt of Application for Certification

Section 212 of the Clean Air Act establishes a Low-Emission Vehicle Certification Board. The Board is charged with the responsibility of certifying any class or model of motor vehicles which has been determined to be a "low-emission" vehicle by the Administrator of the Environmental Protection Agency and which the Board determines is suitable for use as a substitute for a class or model of vehicles in use at that time by agencies of the Federal Government. Section 212 further provides that certified vehicles shall be acquired by purchase or lease for use by the Federal Government as substitutes for other vehicles if the procurement costs are no more than 150 percent of the retail price of the least expensive class or model of such other vehicles as determined by the Administrator of General Services. If the Board determines that the low-emission vehicle is powered by an inherently low-polluting propulsion system, the premium to be paid for such vehicles may be raised to 200 percent.

On October 19, 1972, EPA received an application for vehicle certification under Section 212 from the Battronic Truck Corp., a division of Boyertown Auto Body Works. EPA must now decide whether the vehicles described are "low-emission vehicles".

The vehicles covered are described briefly as follows:

VEHICLE DESCRIPTION

MERCHANDISER VAN

One driver and 2,500 pounds cargo.
Curb weight—7,300 pounds.
Wheelbase—111 inches.

BAKERY VAN

One driver and 3,200 pounds cargo.
Curb weight—8,680 pounds.
Wheelbase—137 inches.

SUBURBAN BUS

One driver and 11 passengers.
Curb weight—7,955 pounds.
Wheelbase—111 inches.

TRANSIT BUS

One driver and 15 seated passengers plus 10 standees.
Curb weight—8,390 pounds.
Wheelbase—147 inches.

POWERPLANT

Eighty-four volt D.C. traction motor (56.5 maximum h.p.) powered by two lead-acid batteries.

The Environmental Protection Agency is presently of the opinion that for purposes of section 212 a vehicle powered by electric storage batteries is pollution-free since the Administrator is authorized to consider only the amount of emissions from the vehicle itself in determining whether it is a low-emission vehicle. Accordingly, emissions data, as specified by 40 CFR 85–Subpart Q, were not required of the applicant. EPA currently expects to find that all vehicles covered by the application are both "low-emission vehicles," and "inherently low-polluting vehicles," as those terms are defined in 40 CFR Part 85, Subpart Q.

A copy of the application and of a legal memorandum on this issue is available for inspection in the Public Docket at the EPA Office of Public Affairs, Room 329, 401 M Street SW., Washington, DC 20460. Interested persons are invited to submit written comments (in quadruplicate) in support of, or in opposition to, such a determination to the Administrator, Environmental Protection Agency, Attention: Mobile Source Pollution Control Program, Office of Air and Water Programs, 401 M Street SW., Washington, DC 20460. All relevant comments received not later than 30 days after publication of this notice will be considered by the Low-Emission Vehicle Certification Board, and by the Environmental Protection Agency in its determination.

This notice is issued under the authority of Section 212 of the Clean Air Act, as amended (42 USC 1857f–5).

Dated: December 22, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-22380 Filed 12-28-72;8:49 am]

WATER QUALITY STANDARDS

Notice of Interstate and Intrastate Standards Subject to Agency Review

The Federal Water Pollution Control Act (the Act), as amended by the Fed-

eral Water Pollution Control Act Amendments of 1972, Public Law 92-500, 86 Stat. 816 (the 1972 Amendments), provides for the establishment and revision of water quality standards. Section 303(a) of the Act establishes three slightly different procedures for the review by the Administrator of the Environmental Protection Agency (the Administrator) of State water quality standards.

Section 303(a)(1) of the Act provides that any water quality standards applicable to interstate waters which were adopted by any State and submitted to and approved by, or awaiting approval by, the Administrator prior to October 18, 1972, under the previous law will automatically remain in effect unless the Administrator determines by January 18, 1973, that such standards are not consistent with the applicable requirements of the Act as in effect immediately prior to the date of enactment of the 1972 Amendments and notifies the State of required changes. If the State fails to adopt such changes within 90 days, the Administrator is required to promulgate water quality standards pursuant to the procedure established by section 303(b) of the Act.

Secondly, States are required under section 303(a)(2) of the Act to submit to the Administrator by November 17, 1972, any water quality standards applicable to intrastate waters and adopted pursuant to State law before October 18, 1972. Such standards will also become automatically effective under the Act unless the Administrator determines that the standards are not consistent with applicable requirements of the former law and notifies the State of required changes within 120 days following the date on which the standards are submitted. As with interstate water quality standards, the State has 90 days to adopt the suggested changes after which the Administrator is to proceed to promulgate standards under section 303(b).

Thirdly, section 303(a)(3) provides that if the State did not adopt standards for intrastate waters before October 18, 1972, it is required to adopt and submit such standards by April 16, 1973. If the Administrator determines that the standards are consistent with the requirements of the former law then he shall approve the standards. If the standards are determined by the Administrator not to be consistent with the applicable requirements, section 303(a)(3) provides that he is to notify the State of this determination and specify required changes within 90 days following the date on which the standards were submitted. The balance of the procedures are the same as those applicable to previously adopted intrastate standards.

This notice identifies the interstate standards that must be reviewed by the Environmental Protection Agency by January 18, 1973, and also identifies those intrastate standards which have been submitted by States pursuant to section 303(a)(2) of the Act and which must be reviewed by the Agency within 120 days after submission of the standards by a State. Public comments are solicited with respect to the consistency of these standards with the requirements of the Act as in effect immediately before the enactment of the 1972 Amendments and the changes needed to comply with such requirements. Notices of newly adopted intrastate standards submitted pursuant to section 303(a)(3) of the Act will be published when such standards are submitted to the Environmental Protection Agency for review.

The Administrator's authority to review water quality standards and specify required changes pursuant to section 303(a) of the Act has been delegated to the 10 regional administrators of the Environmental Protection Agency for States within their respective regions.

All comments with respect to the standards identified in this notice should therefore be directed to the appropriate Regional Administrator of the Environmental Protection Agency. The addresses of the 10 regional offices and the States covered by each are set forth in Appendix A to this notice.

Comments with respect to interstate water quality standards identified in Part A below which are received by January 11, 1973, will be considered by regional administrators. As noted above, determinations as to consistency of standards with applicable requirements and specifications of any required changes in interstate water quality standards are required to be made by January 18, 1973.

For each of the intrastate standards listed under Part B below the dates of submission of the standards by the States and the last day for action by the appropriate regional administrator are indicated. The latest date for required action on the part of the Environmental Protection Agency is March 30, 1973, while the earliest deadline date is February 26, 1973. To simplify administration of the review process, regional administrators will consider public comments concerning any of the standards listed under Part B received by February 12, 1973 (14 days before the earliest occurring deadline).

In many instances, interstate and intrastate water quality standards are closely interrelated and are contained in one document or set of regulations which provides the water quality standards for all of the waters within a State. Review of the entire set of standards—both interstate and intrastate—will be carried on at the same time by regional administrators. Where required changes to be specified by the regional administrators by January 18, 1973, for interstate water quality standards are also applicable to intrastate standards, the notification of such changes given to the State will indicate that these changes in interstate standards will also quite probably be required with respect to intrastate standards. Official notice of specified changes with respect to intrastate standards will not be given until the due date for specification of the changes by the regional administrators. However, the Environmental Protection Agency desires to provide States with as complete a preliminary indication of required changes in all standards subject to review under sections 303(a)(1) and 303(a)(2) as is possible by January 18, 1973. States are required to hold public hearings prior to adoption of any changes specified by the regional administrator with respect to interstate and intrastate standards. By providing States with a preliminary indication of required changes with respect to intrastate standards, the Environmental Protection Agency hopes to avoid the necessity for duplicative and redundant hearings with respect to changes needed to be made in both interstate and intrastate standards. Therefore, persons desiring to comment upon intrastate standards should endeavor to submit such comments by January 11, 1973, if possible, though such comments will nevertheless be considered if received by February 12, 1973.

Written communications from States concerning such standards, any records of hearings held by States with respect to the standards, public comments received concerning the standards and related documentation shall be available for inspection and copying at the regional offices of the Environmental Protection Agency. In addition, the Agency expects that all States will cooperate fully with interested persons in insuring the availability to the public of pertinent documents concerning water quality standards.

The listings below are intended to call attention to water quality standards subject to review under section 303 of the Act and cannot set forth the water quality standards themselves in their entirety. Documents containing water quality standards shall also be available for inspection and copying at regional offices of the Environmental Protection Agency and shall be made available to the public by the States. The listings which follow do not purport to incorporate by reference the full water quality standards for the States identified.

Inclusion of any State or State standard on this list, or the manner of the descriptions set forth, does not imply that the Environmental Protection Agency approves the standards, finds that they were properly adopted by the States under State law or finds that the standards cover all of the elements or waters necessary to be consistent with the applicable requirements of the Act as in effect prior to the enactment of the 1972 amendments. Persons interested in commenting upon water quality standards should in the first instance contact the appropriate State office for any further required information with respect to the standard in which they are interested. If the State agency cannot supply the required information, the EPA regional office will endeavor to do so.

PART A—IDENTIFICATION OF INTERSTATE WATER QUALITY STANDARDS SUBJECT TO REVIEW UNDER SECTION 303(a)(1) OF THE ACT

The following described water quality standards for interstate waters are subject to review by the Environmental Pro-

tection Agency under section 303(a)(1) of the Act:

1. All standards identified in the listing presently published under 40 CFR Part 120, as revised in notices published in the FEDERAL REGISTER on March 28, 1972 (37 F.R. 6087–88) and September 28, 1972 (37 F.R. 20243–44).

2. The following standards which were approved by the Administrator of the Environmental Protection Agency prior to the date of enactment of the 1972 amendments (October 18, 1972) but subsequent to the most recent publication of the listing presently set forth under 40 CFR Part 120:

a. *Alabama.* Water quality standards established by Alabama on May 5, 1967, for interstate waters subject to its jurisdiction, are contained in the document "Water Quality Standards for Waters of Alabama and a Plan of Implementation, June 1967" as follows:

Water quality criteria including antidegradation statement of all waters of Alabama adopted July 17, 1972.

Plan of implementation for interstate waters adopted August 21, 1972, approval conditioned on additions to the implementation of three named municipalities, five named industries, and other violators when found.

b. *Georgia.* Water quality standards established by Georgia in June, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Establishment of Water Quality Standards and Classifications for Interstate Waters in the State of Georgia in Compliance with the Federal Water Pollution Control Act, as Amended by the Water Quality Act of 1965—Section 10(c)(1), Under Authority of the Georgia Water Quality Control Act, Act 870, as amended through 1966," consisting of 11 sections including criteria contained in "Rules of Waste Water Quality Control Board, chapter 730–3, Water Use Classifications and Water Quality Standards" adopted by the State water quality control board on April 21, 1967, and contained in section 1 of the aforesaid 11 sections, together with appendixes and supporting documents. Chapter 730–3 retitled "Rules of the Environmental Protection Division, Georgia Department of Natural Resources, Water Use Classifications and Water Quality Standards" and amended on June 15, 1972, to include revised water quality criteria and an antidegradation statement.

c. *Kentucky.* WP–4–1 water quality standards for the waters of the Commonwealth of Kentucky, July 23, 1971, antidegradation statement, March 5, 1971, plan of implementation, Parts I and II, July 1971, and WP–6–1, "Use Classification of the Waters of the Commonwealth of Kentucky" adopted July 18, 1972, together with supporting material.

d. *Mississippi.* Water quality standards established by Mississippi on June 19, 1967, for interstate waters subject to its jurisdiction are contained in the document entitled "Water Quality Standards for Interstate Waters, June 19, 1967," as amended. Complete water quality criteria as part of Mississippi water quality standards were established by Mississippi on September 26, 1972, for interstate waters subject to its jurisdiction are contained in regulation 1–67A "State of Mississippi Water Quality Criteria for Interstate and Coastal Waters."

e. *Ohio.* Water quality standards by Ohio in June 1967, for interstate waters subject to its jurisdiction and which are contained in the following documents:

1. "Report on Water Quality Standards for Great Miami, Whitewater and Wabash River Basins, June 21, 1967," as amended; except for temperature and dissolved oxygen criteria in waters classified "Aquatic Life A."

2. "Report on Water Quality Standards for Interstate Waters: Mahoning River, Pymatuning and Yankee Creeks, and Little Beaver Creek, June 1967," as amended; except for the Mahoning River and except for odor criterion for Little Beaver, Yankee, and Pymatuning Creeks, and except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A."

3. "Report on Water Quality Standards for the Ashtabula River, Conneaut Creek, and Turkey Creek, including Interstate Waters of Ohio-Pennsylvania, June 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A."

4. "Report on Water Quality Standards for Interstate Waters of the Ohio River between Ohio-West Virginia and Ohio-Kentucky, June 26, 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A."

5. "Report on Water Quality Standards for the Maumee River Basin including Interstate Waters, June 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A."

6. "Report on Water Quality Standards for Interstate Waters of Lake Erie, May 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A."

7. "Water Quality Standards adopted by the Board July 11, 1972, for the Mahoning River and its Tributaries in Ohio."

3. The following standards were submitted to the Environmental Protection Agency for approval prior to enactment of the 1972 Amendments and were awaiting approval of the Administrator on that date:

a. *Alaska.* The State of Alaska submitted on October 6, 1972 a revision of its interstate water quality standards as follows: "Alaska Administrative Code, Title 18, Chapter 70, Water Quality Standards," as amended, filed September 22, 1972.

b. *Indiana.* The State of Indiana submitted on March 13, 1972 a revision of its interstate water quality standards identified as follows: Regulations SPC 4R, 7R, and 12, filed February 12, 1972 (revised standards for Lake Michigan Basins).

c. *Michigan.* The State of Michigan submitted on September 3, 1971 a revision of its interstate water quality standards identified as follows: "Interstate and Intrastate Water Temperature Standards for the Protection of Fish and Aquatic Life," Michigan Water Resources Commission, Department of Natural Resources, State of Michigan, August 1971.

d. *Nebraska.* The State of Nebraska submitted on June 21, 1972, a revision of its interstate water quality standards identified as follows: "Water Quality Standards Applicable to Nebraska Waters," adopted June 16, 1972.

e. *Wisconsin.* The State of Wisconsin submitted a revision of its interstate water quality standards identified as follows: Wisconsin Administrative Code section NR 102.04, registered January 1972 (Lake Michigan thermal standards).

PART B—INTRASTATE WATER QUALITY STANDARDS SUBMITTED BY STATES PURSUANT TO SECTION 303(a)(2) OF THE ACT

The listing set forth below indicates the States which have made submissions to the Environmental Protection Agency under section 303(a)(2) of the Act and briefly describes the standards covered by such submissions as described by the State. For each State, the listing also includes the date of the State's submission and the date by which the regional administrator must specify required changes pursuant to section 303. These two dates appear at the end of each State listing and are denoted as follows: "Submission date: * * *" and "EPA changes: * * *."

1. *Alabama.* The documents identified under Part A above also apply to intrastate waters within the State of Alabama. The State has also submitted use classifications for the Warrior River, adopted by the Alabama Water Improvement Commission on April 18, 1969, and use classifications for tributaries of the Warrior River and for the Cahaba River Basin, adopted October 16, 1972. Submission date: 10–27–72. EPA changes: 2–26–73.

2. *American Samoa.* The document entitled "Water Quality Standards for the Territory of American Samoa (September 1972)" was submitted by the Territory of American Samoa. Submission date: 11–16–72; EPA changes: 3–16–73.

3. *Alaska.* The documents identified under Part A above also apply to intrastate waters within the State of Alaska. Submission date: 11–16–72; EPA changes: 3–16–73.

4. *Arizona.* The document identified under Part A above also applies to intrastate waters within the State of Arizona. Submission date: 11–2–72; EPA changes: 3–2–73.

5. *Arkansas.* The documents identified under Part A above also apply to intrastate waters within the State of Arkansas. The following document was also submitted by the State with respect to intrastate waters: "Amendment to Department Regulation No. 2, March 26, 1971" (regulation establishing water quality criteria for interstate and intrastate streams). Submission date: 11–10–72; EPA changes: 3–12–73.

6. *California.* The State of California submitted the following documents with respect to intrastate waters within that State: Thirteen separate "Water Quality Control Plans (Interim)," dated June 1971, and entitled:

a. Water Quality Control Plan (Interim), Klamath River, Basin 1A, June 1971.

b. Water Quality Control Plan (Interim), North Coastal, Basin 1B, June 1971.

c. Water Quality Control Plan (Interim), San Francisco Bay, Basin 2, June 1971.

d. Water Quality Control Plan (Interim), Central Coastal, Basin 3, June 1971.

e. Water Quality Control Plan (Interim), Santa Clara River, Basin 4A, and Los Angeles River, Basin 4B, June 1971.

f. Water Quality Control Plan (Interim), Central Valley, Sacramento River, Basin 5A, and Sacramento-San Joaquin Delta, Basin 5B, June 1971.

g. Water Quality Control Plan (Interim), Central Valley, San Joaquin River, Basin 5C, and Tulare Lake, Basin 5D, June 1971.

h. Water Quality Control Plan (Interim), North Lahontan, Basin 6A, June 1971.

i. Water Quality Contol Plan (Interim), South Lahontan, Basin 6B, June 1971.

j. Water Quality Control Plan (Interim), West Colorado River, Basin 7A, June 1971.

k. Water Quality Control Plan (Interim), East Colorado River, Basin 7B, June 1971.

l. Water Quality Control Plan (Interim), Santa Ana River, Basin 8, June 1971.

m. Water Quality Control Plan (Interim), San Diego, Basin 9, June 1971.

Submission date: 11–8–72; EPA changes: 3–8–73.

7. *Colorado.* The document identified under Part A above also applies to intrastate waters within the State of Colorado. Submission date: 11–6–72; EPA changes: 3–6–73.

8. *Connecticut.* The documents identified under Part A above also apply to intrastate waters within the State of Connecticut. Submission date: 11–7–72; EPA changes: 3–7–73.

9. *Delaware.* The documents identified under Part A above also apply to intrastate waters within the State of Delaware. Submission date: 11–15–72; EPA changes: 3–15–73.

10. *Florida.* The documents identified under Part A above also apply to intrastate waters within the State of Florida. Submission date: 11–13–72; EPA changes: 3–13–73.

11. *Georgia.* The documents identified under Part A above also apply to intrastate waters within the State of Georgia. Submission date: 11–15–72; EPA changes: 3–15–73.

12. *Territory of Guam.* The documents identified in Part A above also apply to intrastate waters within the Territory of Guam. Submission date: 11–9–72; EPA changes: 3–9–73.

13. *Hawaii.* The documents identified under Part A above also apply to intrastate waters within the State of Hawaii. Submission date: 11–14–72; EPA changes: 3–14–73.

14. *Idaho.* The State of Idaho submitted the following documents with respect to intrastate waters within that State: "Rules and Regulations for the Establishment of Standards of Water Quality and for Wastewater Treatment Requirements for Waters of the State of Idaho, Idaho State Board of Health, September 1968, as amended." Submission date: 11–8–72; EPA changes: 3–8–73.

15. *Illinois.* The documents identified under Part A above also apply to intrastate waters within the State of Illinois. Submission date: 11–16–72; EPA changes: 3–16–73.

16. *Indiana.* The documents identified under Part A above also apply to intrastate waters within the State of Indiana. Submission date: 11–2–72; EPA changes: 3–2–73.

17. *Iowa.* The documents identified under Part A above also apply to intrastate waters within the State of Iowa. Submission date: 11–1–72; EPA changes: 3–1–73.

18. *Kansas.* The documents identified under Part A above also apply to intrastate waters within the State of Kansas. Submission date: 11–16–72; EPA changes: 3–6–73.

19. *Kentucky.* The documents identified under Part A above also apply to intrastate waters within the Commonwealth of Kentucky. Submission date: 11–22–72; EPA changes: 3–22–73.

20. *Louisiana.* The documents identified under Part A above also apply to intrastate waters within the State of Louisiana. Submission date: 11–8–72; EPA changes: 3–8–73.

21. *Maine.* The submission of the State of Maine indicates that standards with respect to intrastate waters are set forth in Title 38, Maine Revised Statutes Annotated §§ 363–364, 368–369, and 370–371. Submission date: 11–13–72; EPA changes: 3–13–73.

22. *Maryland.* The documents identified under Part A above also apply to intrastate waters within the State of Maryland. Submission date: 11–14–72; EPA changes: 3–14–73.

23. *Massachusetts.* The documents identified under Part A above also apply to intrastate waters within the Commonwealth of Massachusetts. Submission date: 11–30–72; EPA changes: 3–30–73.

24. *Michigan.* The State of Michigan submitted the following documents with respect to intrastate waters within that State: "Use Designations for Michigan Intrastate Water Quality Standards," adopted January 4, 1968; "Interstate and Intrastate Water Temperature Standards for Protection of Fish and Aquatic Life," adopted August 1971; "Water Use Designation Areas for Michigan's Intrastate Water Quality Standards for Upper Peninsula Waters Previously Exempted," adopted November 19, 1969; and changes in the use designations for certain waters as reflected in minutes of meetings of the Michigan Water Resources Commission dated May 20–21, 1970 (Ford Lake), July 23–24, 1970 (C. S. Mott Lake) and October 15–16, 1970 (Tittabawassee River). Submission date: 11–8–72; EPA changes: 3–8–73.

25. *Minnesota.* The State of Minnesota submitted the following documents with respect to intrastate waters within that State:

a. WPC 1—Classification and standards for the Mississippi River and tributaries from the Rum River to the Upper Lock and Dam at St. Anthony Falls.

b. WPC 2—Classification and standards for the Mississippi River and tributaries from the Upper Lock and Dam at St. Anthony Falls to the outfall of the Minneapolis-St. Paul Sanitary District Sewage Treatment Plant.

c. WPC 5—Classification and standards for the Minnesota River and tributary waters from Carver Rapids to the outlet of Reilly Creek and Grass Lake below Shakopee, Zone 36–22.4.

d. WPC 6—Classification and standards for the Minnesota River and tributary waters from the outlet of Reilly (Terrell) Creek and Grass Lake below Shakopee to the junction with the Mississippi River at Fort Snelling, Zone 22.4–0.

e. WPC 7—Classification and standards for Reilly (Terrell) Creek, Bluff Creek, the Chaska Creeks, Spring Creek, Carver Creek, and Sand Creek and tributary waters.

f. WPC 8—Classification and standards for Eagle Creek and Purgatory Creek and tributary waters.

g. WPC 9—Classification and standards for Nine Mile Creek and the Credit River and tributary waters.

h. WPC 10—Classification and establishment of standards of water quality and purity for the Red River of the North, the Otter Tail River from Fergus Falls to the mouth, and the Red Lake River from Crookston to the mouth.

i. WPC 14—Criteria for the classification of the intrastate waters of the State and the establishment of the standards of quality and purity.

j. WPC 16—Classification and establishment of standards of water quality and purity for Anderson Creek, Big Silver Creek, the Blackhoof River, Canutrup Creek (and Mary Brook), Clear Creek, Deer Creek, the Little Net River, North Fork Creek, Skunk Creek, Stateline Creek, and Stony Brook, Carlton and Pine Counties.

k. WPC 17—Classification and establishment of standards of water quality and purity for the Nemadji River System, Carlton and Pine Counties (except waters included in WPC 16).

l. WPC 23—Standards of quality and purity for effluents discharged to intrastate waters.

m. WPC 27—Effluent standards for disposal systems discharging to the intrastate waters of the Lake Superior Basin, and to the interstate waters of Lake St. Croix.

n. SW 51—Applicability, definitions and general conditions for handling

storage, transportation, and disposal of animal wastes, severability, and variances.

o. SW 52—Storage transportation and disposal of animal wastes.

p. SW 53—Registration, permit issuance, denial, and revocation.

q. SW 54—Location requirements for livestock feedlots, poultry lots, and other animal lots.

r. SW 55—Nonconforming feedlots.

Submission date: 11–10–72; EPA changes: 3–12–73.

26. *Mississippi.* The following document was submitted by the State of Mississippi with respect to intrastate waters within that State: "Water Quality Criteria for Intrastate Waters" (Reg. WPC–3–70), adopted October 27, 1970, revised November 14, 1972. Submission date: 11–17–72; EPA changes: 3–19–73.

27. *Missouri.* The documents identified under Part A above also apply to intrastate waters within the State of Missouri. Submission date: 10–30–72; EPA changes: 2–27–73.

28. *Montana.* The State of Montana submitted the following documents with respect to intrastate waters within that State: "Water Quality Criteria," "Water Use Classifications," and "Policy Statements," adopted by the Montana Water Pollution Control Council, October 6, 1971. Submission date: 11–10–72; EPA changes: 3–12–73.

29. *Nevada.* The documents identified under Part A above also apply to intrastate waters for the Las Vegas drainage basin. Water quality standards for certain principal intrastate streams were adopted by the Nevada Commission of Environmental Protection on November 14, 1972, and are to be submitted to the Environmental Protection Agency by April 16, 1973, pursuant to section 303(a)(3) of the Act. Submission date: 11–16–72; EPA changes: 3–16–73.

30. *Nebraska.* The documents identified under Part A above also apply to intrastate waters within the State of Nebraska. Submission date: 11–6–72; EPA changes: 3–6–73.

31. *New Hampshire.* The documents identified under Part A above also apply to intrastate waters within the State of New Hampshire. Submission date: 11–10–72; EPA changes: 3–12–73.

32. *New Jersey.* The documents identified under Part A above also apply to intrastate waters within the State of New Jersey. Submission date: 11–8–72; EPA changes: 3–8–73.

33. *New Mexico.* The State of New Mexico submitted the following document with respect to intrastate waters within that State: "New Mexico Water Quality Standards for Intrastate Waters and Tributaries to Interstate Streams," adopted June 30, 1970. Submission date: 11–17–72; EPA changes: 3–19–73.

34. *New York.* The documents identified under Part A above also apply to intrastate waters within the State of New York. The following additional documents were submitted by the State with respect to intrastate waters: Volumes B through F of the "Official Compilation Codes, Rules and Regulations of the State of New York, 6 Conservation," containing classifications of all waters within the State. Submission date: 11–13–72; EPA changes: 3–13–73.

35. *North Carolina.* The standards identified under Part A above also apply to intrastate waters within the State of North Carolina. Submission date: 11–15–72; EPA changes: 3–15–73.

36. *North Dakota.* The documents identified under Part A above also apply to intrastate waters within the State of North Dakota. Submission date: 11–13–72; EPA changes: 3–13–73.

37. *Ohio.* The State of Ohio submitted the following document with respect to intrastate waters within that State: "Resolution Establishing Amended Criteria of Stream-Water Quality for Various Uses Adopted by the Board on March 14, 1972." Submission date: 11–15–72; EPA changes: 3–15–73.

38. *Oklahoma.* The document identified under Part A above also applies to intrastate waters within the State of Oklahoma. The following additional documents were submitted by the State with respect to intrastate waters: Amendments to Oklahoma water quality standards adopted by the Pollution Control Coordinating Board, November 12, 1969, and May 10, 1971. Submission date: 11–17–72; EPA changes: 3–19–73.

39. *Oregon.* The State of Oregon submitted the following document with respect to intrastate waters within that State: "State of Oregon Department of Environmental Quality Regulations Relating to Water Quality Control in Oregon" as set forth in certain sections of the Oregon Administrative Rules, Chapter 340 [§§ 41–005, 41–010, 41–015, 41–020, 41–022, 41–025, 41–030, 41–080 through 105]. Submission date: 11–13–72; EPA changes: 3–13–73.

40. *Pennsylvania.* The submission by the Commonwealth of Pennsylvania included documents with respect to intrastate waters which are set forth in "Chapter 93, Water Quality Criteria, Department of Environmental Resources, Rules and Regulations." Standards for 10 of 24 subbasin areas were established prior to October 18, 1972. The State plans to submit additional standards to the Environmental Protection Agency pursuant to section 303(a)(3) of the Act by April 16, 1972. Submission date: 11–16–72; EPA changes: 3–16–73.

41. *Rhode Island.* The documents identified under Part A above also apply to intrastate waters within the State of Rhode Island. Submission date: 11–6–72; EPA changes: 3–6–73.

42. *South Carolina.* The documents identified under Part A above also apply to intrastate waters within the State of South Carolina. The following additional document was submitted by the State with respect to intrastate waters: "Stream Classifications for the State of South Carolina" setting forth classifications adopted prior to October 18, 1972. Submission date: 11–17–72; EPA changes: 3–19–73.

43. *South Dakota.* The document identified under Part A above also applies to intrastate waters within the State of South Dakota. Submission date: 11–13–72; EPA changes: 3–13–73.

44. *Tennessee.* The State of Tennessee submitted the following document with respect to intrastate waters within that State: "Tennessee's Water Quality Criteria and Stream Use Classifications for Interstate and Intrastate Streams," adopted June 2, 1972. Submission date: 11–14–72; EPA changes: 3–14–73.

45. *Texas.* The documents identified under Part A above also apply to intrastate waters within the State of Texas. Submission date: 11–14–72; EPA changes: 3–14–73.

46. *Utah.* The following documents were submitted by the State of Utah with respect to intrastate waters within that State:

a. Order of the water pollution committee and the Utah State Board of Health dated June 23, 1972, "In the Matter of Classifying all Surface Waters in the State of Utah not Previously Classified."

b. Order of the Utah water pollution committee and the Utah State Board of Health dated June 23, 1972, "In the Matter of the Implementation of the Classification of all Surface Waters in the State of Utah not Previously Classified."

c. Part II of the Utah code of waste disposal regulations titled "Standards of Quality for Waters of the State."

Submission date: 11–8–72; EPA changes: 3–8–73.

47. *Vermont.* The following documents were submitted by the State of Vermont with respect to intrastate waters within that State:

a. "Regulations Governing Water Classification and Control of Quality," adopted by Vermont water resources board on May 27, 1971.

b. "Title 10, Vermont Statutes Annotated, Chapter 33, Water Pollution Control." (In particular, section 903 regarding classification.)

c. Intrastate basin classification maps as adopted by the water resources board in formal classification procedures on dates indicated.

(1) Nulhegan River, April 30, 1954, map not available, all waters designated Class B.

(2) Paul and Willard Stream, April 30, 1954, map not available, all waters designated Class B.

(3) Lamoille River, sheets 1 and 2, February 13, 1970.

(4) Winooski River, lower, June 9, 1969; middle, May 14, 1963; upper, February 5, 1958; Stevens Branch, August 7, 1962.

(5) Wells River, January 22, 1958.

(6) Waits River, February 19, 1960.

(7) LaPlatte River, March 14, 1958.

(8) Lewis and Little Otter Creek (Lake Champlain), March 21, 1968.

(9) Upper Otter Creek, February 19, 1961.

(10) Lower Otter Creek, November 13, 1961.

(11) Ottauquechee River, November 16, 1967.

(12) Mill Brook (lower Connecticut River), March 21, 1968.

(13) Black River, March 30, 1966.

d. Intrastate river basins not formally classified by water resources board. These

basins all designated as Class B waters as of July 1, 1971 pursuant to 10 V.S.A. 903.

e. Compilation of those waters considered by the Vermont Department of Health to be Class A waters by virtue of their use as public water supplies pursuant to 10 V.S.A., 903(a).

f. Compilation of the Vermont permit system inventory report for all intrastate waters which indicates known dischargers, status, and implementation dates authorized by current permit program.

Submission date: 11–17–72; EPA changes: 3–19–73.

48. *Virginia.* The documents identified under Part A above also apply to intrastate waters within the Commonwealth of Virginia. The following additional document was submitted by the State with respect to intrastate waters: Undated "Addendum" to water quality standards setting forth reclassifications of certain intrastate waters (Phillips Creek, Shoemaker River and Lake Monticello reclassified to primary contact recreation; Appomattox River and Opossum Creek reclassified to public water supplies). Submission date: 11–3–72; EPA changes: 3–5–73.

49. *Washington.* The following document was submitted by the State of Washington with respect to intrastate waters within that State: "Regulation Regarding Water Quality for Intrastate Waters of the State of Washington and a Plan for Implementation of Such Standards", adopted January 1, 1970, Chapter 372–64, Washington Administrative Code. Submission date: 11–14–72; EPA changes: 3–14–73.

50. *West Virginia.* The documents identified under Part A above also apply to intrastate waters within the State of West Virginia. Submission date: 11–8–72; EPA changes: 3–8–73.

51. *Wisconsin.* The State of Wisconsin submitted the following documents with respect to intrastate waters within that State: "Water Quality Standards for Interstate Waters", and "Intrastate Water Quality Standards and Use Classifications," Wisconsin Administrative Code, Chapters NR 102 and 104. Submission date: 11–2–72; EPA changes: 3–2–73.

Dated: December 22, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

APPENDIX A

ENVIRONMENTAL PROTECTION AGENCY—REGIONAL OFFICES

Region I—John F. Kennedy Building, Boston, Mass. 02203: Maine, New Hampshire, Connecticut, Massachusetts, Rhode Island, Vermont.

Region II—26 Federal Plaza, New York, N.Y. 10007: New York, Puerto Rico, New Jersey, Virgin Islands.

Region III—Sixth and Walnut Streets, Curtis Building, Philadelphia, Pa. 19106: Pennsylvania, Maryland, West Virginia, Delaware, Virginia, District of Columbia.

Region IV—1421 Peachtree Street NE., Atlanta, GA 30309: Kentucky, North Carolina, South Carolina, Mississippi, Tennessee, Alabama, Florida, Georgia.

Region V—1 North Wacker Drive, Chicago, IL 60606: Minnesota, Michigan, Indiana, Wisconsin, Illinois, Ohio.

Region VI—1600 Patterson Street, Dallas, TX 75201: New Mexico, Arkansas, Texas, Oklahoma, Louisiana.

Region VII—1735 Baltimore Avenue, Kansas City, MO 64108: Nebraska, Kansas, Iowa, Missouri.

Region VIII—1860 Lincoln Street, Denver, CO 80203: Montana, Wyoming, Utah, North Dakota, South Dakota, Colorado.

Region IX—100 California Street, San Francisco, CA 94111: California, Arizona, Guam, American Samoa, Hawaii, Nevada, Trust Territory of the Pacific Islands.

Region X—1200 Sixth Avenue, Seattle, WA 98101: Alaska, Idaho, Oregon, Washington.

[FR Doc.72–22334 Filed 12–28–72;8:47 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Agenda of Meeting

Meeting of the Technical Advisory Committee on Conservation of Energy to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, 9:30 a.m., January 8, 1973, Room 2043.

1. Meeting called to order by FPC Staff Representative.

2. Objectives and Purposes of the Meeting.

A. Introductory remarks by Chairman Bruce Netschert.

B. Discussion of Proposed NPS Guidelines.

C. Division of responsibility among Task Forces.

D. Task Force operating procedures.

E. Other business.

F. Date of next meeting.

3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–22365 Filed 12–28–72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY—TASK FORCE ON ENVIRONMENTAL ASPECTS

Agenda of Meeting

Meeting—to be held at the Federal Power Commission Offices, 1425 K Street NW., Washington, DC, 1:30 p.m., January 8, 1973, Room 785.

1. Meeting called to order by FPC Staff Representative.

2. Objectives and purposes of meeting.

A. Introductory remarks by Chairman Lawrence I. Moss.

B. Progress reports on Task Force assignments.

C. Other business.

D. Date of next meeting.

3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–22358 Filed 12–28–72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY—TASK FORCE ON PRACTICES AND STANDARDS

Agenda of Meeting

Meeting to be held at the Federal Power Commission Offices, 1425 K Street NW., Washington, DC, 1:30 p.m., January 8, 1973, Room 800.

1. Meeting called to order by FPC Staff Representative.

2. Objectives and purposes of meeting.

A. Introductory remarks by Chairman Charles A. Berg.

B. Progress reports on Task Force assignments.

C. Other business.

D. Date of next meeting.

3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72–22364 Filed 12–28–72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY—TASK FORCE ON TECHNICAL ASPECTS

Agenda of Meeting

Meeting to be held at the Federal Power Commission offices, 1425 K Street NW., Washington, DC, 1:30 p.m., January 8, 1973, Room 859.

1. Meeting called to order by FPC staff representative.

2. Objectives and purposes of meeting.

A. Introductory remarks by Chairman David C. White.

B. Progress reports on Task Force assignments.

C. Other business.

D. Date of next meeting.

3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the

committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22366 Filed 12-28-72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Agenda of Third Meeting

Meeting to be held at the Federal Power Commission offices, 441 G Street NW., Washington, DC, 8:30 a.m., January 9, 1973, Room 2043.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting:
A. Approval of minutes of November 20 meeting.
B. Reports of task force meetings.
C. Discussion of conservation-related R. & D.
D. Discussion/identification of key electric power research issues on which the committee should attempt to provide recommendations.
E. Discussion and selection of specific committee work objectives and a work plan.
F. Clarification of interfaces between task forces.
G. Other business.
H. Date of next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22359 Filed 12-28-72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT—TASK FORCE ON ENERGY CONVERSION RESEARCH

Agenda of Meeting

Meeting to be held at the Federal Power Commission offices, 441 G Street NW, Washington, DC, 9 a.m., January 8, 1973, Room 2106.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting:
A. Discussion of purpose and goals of task force.
B. Current priority of energy R. & D. projects.
C. Discussion of criteria for use in evaluating energy conversion projects for R. & D. support.
D. Criteria for support of energy conversion R. & D.
E. Work plan and future meetings schedule.
F. Other business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22362 Filed 12-28-72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT—TASK FORCE ON ENERGY DISTRIBUTION RESEARCH

Agenda of Meeting

Meeting to be held at the Federal Power Commission offices, 441 G Street NW, Washington, DC, 10 a.m., January 8, 1973, Room 4535.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting.
A. Discussion of task force objectives.
B. Review of previous work.
C. Work plan and assignments.
D. Discussion of consultant services.
E. Other business.
F. Date of next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22363 Filed 12-28-72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT—TASK FORCE ON ENERGY SOURCES RESEARCH

Agenda of Meeting

Meeting to be held at the Federal Power Commission offices, 441 G Street NW., Washington, DC, 1 p.m., January 8, 1973, Room 2106.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting.
A. National Power Survey Task Force assignments—Mr. Milbourn.
B. Energy resources research objectives.
C. Work plan for the task force.
D. Other business.
E. Schedule of future meetings.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22361 Filed 12-28-72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT—TASK FORCE ON ENERGY SYSTEMS RESEARCH

Agenda of Meeting

Meeting to be held at the Federal Power Commission offices, 441 G Street NW., Washington, DC, 1 p.m., January 8, 1973, Room 2043.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting.
A. Discussions of objectives of research and development committee.
B. Discussions of objectives of energy systems research task force.
C. Coordination with other committees and task forces.
D. Staff support.
E. Other business.
F. Schedule of future meetings.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22360 Filed 12-28-72;8:48 am]

NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT—TASK FORCE ON ENVIRONMENTAL RESEARCH

Agenda of Meeting

Meeting to be held at the Federal Power Commission offices, 441 G Street NW., Washington, DC, 9 a.m., January 8, 1973, Room 4008.

1. Meeting called to order by FPC coordinating representative.
2. Objectives and purposes of meeting.
A. Discussions:
1. Future energy demand.
2. Potential sources of supply.
3. Basic energy system modules.
4. Environmental impact by major source and module.
5. Environmentally preferred energy systems.
6. Alternative strategies for meeting energy needs.
7. Implications for energy industry.
B. Briefings:
1. Long-term energy demands.
2. Environmental assessment of basic energy modules.
C. Other business.
D. Date of next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22357 Filed 12-28-72;8:48 am]

[Docket No. E-7847]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Proposed Change in Rates and Charges

DECEMBER 22, 1972.

Take notice that on November 27, 1972, Central Hudson Gas & Electric Corp. (Central Hudson) filed a supplement to its rate schedule FPC No. 22 to reflect an increase of 10 percent in the operation and maintenance charge as provided in Article IV(2) thereof. The increase reflected is stated to be from $14,094.12 to $15,503.64 per annum, and reflects the impact of wage adjustments which have already become effective. Central Hudson requests that the supplement be made effective as of January 1, 1973. New York State Electric and Gas Corp. is the sole purchaser under rate schedule No. 22.

Any person desiring to be heard with reference to Central Hudson's proposed rate changes in this docket should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 27, 1972. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a petition to intervene in accordance with the Commission's rules. Central Hudson's rate increase application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22370 Filed 12-28-72;8:46 am]

[Docket No. RP73-67]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in Rates and Charges

DECEMBER 22, 1972.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on December 8, 1972, tendered for filing proposed changes in its FPC gas tariff original volume No. 3. The filing consists of first revised sheets Nos. 4, 8, 9, 54, 55, and 58 and are submitted pursuant to agreements entered into between Consolidated and Columbia Gas Transmission Corp. (Columbia) as of November 20, 1972. The agreements increase the contractually authorized price to 29 cents per Mcf at 14.73 p.s.i.a. The proposed effective date is January 7, 1973.

Consolidated states that the proposed rate does not exceed the area rate ceiling for contracts dated prior to October 8, 1969, as prescribed by the Commission's Order No. 411 and § 154.107 of the regulations under the Natural Gas Act.

Copies of this filing have been served on Columbia.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 3, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22367 Filed 12-28-72;8:46 am]

[Docket No. RP72-116]

EL PASO NATURAL GAS CO.

Supplement to Petition for Order Respecting Advance Payments

DECEMBER 22, 1972.

Take notice that El Paso Natural Gas Co. (El Paso), on December 14, 1972, filed a supplement to its petition for an order respecting advance payments filed in the above-captioned proceeding on April 17, 1972. The matters contained in that petition were set for hearing by order of the Commission issued August 2, 1972. In its supplement to the petition El Paso reiterates the relief sought in the originally filed petition and states that this supplement is filed in order to place before the Commission arrangements which had been the subject of negotiation and which have now been concluded, as described in the appendices to the supplement.

El Paso says that the nature of the restructured arrangements is such that, as with the original arrangements, Commission approval is required as originally requested herein. The company states that the restructured arrangements between the funding parties and the producers now provide that the funding parties will advance the producers' shares of certain specified exploratory well-drilling funds, with an option to advance developmental funds, if exploratory work proves such additional advances to be warranted and if regulatory approvals have been obtained. El Paso says that such approvals must be obtained by April 15, 1973, and that should the Commission not grant El Paso's instant petition by that date, El Paso must then determine whether to terminate its agreements with the producers, thereby releasing any call it would have on natural gas subsequently developed in the areas involved.

El Paso says that its direct evidentiary presentation to be served in this proceeding will develop the restructured arrangements in detail.

Copies of the filing were served upon persons who have filed notices of intervention or petitions for leave to intervene in this proceeding.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 3, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party, with the exception of those who have filed notices of intervention or who have been permitted to intervene, must file a petition to intervene. Copies of the supplement are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22368 Filed 12-28-72;8:46 am]

[Docket No. E-7866]

NEW ENGLAND POWER POOL

Notice of Cancellation

DECEMBER 22, 1972.

Take notice that on November 28, 1972, the New England Power Pool filed a notice of cancellation, to take effect at 11:59 p.m. on December 31, 1972. Such notice of cancellation terminates agreement for energy exchange between the NEPOOL participants and Braintree Electric Light Department, made as of October 1, 1972.

Any person desiring to be heard or to make any protest with reference to said cancellation, should, on or before December 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests 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 therein must file petitions to intervene in accordance with the Commission's rules. The notice of cancellation on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22369 Filed 12-28-72;8:46 am]

[Docket No. RI73-144, etc.]

CHAMPLIN PETROLEUM CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 20, 1972.

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

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

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

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

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

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

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cent per Mcf *		Rate in effect subject to refund in docket Nos.
									Rate in effect	Proposed increased rate	
RI73-144	Champlin Petroleum Co	101	3	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex.) (Permian Basin).	$2,218	11-22-72		1-23-73	[1] 17.5656	[1] 18.5694	RI68-460
RI73-145	Getty Oil Co	67	8	Northern Natural Gas Co. (Emperor Field, Winkler County, Tex.) (Permian Basin).	7,785	11-20-72		1-21-73	18.0675	19.0713	RI70-658
	do	148	5	Transwestern Pipeline Co. (Halley Field, Winkler County, Tex.) (Permian Basin).	881	11-20-72		6-1-73	21.7505	23.8725	RI71-144
RI73-146	Amoco Production Co	220	7	West Texas Gathering Co. (Emperor Field, Winkler County, Tex.) (Permian Basin).	95,700	[2] 11-24-72		1-25-73	18.07	19.07	RI70-780
	do	463	6	do	39,100	[2] 11-24-72		1-25-73	18.07	19.07	RI70-780
RI73-147	Chevron Oil Co	20	[3] 6	El Paso Natural Gas Co. (Puckett Field, Pecos County, Tex.) (Permian Basin).		11-24-72	12-25-72	Accepted [7]			
			7	do	2,035,939	11-24-72		6-1-73	13.0487	24.09	RI70-1340
RI73-148	Amoco Production Co	494	[3] 6	El Paso Natural Gas Co. (Gomez Field, Pecos County, Tex.) (Permian Basin).	82,950	[9] 11-29-72		1-30-73	17.57	18.57	RI70-781
RI73-149	Featherstone Farms, Ltd	3	4	Colorado Interstate Gas Co. (Patrick Draw Field, Sweetwater County, Wyo.).	27	11-24-72		1-25-73	15.6163	16.6163	RI70-1143
	do	4	7	do	74	11-24-72		1-25-73	17.0	18.0	RI68-208
RI73-150	Phillips Petroleum Co	18	[5] 69	Northern Natural Gas Co. (Andrews, Benedum and Spraberry plants, Andrews, Upton, and Midland Counties, Tex.) (Permian Basin).	1,976	11-27-72		8-1-73	27.5530	27.8165	
RI73-151	Mobil Oil Corp	201	[6] 9	West Texas Gathering Co. (Emperor Field, Winkler County, Tex.) (Permian Basin).		12-6-72	1-6-73	Accepted [7]			
			10	do	32,461	11-24-72		1-25-73	18.0675	20.89	RI70-1027

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Includes quality adjustments.
[2] Correction to rate increase also submitted on Nov. 24, 1972.
[3] Provides for a rate of 24.0 cents per Mcf as of Jan. 1, 1973 and a 1 cent escalation each year thereafter; also provides for a increase up to any higher ceiling rate prescribed by the FPC.
[4] Initial rate—includes upward B.t.u. adjustment.
[5] Applicable only to sales made under supp. No. 63.
[6] Amends pricing provisions of contract.
[7] Accepted for filing to be effective on the date shown in the "Effective Date" column.
[8] Not applicable to gas produced from the Price Estate, Moore and Blalock Well 1-A.
[9] Corrected filing made Dec. 11, 1972.

APPENDIX A

The proposed increases of Getty Oil Co. under FPC Gas Rate Schedule No. 148, Chevron Oil Co. under FPC Gas Rate Schedule No. 20 and Phillips Petroleum Co. under FPC Gas Rate Schedule No. 18 exceed the rate limit for a 1 day suspension and, therefore, are suspended for 5 months from the expiration of the statutory notice period or the contractual effective date, whichever is later.

The other increases involved here do not exceed the corresponding rate filing limitation imposed in Southern Louisiana and therefore are suspended for 1 day from the expiration of the 60-day notice period or the contractual effective date, whichever is later.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1 day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act [15

U.S.C. 717c(d)] in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1 day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-22260 Filed 12-28-72;8:45 am]

[Docket No. CS73-417, etc.]

GEORGE M. SHELTON ET AL.

Notice of Applications for "Small Producer" Certificates [1]

DECEMBER 19, 1972.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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 therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

Docket No.	Date filed	Name of applicant
CS73-417	11-27-72	George M. Shelton, Post Office Box 1573, Midland, TX 79701.
CS73-418	11-28-72	Charles W. Boggs, General Delivery, Pinch, W. Va. 25156.
CS73 419	11-29-72	Midroc Oil Co., 5551 Yale Boulevard, Dallas, TX 75206.
CS73-420	11-21 72	Zenith Exploration Co., 10 East Beau Street, Washington, PA 15301.
CS73-421	11-21-72	Petrofunds, Inc. 1972 "A" Drilling Fund, 2200 Neils Esperson Building, Houston, Tex. 77002.
CS73-422	12- 1-72	Caddo Oil Co., Inc., Post Office Box 800, Shreveport, LA 71162.
CS73-423	12- 1-72	A. H. Rowan, 1804 Commerce Building, Fort Worth, Tex. 76102.
CS73-424	12- 1-72	Merle M. Rowan, Individually and as Independent Executrix of the Estate of C. L. Rowan, Deceased, 1918 Commerce Building, Fort Worth, Tex. 76102.
CS73-425	12- 1-72	A. C. Pegg, Box 66067, Chicago, Ill. 60680.
CS73-426	11-30-72	James E. Blacketer and Verlene M. Blacketer, 2208 Northwest 56th Street, Oklahoma City, OK 73112.
CS73-427	12- 4-72	Earl H. Linn, 400 Penn Center Boulevard, Pittsburgh, PA 15235.
CS73-428	12- 4-72	Meridian Exploration Corp., 400 Penn Center Boulevard, Pittsburgh, PA 15235.
CS73-429	12- 4-72	John M. Carson, 2022 North Broadway, Shawnee, OK 74801.
CS73-430	11-24-72	B. A. Becker, Post Office Box 19,503, Houston, TX 77024.
CS73-431	12- 4-72	M. L. Mayfield, 1717 C. & I. Building, Houston, Tex. 77002.
CS73-432	12- 4-72	L. I. Freeman, Town House Apartments, Shreveport, La. 71101.
CS73-433	12- 4-72	United Petroleum Co., Suite 320, 220 West Douglas, Wichita, Kans. 67202.
CS73-434	12- 5-72	Cralco Corp., 1600 Cuthbert Street, Midland, TX 79701.
CS73-435	12- 5-72	R. P. Brewer, Jr., 341 Milam Building, San Antonio, Tex. 78205.
CS73-436	12- 4-72	Murph Wilson, 1101 Peoples Bank Building, Tyler, Tex. 75701.
CS73-437	12- 4-72	J. S. Hudnall, Citizens First National Bank Building, Tyler, Tex. 75701.
CS73-438	12- 4-72	A. W. Riter, Jr., Post Office Box 2001, Tyler, TX 75701.
CS73-439	12- 4-72	Sam Trant, Peoples Bank Building, Tyler, Tex. 75701.
CS73-440	12- 4-72	G. J. Loetterle, Post Office Box 1310, Tyler, TX 75701
CS73-441	12- 4-72	George W. Pirtle, Post Office Box 1310, Tyler, TX 75701.
CS73-442	12- 4-72	Lonnie Holotik, 618 Fair Foundation Building, Tyler Tex. 75701.
CS73-443	12- 4-72	Fairway Oil & Gas Co., Inc., 2103 East Southeast Loop 323, Tyler, TX 75701.
CS73-444	12- 5-72	Loyle P. Miller, 518 Praetorian Building, Dallas, Tex. 75201.
CS73-445	12- 1-72	J. J. McRoberts, Trustee, 225 Sunset Drive, Brownsville, TX 78250.
CS73-446	12- 8-72	J. N. Warren, 2500 First City National Bank Building, Houston, Tex. 77002.
CS73-447	12- 8-72	Bill Mathis, Post Office Box 82, Midland, TX 79701.
CS73-448	12- 7-72	G. A. Kelly, First National Bank, Longview, Tex. 75601.
CS73-449	12- 8-72	Kenneth W. Rees, 825 Cravens Building, Oklahoma City, Okla. 37102.
CS73-450	12- 8-72	Jean Zucker, Trustee, 8873 B 16th Street, Brooklyn, NY 11214.
CS73-451	12- 8-72	Louis Kessler and Augusta Kessler, 40 Ocean Parkway, Brooklyn, NY 11218.
CS73-452	12- 8-72	Milton S. Shapiro, 60 East 42d Street, New York, NY 10017.
CS73-453	12-11-72	Murray B. Herman, 3131 Brighton 13th Street, Brooklyn, NY 11378.
CS73-454	12-11-72	D. Paul Rittmaster, 115 Broadway, New York, NY 10006.
CS73-455	12-11-72	James E. Logan, Post Office Box 82, Midland, TX 79701.
CS73-456	12- 8-72	E. I. Rydin, Box 66067, Chicago, IL 60666.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.72-22263 Filed 12-28-72;8:45 am]

FEDERAL RESERVE SYSTEM

DORACO, INC.

Acquisition of Bank

Doraco, Inc., Doraville, Ga., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 82.31 percent or more of the voting shares of The Northeast Commercial Bank, Doraville, Ga. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Doraco, Inc., is also engaged in the following nonbank activities: Acting as a real estate holding company. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 17, 1973.

Board of Governors of the Federal Reserve System, December 21, 1972.

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

[FR Doc.72-22342 Filed 12-28-72;8:45 am]

NORTH SHORE CAPITAL CORP.

Order Approving Formation of Bank Holding Company

North Shore Capital Corp., Chicago, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 50 percent or more of the voting shares of The North

Shore National Bank of Chicago, Chicago, Ill. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a newly formed organization and has no operating history. Upon acquisition of Bank ($105.8 million of deposits), applicant would control 0.3 percent of the commercial bank deposits in Illinois. (All banking data are as of June 30, 1972.) The Board notes that the principals of applicant are also principals of four other one-bank holding companies in Illinois, which hold deposits of $52, $36, $24, and $7 million, respectively. However, consummation of the proposed transaction is not likely to adversely affect existing competition in that the service areas of the other banks controlled by these principals do not appear to overlap with that of Bank. The nearest of these, Citizen's National Bank of Chicago, is approximately 12 miles distant from Bank.

On May 2, 1972, the Board denied an application by applicant to become a bank holding company through the acquisition of shares of Bank (1972 Federal Reserve Bulletin 809). That denial was based on the Board's conclusions that the then-proposed transaction represented an assumption by applicant of an excessive amount of debt to be retired over an excessive length of time; that the then-proposed financing plan apparently would prevent applicant from meeting the present and future capital needs of Bank; and that the then-proposed transaction contemplated payment by Bank of an apparently unjustified annual "consulting" fee to applicant that would operate unduly to the detriment of minority shareholders of Bank. The instant application represents a substantial modification of applicant's original proposal. Under the present proposal, the Board concludes that the leverage contemplated is not excessive and that no unfair treatment of minority shareholders is involved. The proposed "consulting fee" has been eliminated. Applicant's total acquisition debt will be significantly less than that originally proposed; its equity capital significantly greater. Although applicant intends to incur additional debt to augment Bank's equity capital base, its total debt to equity ratio would still be less than that contemplated by the original proposal. Under the instant proposal applicant's projected earnings appear to be sufficient to service the debt which it will incur upon consummation of the proposed transaction, without adversely affecting Bank's capital structure. The Board therefore concludes that the financial and managerial resources and future prospects of applicant are satisfactory. In view of applicant's expressed intention to infuse additional equity capital into Bank, the financial and managerial resources and prospects of Bank are also considered satisfactory since Bank would have a capital account positioned for growth.

Although the convenience and needs of the communities to be served are already adequately being served, consummation of the proposed acquisition would provide the added flexibility inherent in a holding company structure. Considerations relating to the convenience and needs of the communities to be served therefore lends slight weight for approval. It is the Board's judgment that the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated: (a) Before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective December 21, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-22343 Filed 12-28-72;8:45 am]

ROCK COUNTY BAN CORP. AND JACKMAN MANAGEMENT

Formation of Bank Holding Company and Acquisition of Banks

Rock County Ban Corp., Janesville, Wis., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of at least 80 percent of the voting shares of The Rock County National Bank of Janesville, and Rock County Savings and Trust Co., both located in Janesville, Wis.

At the same time, Jackman Management, Janesville, Wis., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirect control of The Rock County National Bank of Janesville by exchange of its 52.73 percent interest in that bank for 26.36 percent or more of the voting shares of Rock County Ban Corp.; and to acquire indirect control of Rock County Savings and Trust Co. by exchange of its 51.87 percent interest in that bank for 25.93 percent or more of the voting shares of Rock County Ban Corp. The factors that are considered in acting on these applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 17, 1973.

Board of Governors of the Federal Reserve System, December 21, 1972.

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

[FR Doc.72-22344 Filed 12-28-72;8:45 am]

STATE NATIONAL CORP.

Order Approving Formation of Bank Holding Company

State National Corp., Evanston, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to State National Bank, Evanston, Ill. ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of all voting shares of Bank. Accordingly, the proposed acquisition of the successor organization is treated herein as the proposed acquisition of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating company organized for the purpose of acquiring Bank which holds deposits of $157.6 million. (All banking data are as of June 30, 1972.) Since the purpose of the proposed transaction is to effect corporate ownership of Bank, there would be no adverse effects on existing or potential competition nor would other area banks be adversely affected thereby. Competitive considerations are consistent with approval of the application.

The financial condition and the managerial resources of Applicant are dependent upon those same conditions as they exist in Bank. The financial condition of Bank is considered to be generally satisfactory in view of Applicant's commitment to increase its capital accounts. Management of Applicant and Bank are deemed to be satisfactory, and their prospects appear favorable. Considerations under the banking factors are consistent with approval of the application. Consummation of the corporate reorganization would have no immediate effect on area banking. However, under the corporate structure it is proposed that Bank will be able to offer a broader range of financial services to its customers, to include consumer financing, equipment leasing, computer services, mortgage banking, and real estate financing. Considerations relating to the con-

venience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective December 22, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-22345 Filed 12-28-72;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-334]

DREYFUS FUND INC.

Application for Exemption

DECEMBER 22, 1972.

Notice is hereby given that The Dreyfus Fund Inc. (the Dreyfus Fund), 767 Fifth Avenue, New York, NY 10022, which is registered as an open end diversified management investment company under the Investment Company Act of 1940 (the Act), has filed an application pursuant to section 6(c) of the Act for exemption from section 22(d) of the Act and Rule 22c-1 thereunder to permit a public offering of Dreyfus Fund shares in Japan to Japanese and other non-U.S. nationals in accordance with Japanese law and regulations but under terms and with sales charges which differ from the terms and charges described in the prospectus of the Dreyfus Fund that is used in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Section 22(d) provides, in substance, that no registered investment company may sell any redeemable security issued by it except either to or through a principal underwriter for distribution or at a current public offering price described in its prospectus. Such current public offering price includes the sales charge and is subject to such terms and options as rights of accumulation, automatic withdrawal and purchases under a letter of intent as described in the prospectus.

Rule 22c-1 provides, in pertinent part, that a redeemable security may be sold only at a price based on the current net asset value of the security which is next computed after receipt of an order to purchase such security.

As a part of a single offering, the Daiwa Securities Co. Ltd. of Japan (Daiwa) would purchase shares from the Dreyfus Fund at the net asset value next computed in accordance with Rule 22c-1 and subsequently, within a short period of time, expected to be no more than a week, resell these shares in Japan solely to non-U.S. nationals. The purchase price on resale would be the lesser of the price at which Daiwa purchased such shares from Dreyfus Fund or the then prevailing current net asset value, i.e., the net asset value determined as of the close of the market on the previous day, plus a sales charge not in excess of the sales charge permitted under applicable Japanese regulations. The sale of these shares in Japan will be subject to Japanese regulations and Japanese marketing practices, and differences in the sales charges and related terms and conditions are described as necessary as a practical matter for the Fund's entry into the Japanese capital market.

Under Japanese regulations, in order for Daiwa to make an initial block offering, Daiwa must make sales at a known price, and it is for this reason that the sale price initially will be based upon a previously determined net asset value. After the initial single offering, Daiwa will continue to offer shares of the Dreyfus Fund in Japan upon the same terms described herein but at a price based upon the net asset value of the shares next computed by the Dreyfus Fund in accordance with Rule 22c-1.

The maximum sales charge to be charged by Dreyfus Fund in Japan will be several percentage points less than the 9.6 percent of the net amount invested (8.75 percent of the total amount paid) sales charge in effect in the United States, and the reduced charges for larger quantities will be different from those applying to sales in the United States with the result, generally, that there will be lower sales charges on smaller purchases and higher sales charges on larger purchases. Minimum purchase requirements will also be higher than in the United States. Dreyfus Fund represents that permissable sales charges in Japan are determined by the various securities dealers associations as a matter of selfregulation. Daiwa, in consultation with the Tokyo Securities Dealers Association (TSDA), has determined that sales charges and break points imposed on sales of foreign funds in Japan should be fairly closely related to those currently prevailing for similar Japanese mutual funds. The TSDA has reviewed the charges proposed for the sale of Dreyfus Fund and has found them acceptable. No objection will be raised with respect to those charges except that some future minor modification may be made as noted below. Although the TSDA position does not have the formal stature of a decree or regulation, members must comply with it as a practical matter. Dreyfus Fund has been advised by Daiwa, that the imposition of the same schedule of sales charges used by Dreyfus Fund in the United States would not be appropriate.

Such options as rights of accumulation, automatic withdrawal, and purchase under a letter of intent would not be available under the proposed offering in Japan at the present time. It is not the present practice in Japan to permit a lower sales charge on the basis of letters of intention or shares previously purchased by an investor. Therefore, the present practice in that country does not encompass such rights.

In sum, shares of the Dreyfus Fund would be required to be sold with a sales charge which would differ from the sales charges described in the current prospectus of the Fund that is used in the United States and, hence, the public offering price in Japan would differ from the public offering price described in the current prospectus.

The following table compares the sales charges and break points applicable to sales of Dreyfus Fund shares in the United States to the proposed sales charges and break points expected to be applicable in Japan:

DREYFUS FUND U.S. SALES CHARGES AND BREAK POINTS

Amount of transaction:	*Sales charge as a percentage of net amount invested*
Less than $25,000	9.6
$25,000 to less than $50,000	6.4
$50,000 to less than $100,000	4.2
$100,000 to less than $250,000	3.1
$250,000 to less than $500,000	2.0
$500,000 or more	1.0

DREYFUS FUND PROPOSED JAPANESE SALES CHARGES AND BREAK POINTS

Amount of transaction:	*Sales charge as a percentage of net amount invested*
Less than 2 million yen ($6,666—approx.)	6.0
2 to less than 5 million yen ($16,666—approx.)	5.5
5 to less than 10 million yen ($33,333—approx.)	5.0
10 to less than 50 million yen ($166,666—approx.)	4.5
50 to less than 100 million yen ($333,333—approx.)	4.0
100 million yen and over	3.5

It is possible that the proposed sales charges in Japan may later have to be modified by as much as 1 percent with regard to the maximum and ½ percent with regard to the minimum to meet amended Japanese requirements, and the requested exemption would permit such a change.

Section 6(c) of the act authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from the provisions of the act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protec-

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governor Bucher.

tion of investors and the purposes fairly intended by the policy and provisions of the act.

Dreyfus Fund represents that the exemption of said proposal from the provisions of section 22(d) and Rule 22c–1 pursuant to section 6(c) is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 15, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponement thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-22354 Filed 12-28-72;8:46 am]

[812-3330]

INVESTORS SYNDICATE OF AMERICA, INC. ET AL.

Filing of Application

DECEMBER 22, 1972.

In the matter of Investors Syndicate of America, Inc., Investors Syndicate Life Insurance and Annuity Co., IDS Center, Minneapolis, Minn. 55402; and Investors Variable Payment Fund, Inc., 1000 Roanoke Building, Minneapolis, Minn. 55042.

Notice is hereby given that Investors Syndicate of America, Inc. (ISA), a Minnesota corporation engaged in the business of issuing face amount certificates to the public and registered under the Investment Company Act of 1940 (Act), Investors Syndicate Life Insurance and Annuity Co. (ISL), a Minnesota corporation engaged in the sale of life insurance, disability income insurance and annuities, and Investors Variable Payment Fund, Inc. (Variable), a Nevada corporation and an open-end investment company registered under the Act (hereinafter sometimes referred to as applicants) have filed an application pursuant to Rule 17d–1 under the Act for an order authorizing applicants (a) to enter into exchange agreements with Reeves Telecom Corp. (Reeves) which provide for, among other things, the receipt by applicants from Reeves of its 9 percent convertible subordinated notes due March 31, 1978; (b) to carry out the transactions contemplated by such exchange agreements and notes; (c) to enter into an indenture of mortgage, deed of trust, pledge and security agreement (the Indenture) among Reeves, certain subsidiaries of Reeves, Bankers Trust Co., as trustee (the Trustee, which term includes its successors under the trusts created by the Indenture), the applicants and the Mutual Life Insurance Co. of New York, which indenture provides for collateral security for the notes; and (d) to exercise or cause the Trustee to exercise the rights and remedies provided in the indenture if in the future such action might become necessary or desirable for the purpose of protecting or realizing on the collateral security for the notes. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein and which are summarized below.

Background. Reeves Telecom Corp. is a Delaware corporation engaged in commercial television and radio broadcasting operations, land development, and computerized printing services for the real estate industry.

ISA, ISL and Variable presently hold in the aggregate $5 million principal amount of 9 percent Convertible Subordinated Notes due 1977 of Reeves (the Existing Notes); Variable holds $3 million principal amount of the Existing Notes; ISA holds $1,750,000 of the Existing Notes; and ISL holds $250,000 of the Existing Notes. An additional $500,000 of the Existing Notes is held by the Mutual Life Insurance Co. of New York (MONY). The Existing Notes held by ISA, ISL, and MONY were acquired by them in December 1969 in exchange for convertible subordinated debentures of a like principal amount purchased by them in September 1968. Existing Notes held by ISA, ISL, and MONY are convertible at the option of the holders into shares of common stock of Reeves at the current conversion price of $16 per share. Variable purchased its Notes in December 1969 and they contain a conversion price of $5.39 per share. The Existing Notes are unsecured.

In 1969 and 1970, Reeves incurred substantial operating losses. As a result of such losses, Reeves was unable to comply with the working capital covenants contained in certain of its senior debt agreements and in the Existing Notes. Beginning in 1970, Reeves reduced its corporate overhead and disposed of several subsidiaries and divisions which had been unprofitable. As a result of these steps, Reeves has been able to reduce its funded debt, to become current in its accounts payable, and to realize a profit on operations in 1971 and for the first 6 months of 1972. However, Reeves remains in default under the working capital convenants of a senior debt agreement and the Existing Notes, and it is unlikely that it will be able to pay the portions of its indebtedness maturing in the next year (including maturities of the Existing Notes) except by disposing of profitable assets. Accordingly, the application states that unless Reeves is able to extend the maturities of its senior debt and the Existing Notes and to modify the provisions thereof as to which it is in default, it would be faced with the necessity of liquidating assets or filing for protection under the Bankruptcy Act.

Reeves has therefore requested the holders of the Existing Notes to extend the maturities thereof and to modify the working capital covenant contained therein. It has also negotiated a loan (the Senior Loan) in the amount of $6,250,600 from National Bank of North America (which would lend $3,400,000) and MONY (which would lend $2,850,600) for the purpose of refinancing the major portions of its present senior debt (of which $2,852,600 is held by MONY and the balance is held by other lenders). Such refinancing would result in the extension of the maturities of its senior debt and the modification of the working capital covenant of its present senior debt agreement with MONY to eliminate existing defaults thereunder. National Bank of North America, which has not previously made any loans to Reeves, requires as a condition to making its loan that the maturities of the Existing Notes be extended and the defaults thereunder be eliminated.

Therefore the applicants and MONY propose to enter into the Exchange Agreements with Reeves pursuant to which the Existing Notes would be exchanged for Series A and Series B 9 percent Convertible Subordinated Notes, due March 31, 1978 of Reeves (the Notes). Variable would receive on such exchange Series A Notes having the same principal amount as the principal amount of the Existing Notes held by it, and ISA, ISL and MONY would each receive on such exchange Series B Notes having the same prinicipal amounts as the respective principal amounts of the Existing Notes presently held by them. The Notes will be secured by security interests in various assets owned by Reeves and its subsidiaries, the stock owned by Reeves in certain of its subsidiaries, and notes and other receivables held by Reeves, as set forth in the Indenture.

The Notes will be convertible at the option of the holders into shares of common stock of Reeves at the conversion price of $5 per share in the case of the Series A Notes and $10 per share in the case of the Series B Notes, subject in each case to adjustment in certain events under the antidilution provisions of the respective Notes.

Commission jurisdiction. ISA and ISL are each wholly owned subsidiaries of Investors Diversified Services, Inc. (IDS), a Minnesota corporation engaged in providing a broad range of financial services. IDS acts as distributor of the face amount certificates issued by ISA and of the shares issued by Variable. IDS also acts as investment adviser to each of ISA, ISL and Variable.

Rule 17d–1 under the Act provides that no affiliated person of or principal underwriter for an investment company registered under the Act, and no affiliated person of such a person or principal underwriter, acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the investment company is a participant, unless an application regarding such joint enterprise, arrangement or profit-sharing plan has been filed with and an order granting such application has been entered by the Commission.

By reason of the relationships described above, IDS is an affiliated person under section 2(a)(3) of the Act of each of the applicants, and each of the applicants may be deemed to be an affiliated person of each of the other applicants or of the principal underwriter for the other applicants within the meaning of Rule 17d–1. The execution by the respective applicants of the exchange agreements and the carrying out of the transactions contemplated thereby and by the Notes may be deemed to constitute a joint enterprise or other joint arrangement or profit-sharing plan for purposes of such rule. Further, the exercise of rights and remedies provided in the Indenture in the event such action might become necessary or desirable in the future for the purpose of protecting or realizing on the collateral for the Notes, might also be deemed to constitute such a joint enterprise or other joint arrangement or profit-sharing plan.

In passing upon this application, the Commission must consider whether the participation by the registered investment companies, viz. ISA and Variable, in the proposed transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

Supporting statements. The applicants contend (i) that participation in the proposed transactions, by each of the applicants would be in their own respective best interests, (ii) that the proposed transactions, including the reduction in conversion prices, are fair and reasonable to each of the applicants, (iii) that the participation by ISA and Variable in the proposed transactions is and will be consistent with the provisions, policies and purposes of the Act, and (iv) that the participation in the proposed transactions by ISA and by Variable, respectively, is on terms which are not less advantageous to such participant than those of the other participants.

Notice is further given, that any interested person may, no later than January 12, 1973 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person served is located more than 500 miles from the point of mailing) upon the applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–22353 Filed 12–28–72;8:46 am]

[File No. 500–1]

NOVA EQUITY VENTURES, INC.

Order Suspending Trading

DECEMBER 22, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Nova Equity Ventures, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 24, 1972, through January 2, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–22355 Filed 12–28–72;8:47 am]

TARIFF COMMISSION

[AA1921–104]

COLOR TELEVISION PICTURE TUBES FROM JAPAN

Determination of No Injury or Likelihood Thereof

DECEMBER 26, 1972.

On September 26, 1972, the Tariff Commission received advice from the Treasury Department that color television picture tubes from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921–104 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on November 28, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of October 4, 1972 (37 F.R. 20897).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Tariff Commission[1] has determined unanimously that an industry in the United States is not being and is not likely to be injured, or prevented from being established, by reason of the importation of color television tubes from Japan sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS[2]

In our opinion an industry in the United States is not being or is not likely to be injured, or prevented from being established, by reason of the importation of color television picture tubes from Japan sold at less than fair value (LTFV). The industry primarily considered by the Commission in this investigation consists of all domestic facilities engaged in the manufacture of color television picture tubes.

Total imports of color television tubes from Japan have been extremely small in relation to the size of the domestic market (whether the total market or the noncaptive market is considered); moreover, the margins of dumping (the amounts by which the tubes were sold

[1] Commissioner Leonard did not participate in the determination.

[2] Commissioner Ablondi concurs in the result.

below the Japanese home market price) were only significant in relation to approximately one-third of all tubes imported from Japan. Virtually all of the LTFV imports where significant margins existed consisted of 18- and 19-inch tubes which were sold to a single small domestic manufacturer of color television sets. This manufacturer did not import any tubes from Japan prior to 1971 and its purchases thus far in 1972 have been only a small fraction of its purchases during the previous year.

If the domestic industry lost any sales as a result of LTFV imports it occurred only in one size—the 18-inch tube; the differential in price between the 19-inch domestic and imported tube was far larger than the dumping margins. Even with respect to the 18-inch tube, the evidence is not entirely conclusive that the domestic industry lost sales by reason of the LTFV imports. In any event, in 1971 the LTFV imports of 18-inch tubes were equal to less than 1 percent of the total U.S. production of 18-inch tubes. Moreover, the three domestic companies which accounted for the great bulk of sales of these tubes to others—and thus the ones most likely to have lost sales—experienced large increases in their color television picture tube sales and improved profit margins from such sales in 1971.

The Commission also examined allegations that offers of color television tubes at LTFV prices in the domestic market had a depressing effect upon prices of domestically produced tubes as early as 1967. Only a small percentage of the offers presented in evidence dealt with the period during which the Treasury Department determined LTFV sales were occurring; moreover, such offers could not be matched with models that were being sold at less than fair value as determined by the Treasury Department. Moreover, none of the tubes found by Treasury to have been sold at LTFV entered before 1970, and the only LTFV model that entered in 1970 had a negligible dumping margin. Based on the evidence before it, the Commission has concluded that offers to sell LTFV tubes have not had a significant depressing effect on prices in the U.S. market.

CONCLUSION

Since the market penetration of LTFV imports of color television picture tubes having any significant margins from Japan is extremely small and since we were unable to link any depression or suppression in prices to LTFV imports, we conclude that an industry in the United States is not being injured, or prevented from being established, by reason of imports of such tubes from Japan. Moreover, because the imports at LTFV have had virtually no effect on prices of comparable color television tubes in the U.S. market, we likewise conclude that there is no likelihood of injury to a domestic industry as contemplated by the Antidumping Act.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-22400 Filed 12-28-72;8:51 am]

[TEA-W-166]

GENERAL INSTRUMENT CORP.

Workers' Petition for a Determination; Notice of Investigation

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 the Tazewell, Va., plant of the General Instrument Corp., Newark, N.J., the U.S. Tariff Commission, on Dec. 22, 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 aluminum electrolytic capacitors (of the type provided for in item 685.80 of the Tariff Schedules of the United States) produced by said 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, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: December 22, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-22371 Filed 12-28-72;8:47 am]

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Volume 37 ■ Number 251

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determinations, Modifications, and Supersedeas Decisions

Area Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

Area Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO AREA WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to Area Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138), and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in foregoing Area Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original Area Wage Determination Decision.

SET FORTH BELOW IN THIS DOCUMENT ARE THE FOLLOWING

A new Area Wage Determination Decision number AP–601 for the State of Michigan.

Modifications to Area Wage Determination Decisions for the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

Alabama	AM–8620, June 9 1972.
Delaware	AP–444, Nov. 17, 1972.
Louisiana	AP–311, Aug. 18, 1972. AP–318, Aug. 25, 1972. AP–351, Sept. 29, 1972. AP–366; AP–367, Dec. 8, 1972.
Massachusetts	AP–413; AP–414; AP–415; AP–416; AP–417; AP–418, Sept. 1, 1972.
Oklahoma	AP–304, Aug. 4, 1972.
Tennessee	AM–8622, June 9, 1972.
Texas	AP–345, Sept. 29, 1972. AP–355, Nov. 3, 1972. AP–361, Nov. 17, 1972.
Virginia	AP–441, Nov. 3, 1972.
Wyoming	AM–2476, Aug. 27, 1971.

Supersedeas Decisions to Area Wage Determination Decisions for the following States (the numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State; the Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded):

California	AM–6130(AP–256), Nov. 12, 1971. AP–224(AP–255), Aug. 25, 1972.
Maryland	AP–410(AP–455), Aug. 4, 1972.
Michigan	AM–373(AP–80); AM–374(AP–81); AM–375(AP–83); AM–376(AP–84); AM–377(AP–85); AM–378(AP–86); AM–379(AP–87); AM–381(AP–89); AM–384(AP–92); AM–385(AP–93); AM–387(AP–82); AM–388(AP–94); AM–389(AP–95); AM–390(AP–97); AM–392(AP–98); AM–393(AP–99); AM–394(AP–600), Aug. 18, 1971. AM–8613(AP–88); AM–8615(AP–90); AM–8616(AP–96); AM–8617(AP–91), May 19, 1972.
Tennessee	AM–8612(AP–138), May 19, 1972.

Signed at Washington, D.C., this 22d day of December 1972.

BEN P. ROBERTSON,
Acting Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Michigan COUNTIES: Wayne, Oakland & Macomb
DECISION NUMBER: AP-601 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

82 - Michigan G 1 of 2

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.83	.64	.75			
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers:						
Bricklayers, Caulkers & Cleaners	8.519	.50	8%	11%	.05	
Carpenters and Piledrivermen	8.3504	.60	7%	10%	.02	
Cement masons:						
Cement masons	7.7323	.60	10%	10%	.01	
Grinders & Chipping hammer	7.9323	.60	10%	10%	.01	
Swing Stage above 1st floor	8.0323	.60	10%	10%	.01	
Electricians	8.85	.10+7½%	7%	10%	.06	
Elevator constructors	8.02	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	8.15	.50	.40			
Ironworkers:						
Structural, ornamental & reinforcing	8.17	8%	13%	16%	.04	
Riggers and Machinery movers	7.982	.60	1.10	11%	.01	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Marble setters	8.49	.30	.40	.50		
Marble setters' helpers	8.18	.30	.30			
Millwrights	8.00	.45	7%+2%	17%	.04	
Pipefitters	8.265	.75	.685	1.35	.05	
Plasterers	8.64	.48	.48			
Plumbers	8.42	.75	.535	1.24	.005	
Soft floor layers -	7.56	.45	.41	.60	.03	
Roofers:						
Composition	8.47	.40	.55	.30		
Slate and Tile	9.22	.40	.55	.30		
Sheet metal workers	8.44	.54	6%	10%	.02	
Sprinkler fitters	9.65	.35	.40		.055	
Stonemasons	8.519	.50	8%	11%	.05	
Terrazzo workers:						
Terrazzo workers	8.12	.30	.40	.50		
Grinders & helpers	7.36	.30	.10	.25		
Tile setters	8.46	.30	.40			
Tile setters' helpers	7.60	.30	.30			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

Welders - receive rate prescribed for craft perfroming operation to which welding is incidental.

PAID HOLIDAYS
A-New Year's Day' B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day Day; F-Christmas Day

FOOT NOTES:
a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

Mich 8-Lab A 1 Of 1

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Laborer	$6.45	.45	.35	.50		
Mortar mixer, Scaffold builder	6.53	.45	.35	.50		
Signal man, air electric or gasoline tool operator	6.63	.45	.35	.50		
Win lass and Tugger operator	6.63	.45	.35	.50		
Jackhammer operator	6.63	.45	.35	.50		
Vibrator operator	6.63	.45	.35	.50		
Crock grade man	6.68	.45	.35	.50		
Crock layer and pile layer	6.78	.45	.35	.50		
Caisson workers	6.83	.45	.35	.50		

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Michigan 1 - PEO M 1 of 1

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Crane with boom & jib or leads 220' or longer	$8.62	.40	.40	10%	.05	
Crane with boom and jib or leads 140' or longer, up to 220'	8.37	.40	.40	10%	.05	
Engineer	8.13	.40	.40	10%	.05	
Engineers when operating compressor or welding machine	7.305	.40	.40	10%	.05	
Fireman or oiler	6.68	.40	.40	10%	.05	

Michigan - Painters Area 11 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Painters:					
Brush & paperhangers	$7.95	.55	.65	.75	
Brush cleaning & other prepartory work (other than spraying or steelejack work) on scaffolds of 50' from ground or higher, preparatorial work & painting on open steel under 40' when no scaffolding is used, swing stage work, window jacks and window belts (exterior & interior), spraymen & sandblasters on scaffolds 40' above ground or floor level, preparatorial work and painting on all highway bridges or over passes up to 40' in height	8.45	.55	.65	.75	
Spraymen and sandblasters at a scaffold height of 40' from floor level or higher	8.575	.55	.65	.75	
Spraymen and sandblaster working from swing stage 20' or higher	8.70	.55	.65	.75	
Steeplejacks working on elevations 40' or more	9.20	.55	.65	.75	

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Michigan 3-TD L

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
Pole trailers, low boys, straddle carriers, double bottoms and special load permits drivers	$5.25	a14.50	a10.00	b+c		
Semi drivers	5.15	a14.50	a10.00	b+c		
All other trucks	5.00	a14.50	a10.00	b+c		

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-May 30th;
C-July 4th; D-Labor Day; E-Thanksgiving
F-Christmas

FOOTNOTES:

a. Per week, per employee

b. 6 paid holidays for employees who have acquired seniority

c. Vacation pay: Less than 3 years, 4 hours of basic straight time pay per month. Three to ten years 8 hours of basic straight time per month. Ten years to 15 years, 12 hours of basic straight time per month. Over 15 years, 16 hours of basic straight time pay per month.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-8620 - Mod. #4 (37 FR 11625 - June 9, 1972) Mobile County, Alabama						
Omit: Changes on modification no. three issued in 37 FR 25103 - November 25, 1972						
DECISION #AP-444 - Mod. #3 (37 FR 24517 - November 17, 1972) Statewide Delaware						
Change:						
Bricklayers	$8.25	.60	.85			
Marble setters	8.25	.60	.85			
Stone masons	8.25	.60	.85			
Terrazzo workers	8.25	.60	.85			
Tile setters	8.25	.60	.85			
DECISION #AP-304 - Mod. #1 (37 FR 15789 - August 4, 1972) Oklahoma, Cleveland & Canadian Counties, Oklahoma						
Add to Counties: Lincoln and Pottawatomie						
DECISION #AM-8622 - Mod. #5 (37 FR 11632 - June 9, 1972) Davidson County, Tennessee						
Change:						
Painters:						
Brush and roller	$5.90		.20		.05	
Structural steel, spray	6.15		.20		.05	
Sandblasting	6.65		.20		.05	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-311 - Mod. #6 (37 FR 16776 - August 18, 1972) Caddo & Bossier Parishes, Louisiana						
Change:						
Roofers:						
Roofers	$5.05				.02	
Helpers	2.95				.02	
Kettlemen	3.32				.02	
DECISION #AP-318 - Mod. #5 (37 FR 17306 - August 25, 1972) Caddo & Bossier Parishes, Louisiana						
Change:						
Roofers:						
Roofers	5.05				.02	
Helpers	2.95				.02	
Kettlemen	3.32				.02	
DECISION #AP-351 - Mod. #6 (37 FR 20441 - September 29, 1972) Orleans, Jefferson, Plaquemines & St. Bernard Parishes, Louisiana						
Change Mod. #4 (37 FR 26778 - December 15, 1972) to Read Mod. #5						
Change:						
Glaziers	6.325	.17	.20		.01	
Roofers	6.30	.35	.45		.20	

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-366 - Mod. #2 (37 FR 26245 - December 8, 1972) Calcasieu Parish, Louisiana						
Change:						
Plumbers & pipefitters	$7.43	.42	.32		.06	
Roofers	6.23		.10			
Roofers' helpers	4.86		.10			
Truck Drivers:						
Pick-ups	4.91					
Stake bodies (all sizes)	5.34					
Trucks trailer & dumps over 8 yds.	5.55					
Mixers on trucks up to and including 3 yds.	5.35					
Mixers on trucks over 3 yds.	5.55					
Winch trucks	5.45					
Mississippi wagons, koehring dumpsters and similar dirt moving equipment up to and including 8 yds.	5.55					
Trucks - dump	5.37					
Mississippi wagons, koehring dumpsters and similar dirt moving equipment over 8 yds.	5.76					
Warehousemen	5.55					
DECISION #AP-367 - Mod. #2 (37 FR 26247 - December 8, 1972) Calcasieu Parish, Louisiana						
Change:						
Plumbers & pipefitters	7.43	.42	.32		.06	
Roofers	6.23		.10			
Roofers' helpers	4.86		.10			
Truck Drivers:						
Pick-ups	4.91					
Stake bodies (all sizes)	5.34					
Trucks trailer & dumps over 8 yds.	5.55					
Mixers on trucks up to and including 3 yds.	5.35					
Mixers on trucks over 3 yds.	5.55					
Winch trucks	5.45					
Mississippi wagons, koehring dumpsters and similar dirt moving equipment up to and including 8 yds.	5.55					
Trucks - dump	5.37					

MODIFICATIONS P. 4

DECISION #AP-367 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers (Cont'd):						
Mississippi wagons, koehring dumpsters and similar dirt moving equipment over 8 yds.	$5.76					
Warehousemen	5.55					

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-413 - Mod. #5						
(37 FR 17912 - September 1, 1972)						
Barnstable County, Massachusetts						
Change:						
Building, heavy & highway construction:						
Line construction:						
Linemen	$7.14	.25	1%	e		
Truck driver - groundman	5.58	.25	1%	e		
Groundmen	5.07	.25	1%	e		
Equipment operators	6.31	.25	1%	e		
Plumbers; Steamfitters	7.95	.36	.51		.15	
Omit:						
Laborers:						
Open air caisson, Cylindrical work & boring crew:						
Bottom man	6.85	.20	.25		.05	
Top man	6.10	.20	.25		.05	
Test boring leader	6.51	.20	.25		.05	
Test boring helper	6.22	.20	.25		.05	
Add:						
Laborers:						
Open air caisson, Cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	
DECISION #AP-414 - Mod. #5						
(37 FR 17915 - September 1, 1972)						
Essex County, Massachusetts						
Change:						
Building, heavy & highway construction:						
Cement masons; Plasterers:						
Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, North Andover, Salisbury, & West Newbury	7.80	.385	.30			
Electricians:						
Lynn, Lynnfield, Nahant, Saugus, & Swampscott	9.15	.35	1%+.95		.015	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-414 (Cont'd)						
Change:						
Building, heavy & highway construction:						
Laborers (Building):						
Beverly, Danvers, Essex, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Salem, Topsfield, & Wenham						
Plasterers' tenders	$6.70	.40	.40		.05	
Omit:						
Laborers (Building):						
Lynn, Lynnfield, Nahant, Saugus, & Swampscott						
Open air caisson, cylindrical work & boring crew:						
Bottom man	6.85	.20	.25		.05	
Top man	6.10	.20	.25		.05	
Leader	7.25	.20	.25		.05	
Line construction:						
Linemen	7.03		1%	e		
Cableman	6.19		1%	e		
Equipment operators	6.27		1%	e		
Driver groundman	4.78		1%	e		
Groundman	4.57		1%	e		
Blasting specialist	6.56		1%	e		
Power equipment operator	4.92		1%	e		
Add:						
Laborers (Building):						
Lynn, Lynnfield, Nahant, Saugus, & Swampscott						
Open air caisson, cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Topman	6.30	.40	.40		.05	
Line construction:						
Linemen	8.08	.25	1%	e		
Equipment operators	7.17	.25	1%	e		
Driver groundman	5.41	.25	1%	e		
Groundman	5.16	.25	1%	e		

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-415 - Mod. #5						
(37 FR 17919 - September 1, 1972)						
Hampden County, Massachusetts						
Change:						
Building, heavy & highway construction:						
Plumbers	$8.47	.45	.50		.01	
DECISION #AP-416 - Mod. #5						
(37 FR 17922 - September 1, 1972)						
Middlesex County, Massachusetts						
Change:						
Building, heavy & highway construction:						
Electricians:						
Arlington, Cambridge, Concord, Everett, Lexington, Lincoln, Malden, Medford, Melrose, Waltham, Weston, & Woburn	9.15	.35	1%+.95		.015	
Plasterers:						
Arlington, Cambridge, Everett, Malden, Medford, Woburn	7.60	.45	1.00		.02	
Omit:						
Laborers (Building):						
Arlington, Cambridge, Concord, Everett, Lexington, Lincoln, Malden, Medford, Melrose, Waltham, Weston, & Woburn						
Plasterers' tenders	6.30	.20	.25		.05	
Building wrecking:						
Laborers	6.03	.20	.25		.05	
Adzmen; Burners; Jackhammers	6.20	.20	.25		.05	
Open air caisson; Cylindrical work & boring crew:						
Bottom men	6.10	.20	.25		.05	
Top men	5.35	.20	.25		.05	
Test boring leaders	5.76	.20	.25		.05	
Test boring helpers	5.47	.20	.25		.05	
Line construction:						
Linemen	7.03		1%	d		
Equipment operators	6.27		1%	d		
Groundmen	4.57		1%	d		
Cableman	6.19		1%	d		

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-416 (Cont'd)						
Add:						
Laborers (Building):						
Arlington, Cambridge, Concord, Everett, Lexington, Lincoln, Malden, Medford, Melrose, Waltham, Weston, & Woburn						
Plasterers' tenders	$6.70	.40	.40		.05	
Building wrecking:						
Laborers	6.43	.40	.40		.05	
Adzmen	6.60	.40	.40		.05	
Burners; Jackhammers	6.85	.40	.40		.05	
Open air caisson, Cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	
Line construction:						
Linemen	8.08	.25	1%	d		
Equipment operators	7.17	.25	1%	d		
Groundmen	5.16	.25	1%	d		
DECISION #AP-417 - Mod. #4						
(37 FR 17926 - September 1, 1972)						
Suffolk County, Massachusetts						
Change:						
Building, heavy & highway construction:						
Electricians	9.15	.35	1%+.95		.015	
Plasterers	7.60	.45	1.00		.02	
Omit:						
Laborers:						
Building:						
Plasterers' tenders	6.30	.20	.25		.05	
Wreckers:						
Adzmen; Burners; Pneumatic, gas, electric tool operator	6.20	.20	.25		.05	
Laborers	6.03	.20	.25		.05	
Open air caisson, Cylindrical work & boring crew:						
Bottom men	6.85	.20	.25		.05	
Top men	6.10	.20	.25		.05	
Test boring leader	6.51	.20	.25		.05	
Test boring helper	6.22	.20	.25		.05	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-417 (Cont'd)						
Omit:						
Line construction:						
Linemen	7.03		1%	d		
Equipment operators	6.27		1%	d		
Groundman-truck driver	4.78		1%	d		
Cableman	6.19		1%	d		
Add:						
Laborers:						
Building:						
Plasterers' tenders	$6.70	.40	.40		.05	
Wreckers:						
Laborers	6.43	.40	.40		.05	
Adzmen	6.60	.40	.40		.05	
Burners; Jackhammers	6.85	.40	.40		.05	
Open air caisson, Cylindrical work & boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	
Line construction:						
Linemen	8.08	.25	1%	d		
Equipment operators	7.17	.25	1%	d		
Groundman-truck driver	5.41	.25	1%	d		
DECISION #AP-418 - Mod. #5 (37 FR 17930 - September 1, 1972) Worcester County, Massachusetts						
Omit:						
Laborers (Building):						
Open air caisson, Cylindrical work & boring crew:						
Bottom man	6.85	.20	.25		.05	
Top man	6.10	.20	.25		.05	
Leader	7.25	.20	.25		.05	
Building wreckers:						
Laborers	6.03	.20	.25		.05	
Adzmen, Burners, Jackhammer	6.20	.20	.25		.05	
Line construction:						
Lineman	7.03		1%	d		
Cableman	6.19		1%	d		
Equipment operator	6.27		1%	d		
Driver groundman	4.78		1%	d		
Groundman	4.57		1%	d		
Blasting specialist	6.56		1%	d		
Power equipment operator	4.92		1%	d		

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-418 (Cont'd)						
Add:						
Laborers (Building):						
Open air caisson, Cylindrical work & Boring crew:						
Driller	7.17	.40	.40		.05	
Bottom man	7.05	.40	.40		.05	
Helper	6.42	.40	.40		.05	
Laborer; Top man	6.30	.40	.40		.05	
Building wreckers:						
Laborers	6.43	.40	.40		.05	
Adzmen	6.60	.40	.40		.05	
Burners; Jackhammers	6.85	.40	.40		.05	
Line construction:						
Linemen	8.08	.25	1%	d		
Equipment operator	7.17	.25	1%	d		
Driver groundman	5.41	.25	1%	d		
Groundman	5.16	.25	1%	d		

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-345 - Mod. #5						
(37 FR 20494 - September 29, 1972)						
El Paso County, Texas						
Change:						
Building Construction:						
Sheet metal workers	$7.10	.29	.05		.005	
DECISION #AP-355 - Mod. #2						
(37 FR 23523 - November 3, 1972)						
Lubbock County, Texas						
Change:						
Building Construction:						
Electricians:						
Electricians	6.50	.25	1%			
Cable splicers	6.75	.25	1%			
Line Construction:						
Lineman	6.50	.25	1%			
Operators	5.60	.25	1%			
Groundmen (more than 1 year experience)	5.35	.25	1%			
Groundmen (less than 1 year experience)	4.35	.25	1%			
Flat bed truck operator	4.60	.25	1%			
DECISION #AP-361 - Mod. #2						
(37 FR 24629 - November 17, 1972)						
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant and Wise Counties, Texas						
Change:						
Building Construction:						
Electricians:						
Electricians:						
Grayson County	$7.145		1%		.03	
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:						
Zone A - Dallas County	7.40	4%	1%		7/10%	
Zone B - All work outside Dallas up to a 40 mile radius from Dallas City Hall	7.65	4%	1%		7/10%	
Zone C - All work outside Zones A & B	7.90	4%	1%		7/10%	

MODIFICATIONS P. 12

DECISION #AP-361 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Electricians (Cont'd):						
Cable splicers:						
Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties:						
Zone A - Dallas County	$8.14	4%	1%		7/10%	
Zone B - All work outside Dallas up to a 40 mile radius from Dallas City Hall	8.415	4%	1%		7/10%	
Zone C - All work outside Zones A & B	8.69	4%	1%		7/10%	
DECISION #AP-441 - Mod. #2						
(37 FR 23495 - November 3, 1972)						
Henrico County and the City of Richmond, Virginia						
Change:						
Cement masons	$5.19					
Machine men & scaffold men	5.29					
Scaffolds 30' & over	5.41					
Painters:						
Brush	4.90					
Structural steel	5.15					
Spray	5.40					
Roofers:						
Composition	4.50					
Helpers	3.25					
Sheet metal workers:						
The City of Richmond	6.40	.15	.20		.005	
The Balance of County	6.60	.15	.20		.005	

DECISION #AM-2,476 - Mod. #2
(36 FR 17159 - August 27, 1971)
Statewide, Wyoming

Change:
Power Equipment Operators

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I AUGER MACHINE OPERATOR (Post hole, etc., Batch Bin Weighman, Scissorman or Hopperman; Beginner Op.; Brakeman and Helpers; Crusher Oiler, Utility Screed Op.; Tractor Op., Farm, Crawler or Wheel type, 60 hsp. (drawbar) or less with or without use of power attachments except for use of backhoe or bucket	$ 4.60	.17	.20		.01	
GROUP II BROOM OPERATORS, self-propelled; Cableway Signalman (Bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, Belt & Bucket type	4.65	.17	.20		.01	
GROUP III AIR COMPRESSOR over 315 cu. ft. cap.; Chip Spreader Op.; Form Grader; Joint Machine Op.; Longitudinal Float Op.; Mixer op., concrete (under 1 yd.); Helper (welder or heavy duty); Roller Op., self-propelled (pneumatic, rubber tired, Sheep foot, vibratory or comb. type); Tire Repairman	4.70	.17	.20		.01	
GROUP IV PUMP OPERATOR (except in tunnels, shafts raises)	4.73	.17	.20		.01	
GROUP V CONVEYOR BELT OPERATOR; Fork Lift and Lumber Staker; Screening Plant Op.	4.76	.17	.20		.01	
GROUP VI A-FRAME TRUCK; Tractor Op., Farm, Crawler or Wheel type, over 60 hsp. (drawbar); without use of power attachments	4.81	.17	.20		.01	
GROUP VII OILER, Lead Utility	4.85	.17	.20		.01	
GROUP VIII GUNNITE AND GROUT MACHINE OPERATOR; Mulching Machine Op.; Oiler Distributor	4.86	.17	.20		.01	

MODIFICATIONS P. 14

DECISION #AM-2,476 - (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP IX FRONT END LOADER (up to & incl. 1 1/2 cu. yds.); Pavement Breakers, Hydro-Tamper & similar type machine; Pump, Well Points	4.97	.17	.20		.01	
GROUP X HOIST OPERATOR (one drum)	5.02	.17	.20		.01	
GROUP XI HAULAGE MOTORMAN & INDUSTRIAL TYPE MOTORMAN; Motor Patrol Op. (all except finish); Pump Op. (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)	5.04	.17	.20		.01	
GROUP XII AIR COMPRESSOR, two or more machines or tunnels, shafts, raises or plant op.; Asphalt Plant Op.; Bituminous Lay-down Machine Op.; CMI Machine & similar; Concrete Batch Plant; Concrete Finish Machine Op.; Concrete Multi-Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Op.; Crusher Op.; Drilling Machine, integrated (core, rotary, caisson, diamond); Elevating Grader; Front End Loader (over 1 1/2 cu. yds.); Jumbo Form Op.; Mixer Op., base course pugmill type; Mixer Bituminous Op. (travel plant); Mixer Op. Concrete (over one yd.); Motor Patrol Op. (finish); Mucking Machine Op.; (all types); Pneumatic Guns; Pumpcrete Op.; Roller Op. (tandem steel wheel, 3 axle or 3 wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Pile-drivers, all Truck Mounted Cranes (mfg's rating) Up to 3 1/2 yds. all attachments; Hydro type Cranes (15 tons and over); Shuttle Car Op. Subgrade Machine Op. (power); Tractor Ops. (all w/use of power attachments & incl. Pushcat, Dozer, Tournadozer, etc.); Trenching Machine Op.; Wash Plant Operator	5.21	.17	.20		.01	

DECISION #AM-2,476 - (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP XIII WELDER, Machine Doctor	5.25	.17	.20		.01	
GROUP XIV HOIST OPERATOR (two or more drums or shafts or raises); Heavy Duty Mechanics, Machine Doctor	5.31	.17	.20		.01	
GROUP XV CABLEWAY OPERATOR; Mixer, dual drum; Cranes (Whirley, Gantry, Stiffleg, Overhead Traveling)	5.37	.17	.20		.01	
GROUP XVI SHOVELS, Draglines, Cranes, Piledrivers, all Truck Mounted Cranes (mfg's rating) 3 1/2 to 7 cu. yds., all attachments; Wheel Operator	5.53	.17	.20		.01	
GROUP XVII SHOVELS, Draglines, Cranes, Piledrivers, all Truck Mounted Cranes (mfg's rating) 7 cu. yds. & over, all attachments	5.85	.17	.20		.01	

WYOMING LINE CONSTRUCTION - J (1-1)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
All work over 34.5 KV, all work on steel towers and/or multiple wood structures, all cross country underground communications work, and all motor traffic controlling, street and highway lighting:						
Cable Splicer	$7.15	.25	1%		3/4%	
Linemen	6.50	.25	1%		3/4%	
Equipment Operator	5.95	.25	1%		3/4%	
Groundman	4.91	.25	1%		3/4%	
All work 34.5 KV and under						
Lineman	6.28	.25	1%		3/4%	
Line Equipment Operator	5.46	.25	1%		3/4%	
Experienced Groundman (2yrs)	4.85	.25	1%		3/4%	
Groundman	4.19	.25	1%		3/4%	

1-WYO-TD-2-3-b / (1-2)

DECISION #AM-2,476 - (Cont'd)

TRUCK DRIVERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
Group I DUMP (Water level capacity box) over 40 cu. yds. to & incl. 45 cu. yds.	$4.90				
Group II FIELD MECHANICS	4.88				
Group III DUMP (Water level capacity box) 35 cu. yds. to & incl. 40 cu. yds.	4.85				
Group IV DUMP (Water level capacity box) 30 cu. yds. to & incl. 35 yds.	4.80				
Group V DUMP (Water level capacity box) 25 cu. yds. to & incl. 30 yds.	4.75				
Group VI DUMP (Water level capacity box) 20 cu. yds. to & incl. 25 cu. yds.; Heavy duty (Euclids, electric or similar type)	4.65				
Group VII LOWBOY & Tandem Axle Float Drivers; Multiple Axle Type; Semi; Dump (Water level capacity box) 13 cu. yds. to & incl. 20 cu. yds.	4.65				
Group VIII HELPERS-FIELD (Welders, Mechanics, etc.)	4.41				
Group IX OVER 3600 gal. (semi-truck); Transit Mix or Wet Mix over 10 cu. yds.	4.35				
Group X OVER 3600 gal. (straight truck): Transit Mix or Wet Mix, over 5 cu. yds. to 10 cu. yds; Tandem Axle	4.25				

DECISION #AM-2,476 - (Cont'd)

1-WYO-TD-2-3-b / (2-2)

TRUCK DRIVERS (CONT'D)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
Group XI OVER 2500 gals. to & incl. 3600 gals.; Dump (Water level capacity box) over 10 cu. yds. to & incl. 13 cu. yds.; Flat Rack, over 5 tons; Winch Trailer (cable & hoist); Utility Winch; "A" Frame Transit Mix or Wet Mix, less than 5 cu. yds.; Single Axle	$5.15				
Group XII DUMP (Water level capacity box) over 7 cu. yds. to & incl. 10 cu. yds.; 2500 gals. or less (semi-truck); Flat Rack, 2 tons to 5 tons; Power Broom; Material Checkers	4.05				
Group XIII DUMP (Water level capacity box) 7 cu. yds. or less; Gravel Spreader; Flat Rack, less than 2 tons; Gang; Single Axle Type Truck; Warehousemen, Partsmen & Helpers; 2500 gals. or less (straight truck); Fuel Service; Greasemen, Tiremen, Servicemen & Helpers	4.45				
Group XIV PILOT CAR DRIVERS; Pick-up	3.85				

SUPERSEDEAS DECISION

STATE: California
DECISION #AP-255
COUNTY: San Diego
DATE: Date of Publication
Supersedes Decision #AP-224 dated August 25, 1972 in 37 FR 17321.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$9.77	.48	.35		.025	
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS; Stonemasons	7.95	.58	.75		.05	
BRICK, BLOCK & STONEMASONS' TENDERS	6.21	.35	.45	.40		
CARPENTERS:						
Carpenters	7.06	.56	.75	.50	.02	
Piledrivermen	7.19	.56	.75	.50	.02	
Millwrights; Pneumatic nailer; Hardwood floorlayers	7.31	.56	.75	.50	.02	
CEMENT MASONS:						
Cement Masons	6.52	.50	.73	.61	.035	
Cement Masons color work-curb machine op.	6.645	.50	.73	.61	.035	
Composition, mastic or epoxy finishing machine operator	6.77	.50	.73	.61	.035	
DRYWALL INSTALLERS	7.90	.56	.65	.50	.04	
ELECTRICIANS:						
Electricians	8.75	.20	1%&.23			
Cable splicer	9.05	.20	1%&.23			
ELEVATOR CONSTRUCTORS	9.21	.195	.20	2% & a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.195	.20	2% & a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	9.05	.35	.30			
IRONWORKERS:						
Reinforcing	8.34	.58	.625	.70	.02	
Fence erectors	8.24	.58	.625	.70	.02	
Ornamental; Structural	8.38	.58	.625	.70	.02	
IRRIGATION & LAWN SPRINKLERS	6.50	10%	16%	13%	1%	
LATHERS (Northern portion of San Diego Co. from center of city of Del Mar)	7.67	.30	.75	.50		
LATHERS (Remainder of County)	8.03	.30	.50		.02	
LINE CONSTRUCTION:						
Groundmen	6.74	.20	1%&.23			
Linemen	8.75	.20	1%&.23			
Cable splicers	9.05	.20	1%&.23			
MARBLE SETTERS	6.71	.30	.45	.60		
MARBLE SETTERS' HELPERS	5.69	.20	.45	.60		
PAINTERS:						
Brush	7.43	.39	.39	.60	.03	
Paperhangers; Sandblasters; Tapers	7.93	.39	.39	.60	.03	
Sandblaster, swing stage; Iron, steel & bridge painter, swing stage spray; Spray, climbing steel & bridge	8.18	.39	.39	.60	.03	
Steeplejack	8.83	.39	.39	.60	.03	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (cont'd)						
Parking Lot Striping Work and/or Highway Markers:						
Traffic delineating device applicator	$5.10	.20	.20	b		
Wheel stop installer; Traffic surface sandblaster; Striper; Traffic surface protective coating applicator	4.88	.20	.20	b		
Helper (Traffic surface sandblaster; wheel stop installer; traffic surface portective coating applicator, striper)	4.38	.20	.20	b		
PLASTERERS	8.15	.45	.75		.06	
PLASTERERS' TENDERS	6.70	.25	.25	.25		
PLUMBERS; Steamfitters	8.30	10%	16%	13%	1%	
ROOFERS	6.64	.40	.25	1.00		
SHEET METAL WORKERS	8.83	.39	.40			
SOFT FLOOR LAYERS	7.85	.45	.30	.50	.05	
SPRINKLER FITTERS	11.30	.30	.50		.05	
TERRAZZO WORKERS	6.71	.30	.45	.60		
TILE SETTERS	6.71	.30	.45	.60		
TILE SETTERS' HELPERS	5.69	.20	.45	.60		
RIGGERS; Welders - Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 paid holidays: A through F.

b. Employer contributes $.17 per hour to Holiday Fund plus $.10 per hour to Vacation for one year's service, $.20 per hour after one year but less than five years' service, $.30 per hour after five years but less than ten years' service, $.40 per hour after ten years' service.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
LABORERS, general construction; Gas & Oil pipeline; Jet man; Tool shed checker; Using dry pack	$ 5.33	.35	.45	.40	.05	
CUTTING TORCH OP. (demolition); Scaler	5.38	.35	.45	.40	.05	
GUINEA CHASER	5.41	.35	.45	.40	.05	
FINE GRADER ON HIGHWAYS, STREETS & AIRPORTS PAVING (sewer & drainage lines); Landscape Gardener & Nursery Man	5.43	.35	.45	.40	.05	
LABORER (packing rod steel & pans); Tank Scaler & Cleaner	5.455	.35	.45	.40	.05	
DRILLER'S HELPER (Caisson) incl. bellowers; Boring machine	5.46	.35	.45	.40	.05	
WINDOW CLEANER; Chuck tender (except tunnels); Septic Tank Digger & Installer (leadmen)	5.48	.35	.45	.40	.05	
CESSPOOL DIGGER & INSTALLER	5.51	.35	.45	.40	.05	
CONCRETE CURER; Impervious membrane; Riprap stonepaver; Sandblaster (Pot tender); Pipelayer backup man, coating, grouting, making of joints, sealing, caulking diapering, and incl. rubber gasket joints; Pointing & any & all other services	5.52	.35	.45	.40	.05	
ASPHALT RAKER, IRONER, SPREADER; Buggymobile man; Cement dumper (on 1 yd. or larger mixers & handling bulk cement); Concrete saw man (excl. tractor type); Roto-scraper, chipping hammer; Concrete core cutter & form blower; Gas & oil pipeline wrapper; Pot tenders of pneumatic & electric tools, Concrete pump; Vibrating machine & similar mechanical tools not separately classified herein; Tree climber using mechanical tools	5.54	.35	.45	.40	.05	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ROCK SLINGER; Scaler (using bos'n chair or safety belt or power tools)	$5.59	.35	.45	.40	.05	
DRILLERS, all others where drilling is for use of explosives	5.62	.35	.45	.40	.05	
PIPELAYER, METALLIC OR NON-METALLIC (Incl. water sewage, solid, gas, air); Welding in connection with laborers' work	5.64	.35	.45	.40	.05	
GAS & OIL PIPELINE WRAPPER (6" pipe & over)	5.67	.35	.45	.40	.05	
CRIBBER, SHORER, LAGGING, SHEETING & TRENCH BRACING; Hand-guided lagging hammer	5.69	.35	.45	.40	.05	
STEEL HEADERBOARD MAN	5.755	.35	.45	.40	.05	
DRILLERS - (All power drills, incl. jackhammer, whether core, diamond, wagon, track, multiple unit, & any & all types of mechanical drills; Sandblaster (Nozzleman)	5.78	.35	.45	.40	.05	
POWDERMAN, BLASTERS	5.815	.35	.45	.40	.05	
HEAD ROCK SLINGER	5.85	.35	.45	.40	.05	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TUNNEL LABORERS						
SHAFT AND RAISE MINER	$5.015	.25	.25	.25		
BLASTERERS: Drillers; Cherry Pickermen; Kemper & other Pneumatic Concrete Placer Ops.; Miners, in short dry tunnels under streets, highways & sim. places; Miners, tunnel (hand or machine); Powdermen; Primer House; Timbermen; Retimbermen (wood or steel); Steel Form Raisers & Setters	4.765	.25	.25	.25		
GROUT GUNMEN	4.715	.25	.25	.25		
CHUCKTENDER; Cable Tender; Nipper; Steel Form Raiser & Setter's Helper; Vibrator Man; Jackhammer; Pneumatic Tools (except driller)	4.615	.25	.25	.25		
BULL GANG; Concrete Crew (incls. rodders & spreaders); Dumpmen; Grout Crew; Muckers (laborers) in short dry tunnels under streets, highways & sim. places; Trackmen; Swamper (brakemen & switchmen or tunnel work)	4.515	.25	.25	.25		
GUNITE WORKERS:						
Nozzlemen and Rodmen	5.56	.25	.35	.35		
Gunmen	5.24	.25	.35	.35		
Reboundmen	4.825	.25	.35	.35		

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I						
Brakeman; Compressor Engineer oiler; Generator; Heavy duty repairman helper; Pump; Signalman; Switchman	$ 7.18	.45	.80	.30	.02	
GROUP II						
Concrete mixer, skip type; conveyor; Fireman; Generator, pump or compressor, 2-5 inclusive, Hydrostatic pump; Plant op., generator, pump or compressor; Skiploader - Wheel type up to 3/4 yd. w/o attachments; Soils field technicians; Tar pot fireman; Temporary heating plant; Trenching machine oiler; Well point pump	7.42	.45	.80	.30	.02	
GROUP III						
Elevator (inside); Ford Ferguson-w/drag; Helicopter radioman (ground); Oiler-crusher (asphalt or concrete plant); Power concrete curing machine op.; Power concrete saw; Power-driven Jumbo form setter; Stationary pipe wrapping & cleaning machine; Truck crane oiler	7.66	.45	.80	.30	.02	
GROUP IV						
Asphalt plant fireman; Boring machine; Chip spreading machine; Concrete pump; Concrete pump (truck mounted); Dinky locomotive or motorman (10 ton); Helicopter hoist; Helicopter radioman; Highline cableway signalman; Power sweeper; Screed; Rodman & chairman; Trenching machine (up to 6')	7.77	.45	.80	.30	.02	
GROUP V						
A-frame winch truck; Asphalt plant or concrete batch plant; Asphalt spreading machine (spreader bar & similar); Bit sharpener; Boxman or mixerman (Asphalt or concrete); Concrete Joint machine (Canal & similar type); Concrete planer; Drilling machine (water wells); Equipment greaser (mobile & grease rack); Ford Ferguson or similar type (w/drag type attachments); Forklift (under 5 ton capacity); Hydra-hammer-Aero						

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP V (Cont'd) stomper; Hydrographic seeder machine (straw, pump or seed); Instrumentman; Machine tool; Maginnis internal full slab vibrator; Mechanical Berm, curb or gutter (concrete, or asphalt); Mechanical finisher (concrete, Clary-Johnson-Bidwell or similar); Pavement breaker (truck mounted); Road oil mixing machine; Roller; Ross carrier (jobsite); Self-propelled tar pipe-lining machine; Skiploader (wheel or track type over 3/4 yd. up to & incl. 1 1/2 yds.); Slip form pump (power driven hydraulic lifting device for concrete forms); Stinger crane (Austin-Western or similar type); Traveling pipe wrapping, cleaning & bending machine; Truck type loader; Tugger hoist (1-drum)	7.96	.45	.80	.30	.02	
GROUP VI Asphalt or concrete plant engineer; Asphalt or concrete spreading (tamping or finishing); Asphalt paving machine (Barber Greene or similar type); Belt splicer or vulcanizer; BHL Lima road pactor, Wagner Pactor or similar; Bridge Crane; Bridge type unloader & turntable; Cast-in-place pipe laying machine; Combination mixer & compressor (gunnite work); Concrete mixer-paving; Crane (up to & incl. 25 ton cap. - long boom pay applicable); Crushing plant; Deck engine Drill doctor; Elevating grader; Forklift (over 5 tons); Gradeall; Grade checker; Grouting machine; Heading shield; Heavy duty repairman; Hoist (single drum-buck-hoist - Chicago boom & similar type); Hoist (2 or 3 drum); Kolman belt loader & similar type; LeTourneau blob compactor or similar type; Lift mobile; Lift slab machine (Vagtborg & similar types); Material hoist (1 drum); Mucking machine (1/4 yd. rubber-tired, rail or track type); Piledriver; Pneumatic concrete placing machine						

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VI (Cont'd) (Hackley-Presswell or similar type); Pneumatic heading shield (Tunnel); pumpcrete gun; Rotary drill (excl. Caisson type); Rubber-tired earth moving equipment (single engine-Caterpiller, Euclid, Athey wagon, Water Pulls & similar types with any & all attachments up to 50 cu. yds. struck); Rubber-tired scraper (self-loading paddle wheel type John Deere, 1040 & similar single unit); Skip-loader (wheel or track type, over 1 1/2 yds. up to & incl. 6 1/2 yds.); Surface heaters & planer; Tractor-compressor-drill combination; Tractor, (Bulldozer, Tamper, Scraper & Push Tractor, single engine); Trenching machine (over 6' depth cap., manufacturers' rating); Tunnel locomotive (10 to 30 tons); Universal equipment (Shovel, Backhoe, Dragline, Clamshell, up to & incl. 1 cu. yd. MRC) (long boom pay applicable)	8.06	.45	.80	.30	.02	
GROUP VII Crane (over 25 tons up to & incl. 100 ton MRC) (long boom pay applicable); Derrick barge; Dual drum mixer; Hoist (2 or 3 drum w/boom attachment); Hoist (Stiff legs, Guy derricks or similar type up to 100 ton cap. - Oiler or long boom pay applicable); Loader (Athey, Euclid, Sierra or similar type); Monorail locomotive (Diesel, gas or electric); Motor patrol - Blade; Multiple engine tractor (Euclid & similar type, except Quad 9 cat); Party chief; Rubber-tired earth moving equipment (Multiple engine, Euclid, Caterpillar & similar type up to 50 cu. yds. struck); Tractor (boom attachments - over 40' boom); Tractor loader (Crawler & wheel type over 6 1/2 yds.); Tower crane (2 ops. required); Tower crane repairman; Universal equipment (Shovel, Backhoe, Dragline, Clamshell, over 1 cu. yd.						

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VII (Cont'd)						
MRC); Welder (heavy duty repairman) combination; Wood mixer & other similar Pugmill equipment	8.16	.45	.80	.30	.02	
GROUP VIII						
Auto grader; Automatic slip form Crane, over 100 tons (long boom pay applicable); Hoist (Stiff legs, Guy Derricks or similar types, capable of hoisting over 100 tons - long boom pay applicable); Mass excavator (less than 750 cu. yds.); Mechanical finishing machine; Mobile form traveler; Motor patrol (multi-engine); Pipe mobile machine; Ribber-tired earth moving equipment (Multiple engine, Euclid, Caterpillar and similar type over 50 cy. struck); Rubber-tired scraper (pushing one another, w/o Push Cat, Push-Pull - $.50 p/h additional to base rate); Rubber-tired self-loading scraper (Paddle wheel - Auger type self-loading, 2 or more units); Tandem equipment (2 units); Tandem equipment (2 units only); Tandem tractor (Quad. 9 or similar type) (Art. XV-V.10.); Tunnel mole boring machine	8.30	.45	.80	.30	.02	
GROUP IX						
Canal liner op.; Canal Trimmer op.; Helicopter pilot; Highline cableway; Remote controlled earth moving equipment ($1.00 p/h additional to base rate); Wheel excavator op. (over 750 cy.)	8.65	.45	.80	.30	.02	

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PICKUPS, (3/4 tons & under); Swampers & helpers; Traffic control pilot car (excl. moving heavy equipment)	$5.22	.60	.65	.90		
TRUCK REPAIRMAN; Welder helper	5.42	.60	.65	.90		
INDUSTRIAL LIFT	5.55	.60	.65	.90		
DUMP (Less than 8 yds.); Dump or flat-bed (2 axle); Concrete pumping; Fork-lift (under 15,000 lbs.)	5.58	.60	.65	.90		
DUMP (8 yds. & under 12 yds.); Dump or flatbed (3 axle); Bunkerman	5.63	.60	.65	.90		
FORKLIFT (15,000 lbs. & over); Ross carrier	5.70	.60	.65	.90		
DUMP (12 yds. & under 16 yds.); Dump or flatbed (3 axle with semi)	5.71	.60	.65	.90		
WATER TRUCKS (2 axle); Erosion control nozzlemen; Prell truck; Pipeline working truck drivers (incl. winch truck & all sizes of truck); Road oil spreader; Cement distributor or Slurry driver; Road oil or Slurry bootman	5.73	.60	.65	.90		
DUMPCRETE (less than 6½ yds.)	5.79	.60	.65	.90		
EROSION CONTROL TRUCK Water trucks (3 axles)	5.85	.60	.65	.90		
FUEL OR DYNAMITE & EXPLOSIVES	5.88	.60	.65	.90		
DUMP (16 yds. & under 25 yds.); Dump or flatbed (4 axle or more); Lowbed and trailer; Transit mix (under 8 yds); Grout mixer; Dumpcrete (6½ yds. & over) Dumpster	5.93	.60	.65	.90		
DUMP (25 yds. & under 35 yds.)	5.98	.60	.65	.90		
DW 10's, DW 20's OR EUCLID TYPE EQUIP. or LeTourneau Pulls or Terra Cobras or similar types of equip. regardless of types of attachments when performing work in the teamsters' jurisdiction or PB or similar types of dump trucks with loading attachments	6.00	.60	.65	.90		

TRUCK DRIVERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK GREASER	6.01	.60	.65	.90		
7 AXLES OR DOUBLE GOOSENECK LOWBED or combination of vehicles when under permit load	6.055	.60	.65	.90		
TRANSIT MIX (8 yds. & over)	6.07	.60	.65	.90		
TIREMEN	6.11	.60	.65	.90		
DUMP (35 yds. & under 50 yds.)	6.13	.60	.65	.90		
A-FRAME or swedish crane; Water pull tankers; Welder	6.20	.60	.65	.90		
DUMP (50 yds. & under 65 yds.)	6.28	.60	.65	.90		
TRUCK REPAIRMAN	6.30	.60	.65	.90		
DUMP (65 yds. & over)	6.43	.60	.65	.90		

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DREDGING (Hydraulic Suction Dredges)						
LEVERMAN	$8.20	.75	1.20	.03	.015	
WATCH ENGINEER; Welder	7.71	.75	1.20	.30	.015	
DECKMATE	7.31	.75	1.20	.30	.015	
WINCHMAN (stern winch or dredge)	7.25	.75	1.20	.30	.015	
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	6.79	.75	1.20	.30	.015	
DREDGING (Clam Sheel Dredges)						
LEVERMAN	8.20	.75	1.20	.30	.015	
WATCH ENGINEER	7.71	.75	1.20	.30	.015	
DECKMATE	7.31	.75	1.20	.30	.015	
BARGEMATE	7.25	.75	1.20	.30	.015	
BARGEMAN; Deckhand; Fireman; Oiler	6.79	.75	1.20	.30	.015	

SUPERSEDEAS DECISION

STATE: California COUNTY: San Diego
DECISION #AP-256 DATE: Date of Publication
Supersedes Decision #AM-6,130 dated November 12, 1971 in 36 FR 21723.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$9.77	.48	.35		.025	
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS; Stonemasons	7.95	.58	.75		.05	
BRICK, BLOCK & STONEMASONS' TENDERS	6.21	.35	.45	.40		
CARPENTERS:						
Carpenters	7.06	.56	.75	.50	.02	
Piledrivermen	7.19	.56	.75	.50	.02	
Millwrights; Pneumatic nailer; Hardwood floorlayers	7.31	.56	.75	.50	.02	
CEMENT MASONS:						
Cement Masons	6.52	.50	.73	.61	.035	
Cement Masons color work-curb machine op.	6.645	.50	.73	.61	.035	
Composition, mastic or epoxy finishing machine operator	6.77	.50	.73	.61	.035	
DRYWALL INSTALLERS	7.90	.56	.65	.50	.04	
ELECTRICIANS:						
Electricians	8.75	.20	1%&.23			
Cable splicer	9.05	.20	1%&.23			
ELEVATOR CONSTRUCTORS	9.21	.195	.20	2% & a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.195	.20	2% & a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	9.05	.35	.30			
IRONWORKERS:						
Reinforcing	8.34	.58	.625	.70	.02	
Fence erectors	8.24	.58	.625	.70	.02	
Ornamental; Structural	8.38	.58	.625	.70	.02	
IRRIGATION & LAWN SPRINKLERS	6.50	10%	16%	13%	1%	
LATHERS (Northern portion of San Diego Co. from center of city of Del Mar)	7.67	.30	.75	.50		
LATHERS (Remainder of County)	8.03	.30	.50		.02	
LINE CONSTRUCTION:						
Groundmen	6.74	.20	1%&.23			
Linemen	8.75	.20	1%&.23			
Cable splicers	9.05	.20	1%&.23			
MARBLE SETTERS	6.71	.30	.45	.60		
MARBLE SETTERS' HELPERS	5.69	.20	.45	.60		
PAINTERS:						
Brush	7.43	.39	.39	.60	.03	
Paperhangers; Sandblasters; Tapers	7.93	.39	.39	.60	.03	
Sandblaster, swing stage; Iron, steel & bridge painter, swing stage spray; Spray, climbing steel & bridge	8.18	.39	.39	.60	.03	
Steeplejack	8.83	.39	.39	.60	.03	
PAINTERS (cont'd)						
Parking Lot Striping Work and/or Highway Markers:						
Traffic delineating device applicator; Wheel stop installer; Traffic surface sandblaster; Striper; Traffic surface protective coating applicator	$5.10	.20	.20	b		
Helper (Traffic surface sandblaster; wheel stop installer; traffic surface portective coating applicator, striper)	4.88	.20	.20	b		
PLASTERERS	4.38	.20	.20	b		
PLASTERERS' TENDERS	8.15	.45	.75		.06	
PLUMBERS; Steamfitters	6.70	.25	.25	.25		
ROOFERS	8.30	10%	16%	13%	1%	
SHEET METAL WORKERS	6.64	.40	.25	1.00		
SOFT FLOOR LAYERS	8.83	.39	.40			
SPRINKLER FITTERS	7.85	.45	.30	.50	.05	
TERRAZZO WORKERS	11.30	.30	.50		.05	
TILE SETTERS	6.71	.30	.45	.60		
TILE SETTERS' HELPERS	6.71	.30	.45	.60		
RIGGERS; Welders - Receive rate prescribed for craft performing operation to which rigging or welding is incidental.	5.69	.20	.45	.60		

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 paid holidays: A through F.

b. Employer contributes $.17 per hour to Holiday Fund plus $.10 per hour to Vacation for one year's service, $.20 per hour after one year but less than five years' service, $.30 per hour after five years but less than ten years' service, $.40 per hour after ten years' service.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
LABORERS, general construction; Gas & Oil pipeline; Jet man; Tool shed checker; Using dry pack	$ 5.33	.35	.45	.40	.05	
CUTTING TORCH OP. (demolition); Scaler	5.38	.35	.45	.40	.05	
GUINEA CHASER	5.41	.35	.45	.40	.05	
FINE GRADER ON HIGHWAYS, STREETS & AIRPORTS PAVING (sewer & drainage lines); Landscape Gardener & Nursery Man	5.43	.35	.45	.40	.05	
LABORER (packing rod steel & pans); Tank Scaler & Cleaner	5.455	.35	.45	.40	.05	
DRILLER'S HELPER (Caisson) incl. bellowers; Boring machine	5.46	.35	.45	.40	.05	
WINDOW CLEANER; Chuck tender (except tunnels); Septic Tank Digger & Installer (leadmen)	5.48	.35	.45	.40	.05	
CESSPOOL DIGGER & INSTALLER	5.51	.35	.45	.40	.05	
CONCRETE CURER; Impervious membrane; Riprap stonepaver; Sandblaster (Pot tender); Pipelayer backup man, coating, grouting, making of joints, sealing, caulking diapering, and incl. rubber gasket joints; Pointing & any & all other services	5.52	.35	.45	.40	.05	
ASPHALT RAKER, IRONER, SPREADER; Buggymobile man; Cement dumper (on 1 yd. or larger mixers & handling bulk cement); Concrete saw man (excl. tractor type); Roto-scraper, chipping hammer; Concrete core cutter & form blower; Gas & oil pipeline wrapper; Pot tenders of pneumatic & electric tools, Concrete pump; Vibrating machine & similar mechanical tools not separately classified herein; Tree climber using mechanical tools	5.54	.35	.45	.40	.05	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ROCK SLINGER; Scaler (using bos'n chair or safety belt or power tools)	$5.59	.35	.45	.40	.05	
DRILLERS, all others where drilling is for use of explosives	5.62	.35	.45	.40	.05	
PIPELAYER, METALLIC OR NON-METALLIC (Incl. water sewage, solid, gas, air); Welding in connection with laborers' work	5.64	.35	.45	.40	.05	
GAS & OIL PIPELINE WRAPPER (6" pipe & over)	5.67	.35	.45	.40	.05	
CRIBBER, SHORER, LAGGING, SHEETING & TRENCH BRACING; Hand-guided lagging hammer	5.69	.35	.45	.40	.05	
STEEL HEADERBOARD MAN	5.755	.35	.45	.40	.05	
DRILLERS - (All power drills, incl. jackhammer, whether core, diamond, wagon, track, multiple unit, & any & all types of mechanical drills; Sandblaster (Nozzleman)	5.78	.35	.45	.40	.05	
POWDERMAN, BLASTERS	5.815	.35	.45	.40	.05	
HEAD ROCK SLINGER	5.85	.35	.45	.40	.05	

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP I						
Brakeman; Compressor Engineer oiler; Generator; Heavy duty repairman helper; Pump; Signalman; Switchman	$ 7.18	.45	.80	.30	.02	
GROUP II						
Concrete mixer, skip type; conveyor; Fireman; Generator, pump or compressor, 2-5 inclusive, Hydrostatic pump; Plant op., generator, pump or compressor; Skiploader - Wheel type up to 3/4 yd. w/o attachments; Soils field technicians; Tar pot fireman; Temporary heating plant; Trenching machine oiler; Well point pump	7.42	.45	.80	.30	.02	
GROUP III						
Elevator (inside); Ford Ferguson-w/drag; Helicopter radioman (ground); Oiler-crusher (asphalt or concrete plant); Power concrete curing machine op.; Power concrete saw; Power-driven Jumbo form setter; Stationary pipe wrapping & cleaning machine; Truck crane oiler	7.66	.45	.80	.30	.02	
GROUP IV						
Asphalt plant fireman; Boring machine; Chip spreading machine; Concrete pump; Concrete pump (truck mounted); Dinky locomotive or motorman (10 ton); Helicopter hoist; Helicopter radioman; Highline cableway signalman; Power sweeper; Screed; Rodman & chairman; Trenching machine (up to 6')	7.77	.45	.80	.30	.02	
GROUP V						
A-frame winch truck; Asphalt plant or concrete batch plant; Asphalt spreading machine (spreader bar & similar); Bit sharpener; Boxman or mixerman (Asphalt or concrete); Concrete Joint machine (Canal & similar type); Concrete planer; Drilling machine (water wells); Equipment greaser (mobile & grease rack); Ford Ferguson or similar type (w/drag type attachments); Forklift (under 5 ton capacity); Hydra-hammer-Aero						

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POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP V (Cont'd)						
stomper; Hydrographic seeder machine (straw, pump or seed); Instrumentman; Machine tool; Maginnis internal full slab vibrator; Mechanical Berm, curb or gutter (concrete, or asphalt); Mechanical finisher (concrete, Clary-Johnson-Bidwell or similar); Pavement breaker (truck mounted); Road oil mixing machine; Roller; Ross carrier (jobsite); Self-propelled tar pipe-lining machine; Skiploader (wheel or track type over 3/4 yd. up to & incl. 1 1/2 yds.); Slip form pump (power driven hydraulic lifting device for concrete forms); Stinger crane (Austin-Western or similar type); Traveling pipe wrapping, cleaning & bending machine; Truck type loader; Tugger hoist (1-drum)	7.96	.45	.80	.30	.02	
GROUP VI						
Asphalt or concrete plant engineer; Asphalt or concrete spreading (tamping or finishing); Asphalt paving machine (Barber Greene or similar type); Belt splicer or vulcanizer; BHL Lima road pactor, Wagner Pactor or similar; Bridge Crane; Bridge type unloader & turntable; Cast-in-place pipe laying machine; Combination mixer & compressor (gunnite work); Concrete mixer-paving; Crane (up to & incl. 25 ton cap. - long boom pay applicable); Crushing plant; Deck engine Drill doctor; Elevating grader; Forklift (over 5 tons); Gradeall; Grade checker; Grouting machine; Heading shield; Heavy duty repairman; Hoist (single drum-buck-hoist - Chicago boom & similar type); Hoist (2 or 3 drum); Kolman belt loader & similar type; LeTourneau blob compactor or similar type; Lift mobile; Lift slab machine (Vagtborg & similar types); Material hoist (1 drum); Mucking machine (1/4 yd. rubber-tired, rail or track type); Piledriver; Pneumatic concrete placing machine						

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP VI (Cont'd) (Hackley-Presswell or similar type); Pneumatic heading shield (Tunnel); pumpcrete gun; Rotary drill (excl. Caisson type); Rubber-tired earth moving equipment (single engine-Caterpiller, Euclid, Athey wagon, Water Pulls & similar types with any & all attachments up to 50 cu. yds. struck); Rubber-tired scraper (self-loading paddle wheel type John Deere, 1040 & similar single unit); Skip-loader (wheel or track type, over 1 1/2 yds. up to & incl. 6 1/2 yds.); Surface heaters & planer; Tractor-compressor-drill combination; Tractor, (Bulldozer, Tamper, Scraper & Push Tractor, single engine); Trenching machine (over 6' depth cap., manufacturers' rating); Tunnel locomotive (10 to 30 tons); Universal equipment (Shovel, Backhoe, Dragline, Clamshell, up to & incl. 1 cu. yd. MRC) (long boom pay applicable)	8.06	.45	.80	.30	.02	
GROUP VII Crane (over 25 tons up to & incl. 100 ton MRC) (long boom pay applicable); Derrick barge; Dual drum mixer; Hoist (2 or 3 drum w/boom attachment); Hoist (Stiff legs, Guy derricks or similar type up to 100 ton cap. - Oiler or long boom pay applicable); Loader (Athey, Euclid, Sierra or similar type); Monorail locomotive (Diesel, gas or electric); Motor patrol - Blade; Multiple engine tractor (Euclid & similar type, except Quad 9 cat); Party chief; Rubber-tired earth moving equipment (Multiple engine, Euclid, Caterpillar & similar type up to 50 cu. yds. struck); Tractor (boom attachments - over 40' boom); Tractor loader (Crawler & wheel type over 6 1/2 yds.); Tower crane (2 ops. required); Tower crane repairman; Universal equipment (Shovel, Backhoe, Dragline, Clamshell, over 1 cu. yd.						

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP VII (Cont'd) MRC); Welder (heavy duty repairman) combination; Wood mixer & other similar Pugmill equipment	8.16	.45	.80	.30	.02	
GROUP VIII Auto grader; Automatic slip form Crane, over 100 tons (long boom pay applicable); Hoist (Stiff legs, Guy Derricks or similar types, capable of hoisting over 100 tons - long boom pay applicable); Mass excavator (less than 750 cu. yds.); Mechanical finishing machine; Mobile form traveler; Motor patrol (multi-engine); Pipe mobile machine; Ribber-tired earth moving equipment (Multiple engine, Euclid, Caterpillar and similar type over 50 cy. struck); Rubber-tired scraper (pushing one another, w/o Push Cat, Push-Pull - $.50 p/h additional to base rate); Rubber-tired self-loading scraper (Paddle wheel - Auger type self-loading, 2 or more units); Tandem equipment (2 units); Tandem equipment (2 units only); Tandem tractor (Quad. 9 or similar type) (Art. XV-V.10.); Tunnel mole boring machine	8.30	.45	.80	.30	.02	
GROUP IX Canal liner op.; Canal Trimmer op.; Helicopter pilot; Highline cableway; Remote controlled earth moving equipment ($1.00 p/h additional to base rate); Wheel excavator op. (over 750 cy.)	8.65	.45	.80	.30	.02	

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
PICKUPS, (3/4 tons & under); Swampers & helpers; Traffic control pilot car (excl. moving heavy equipment)	$5.22	.60	.65	.90		
TRUCK REPAIRMAN; Welder helper	5.42	.60	.65	.90		
INDUSTRIAL LIFT	5.55	.60	.65	.90		
DUMP (Less than 8 yds.); Dump or flatbed (2 axle); Concrete pumping; Forklift (under 15,000 lbs.)	5.58	.60	.65	.90		
DUMP (8 yds. & under 12 yds.); Dump or flatbed (3 axle); Bunkerman	5.63	.60	.65	.90		
FORKLIFT (15,000 lbs. & over); Ross carrier	5.70	.60	.65	.90		
DUMP (12 yds. & under 16 yds.); Dump or flatbed (3 axle with semi)	5.71	.60	.65	.90		
WATER TRUCKS (2 axle); Erosion control nozzlemen; Prell truck; Pipeline working truck drivers (incl. winch truck & all sizes of truck); Road oil spreader; Cement distributor or Slurry driver; Road oil or Slurry bootman	5.73	.60	.65	.90		
DUMPCRETE (less than 6½ yds.)	5.79	.60	.65	.90		
EROSION CONTROL TRUCK Water trucks (3 axles)	5.85	.60	.65	.90		
FUEL OR DYNAMITE & EXPLOSIVES	5.88	.60	.65	.90		
DUMP (16 yds. & under 25 yds.); Dump or flatbed (4 axle or more); Lowbed and trailer; Transit mix (under 8 yds); Grout mixer; Dumpcrete (6½ yds. & over) Dumpster	5.93	.60	.65	.90		
DUMP (25 yds. & under 35 yds.)	5.98	.60	.65	.90		
DW 10's, DW 20's OR EUCLID TYPE EQUIP. or LeTourneau Pulls or Terra Cobras or similar types of equip. regardless of types of attachments when performing work in the teamsters' jurisdiction or PB or similar types of dump trucks with loading attachments	6.00	.60	.65	.90		

TRUCK DRIVERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK GREASER	6.01	.60	.65	.90		
7 AXLES OR DOUBLE GOOSENECK LOWBED or combination of vehicles when under permit load	6.055	.60	.65	.90		
TRANSIT MIX (8 yds. & over)	6.07	.60	.65	.90		
TIREMEN	6.11	.60	.65	.90		
DUMP (35 yds. & under 50 yds.)	6.13	.60	.65	.90		
A-FRAME or swedish crane; Water pull tankers; Welder	6.20	.60	.65	.90		
DUMP (50 yds. & under 65 yds.)	6.28	.60	.65	.90		
TRUCK REPAIRMAN	6.30	.60	.65	.90		
DUMP (65 yds. & over)	6.43	.60	.65	.90		

SUPERSEDEAS DECISION

STATE: Maryland
DECISION NO.: AP-455
COUNTY: Baltimore City and County
DATE: Date of Publication
Supersedes Decision No. AP-410, dated August 4, 1972, in 37 FR 15823.
DESCRIPTION OF WORK: Building Construction (excluding single family houses and garden type apartments up to and including 4-stories), heavy construction (excluding sewer and water line construction), and highway construction.

BUILDING AND HEAVY CONSTRUCTION

3-Md-1-E 1 of 3

	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$7.60	.50	.40		.02	
Boilermakers-Blacksmiths	7.65	.30	.70	.20	.01	
Bricklayers	8.55	.40	.40		.12	
Carpenters	7.49	.44	.40		.05	
Cement masons	7.795	.125	.30			
Electricians	8.10	.40	1%+.20		½%	
Elevator constructors	7.92	.195	.20	½%+a&b	.005	
Elevator constructors' helpers	5.54	.195	.20	½%+a&b	.005	
Elevator constructors' helpers (Prob.)	3.96					
Glaziers:						
Glaziers	6.85	.15	.10			
Swinging scaffold or bosun's chair	7.05	.15	.10			
Ironworkers:						
Finsihers, pre-cast & pre-stress erectors	7.76	.50	.75		.01	
Sheeters	8.01	.50	.75		.01	
Rodmen	7.76	.50	.75		.01	
Laborers:						
Laborers	5.40	.20	.225		.025	
Hod carriers	5.50	.20	.225		.025	
Plasterers' laborers	5.55	.20	.225		.025	
Power tool operator	5.50	.20	.225		.025	
Pipelayers (concrete and clay)	5.60	.20	.225		.025	
Wagon drill operator	5.65	.20	.225		.025	
Lathers	8.29		.35		.01	
Lead burners	8.25	.30		c	.01	
Line Construction:						
Linemen, cable splicer	8.50	.20	1%		½%	
Groundman (experienced)	5.40	.20	1%		½%	
Millwrights	7.49	.44	.40		.05	
Marble setters	8.55	.40	.40		.12	
Painters:						
Brush	6.095	.65	.30	.20	.05	
Structural Steel, spray (steel), steam cleaning	6.60	.65	.30	.20	.05	
Sandblasting	6.60	.65	.30	.20	.05	
Spackling, taping & wall coverings	6.245	.65	.30	.20	.05	
Spray (except steel)	6.345	.65	.30	.20	.05	
Piledrivermen	7.49	.44	.40		.05	
Plasterers	7.70	.25	.30			
Plumbers	8.28	.35	.35		.04	
Roofers:						
Roofers, damp & water proof workers	5.55	.35	.30			
Mopmen, slate & tile, asbestos and asphalt	6.00	.35	.30			
Sheeter, precast and wood block	6.35	.35	.30			
Sheet metal workers	7.87	.55	.20		.05	
Marble, tile and terrazzo workers' helpers	5.675	.125	.20			

BUILDING AND HEAVY CONSTRUCTION

3-Md-1-E 2 of 3

	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS				
		H & W	Pensions	Vacation	App. Tr.	Other
Soft floor layers - resilient floor layers	$7.49	.44	.40		.05	
Sprinkler fitters:						
Baltimore City	8.30	.30	.50		.05	
Excluding Baltimore City	8.75	.30	.50		.05	
Steamfitters	7.91	.45	.60		.06	
Stonemasons	8.55	.40	.40		.12	
Tile and Terrazzo workers	6.94	.125	.40		.04	
Truck Drivers:						
Goose-necks, drop frame trailers	6.75	d	e	f + g		
All "A" frames, winch trucks, fork lift and trailers	6.55	d	e	f + g		
Flat-beds and pick-ups	6.10	d	e	f + g		
Helpers	5.80	d	e	f + g		
Mixer trucks with agitator of 12 yds. capacity	4.60	d	e	f + g		
Mixer trucks with agitator over 12 yds. capacity	5.00	d	e	f + g		
Euclid wagons and dumpsters	5.20	d	e	f + g		
Dump trucks	4.92	d	e	f + g		
Truck Drivers: (Excavation):						
Dump truck	4.92	d	e	f + g		
Euclid wagon and dumpster	5.20	d	e	f + g		
Drop - frame, goose-neck and trailer	5.10	d	e	f + g		
Pick-up	4.75	d	e	f + g		
Helpers	4.80	d	e	f + g		

Welders - receive rates prescribed for craft performing operation to which welding is incidental.

BUILDING AND HEAVY CONSTRUCTION

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F; plus Washington's Birthday and Good Friday (provided employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday).

d. Employer contributes $.25 per hour not to exceed 40 hours per week.

e. Employer contributes $.20 per hour not to exceed 40 hours per week.

f. One week paid vacation after employee has worked 125 days in the contract year.

g. Holidays: A through F; plus the employee's birthday; Day after Thanksgiving Day and Christmas Eve, (provided the employee has worked one day and has been available for work during holiday week).

BUILDING AND HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H & W	PENSIONS	VACATION	APP. TR.
Backfiller, backhoe, concrete mixing plants, scale type batching plants, cableway, derrick, derrick boat, boat captain, dragline, elevating grader, excavating scoop (25 yds., and over), hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, Eimco type overhead loader, Whirley rig, welder, concrete paver, double concrete pump, front end loader (1 - 3/4 yds., and over), multiple conveyor, Mighty midget with compressor, repair mechanic, twin engine scraper, Gradall	$7.65	.45	.35	a	.05
Compressors (2 or more), conveyors (2 or more), space heaters, over 4 welders (more than 6, another man), well point system	7.09	.45	.35	a	.05
Tractor with attachment (2 or more), autopatrol type grader	7.20	.45	.35	a	.05
Concrete mixer, concrete pump, one drum hoist, elevator operator, narrow gauge locomotive, stone crusher, hi-lift, fork lift	6.86	.45	.35	a	.05
Front end tractor loader (under 1-3/4 yds.), bulldozer	6.97	.45	.35	a	.05
Single compressor, grout pump, power roller, pumps, well drill, engine driven welders (up to 4), space heaters (up to 4), steam hammer, pile extractor, conveyor	6.34	.45	.35	a	.05
Excavating scoop (under 25 yds.), caterpillar type tractor	6.69	.45	.35	a	.05
Finishing machine, bull float, sub grader, longitudinal float, screeding machine, concrete spreader, asphalt spreader	6.52	.45	.35	a	.05
Fireman, truck crane oiler, grease truck, fuel truck	6.02	.45	.35	a	.05
Wheel tractor	5.81	.45	.35	a	.05
Oiler, deck hand, mechanic's helper	5.70	.45	.35	a	.05

HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F.

3-Md-3-K

HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Bricklayers	6.15					
Carpenters	4.50					
Cement masons	4.78					
Electricians	8.10	.40	1%+.20		½ of 1%	
Form setters	3.39					
Ironworkers, structural	6.91					
Ironworkers, reinforcing	3.90					
Linemen	8.50	.20	1%		½%	
Groundmen	5.40	.20	1%		½%	
Laborers:						
Mason tenders	3.25					
Air tool	2.91					
Asphalt raker spreader	3.08					
Concrete saw	3.70					
Fence erectors	3.24					
Mortar mixer	2.95					
Unskilled	2.91					
Painters, structural steel and bridge	5.50					
Piledrivermen	4.79					
Power Equipment Operators:						
Aggregate spreader operator	4.27					
Backhoes	4.845					
Bulldozers	4.50					
Concrete batching plant	4.00					
Concrete finishing machine	3.50					
Concrete paving machine	5.50					
Concrete spreader machine	4.32					
Cranes, derricks, draglines	5.17					
Gradalls	4.60					
Loaders	4.49					
Mechanics	5.495					
Mechanics' helpers	3.75					
Mixers	5.00					
Motor patrols	5.00					
Oilers - greasers	4.73					
Piledrivers	6.40					
Rollers, base	3.00					
Rollers, finish	4.05					
Scrapers, pans, scoops	4.50					
Shovels	4.37					
Subgraders	4.00					
Tractors, wheel with attachments	3.375					
Tractor, wheel	3.10					
Trenching machines	3.20					
Truck drivers	3.45					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

SUPERSEDEAS DECISION

AP-80 P. 2

3 - Michigan a 2 Of 2

STATE: Michigan COUNTY: Allegan
DECISION NUMBER: AP-80 DATE: Date of Publication
Supersedes Decision No. AM-373 dated August 18, 1971 in 36 FR 15777
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

3 - Michigan A 1 Of 2

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$7.95	.44	.95		.01	
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers & Stonemasons:						
Northwest 2/3 upper ½ of County	7.57	.25	.50			
Northeast 1/3 of County	7.15	.25	.25		.04	
Southeast 1/2 of County	8.35	.35	.30		.09	
Carpenters (Hw., Bridge & Airport)	5.95	.25	.20		.01	
Carpenters	6.55	.35	.40		.01	
Piledrivermen	8.00	.35	.40		.01	
Cement masons	5.64					
Electricians:						
Laketon, Filmore, Overisel, Salem, Door & Leighton Townships	7.62	.30	1%		.01	
Remainder of County	8.25	.30	7.5%		.01	
Glaziers (north ½ of county)	6.00					
Glaziers (south ½ of county)	5.91	.07			.07	
Ironworkers, structural & ornamental & reinforcing	8.35	.50	.50		.03	
Lathers	7.29	.27	.10	.25	.01	
Leadburners	7.80	.30		b	.01	
Painters:						
Brush & pan roller	6.90		.20			
Swing stage, structural steel	7.55		.20			
Spray & mechanical pressure roller	7.60		.20			
Piledrivermen (Marine Construction)	6.80	.35	.40		.01	
Plasterers	8.04	.32	.18		.03	
Plumbers & Steamfitters:						
Northern part of County	8.14	.28	.25		.04	
Southern part of County	8.66	.36	.48			
Roofers	4.16					
Soft floor layers	6.85	.35	.40		.01	
Sprinkler fitters	8.20	.25	.40		.05	
Sheet metal workers	7.80	.37	.43	.50		
Truck Drivers:						
Straight or dump	3.85	a5.30	a6.00			
Welders - receive rate prescribed for craft perfroming operation to which welding is inicdental.						

PAID HOLIDAYS (WHERE Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES

A. Per week per each employee.

b. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

Mich. Line Construction Area I

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

Michigan-3-PEO K

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

MICHIGAN - 3-LAB B

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Laborers (inexperienced)	$5.35	.35	.30			
Laborers	5.85	.35	.30			
Plaster tenders, material mixer, operators of portable mixers, air, electric or gasoline tools, motor driven buggies, swing scaffolds	6.00	.35	.30			
Jackhammer operators	6.10	.35	.30			
Signal men and top men on sewer & caisson work (open cut)	5.97	.35	.30			
Windlas (on caisson work)	6.07	.35	.30			
Crocklayers or pipelayers (caisson work)	6.17	.35	.30			
Top men on chimneys or towers over 30' in height	6.35	.35	.30			

Underground Construction

POWER EQUIPMENT OPERATORS:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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Michigan 8 PEO 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS STEEL ERECTION CLASS A Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F Oiler or fireman	6.90	.40	.45			

STATE: Michigan
DECISION NUMBER: AP-81
COUNTY: Alpena
DATE: Date of Publication
Supersedes Decision No. AM-374 dated August 18, 1971 in 36 FR 15782
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

Michigan 4 Z 1 of 2

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers	6.95	.40				
Stonemasons	6.95	.40				
Carpenters	6.92	.35	.40		.02	
Millwrights	7.42	.35	.40		.02	
Piledrivermen	7.37	.35	.40		.02	
Cement masons	6.60	.40				
Electricians:						
Residnetial						
Industrial & commerical - elec. contracts not to exceed $10,000	6.50	.30	1%+.15		.1%	
All other work	8.00	.30	1%+.15		.1%	
Elevator constructors	7.77	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Ironworkers, structural & ornamental & reinforcing	8.17	8%	13%	16%	.04	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Marble setters	6.95	.40				
Plasterers	6.95	.40				
Plumbers	8.40	.25				
Roofers	8.50	.55	.45			
Sheet metal workers	8.87	.40	.30			
Soft floor layers	6.92	.35	.40		.02	
Sprinkler fitters	8.20	.20	.30		.05	
Stramfitters	8.40	.25			.03	
Terrazzo workers	6.95	.40				
Tile setters	6.95	.40				
Truck Drivers:						
Under 8 tons	3.67	c7.80	c8.00	.17		
Over 8 tons	3.77	c7.80	c8.00	.17		
Euclids	3.87	c7.80	c8.00	.17		
Welders - receive rate prescribed for craft performing operation to which welding is incidental						

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 1% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week per employee.

d. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

Mich. Line Construction Area I

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Linemen -	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Mich. 2 LAB D 1 of 1

Building and Heavy Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
All Industrial Work & Commercial						
Contracts $400,000 & Over:						
Laborers, construction	3.73	.15	.10			
Power tool trades, signalmen or top men (sewer & caisson)	3.86	.15	.10			
Crock or pipe layer, tunnel or bottom men on sewer & caisson work, jointmen (intrench, top & bottom), windglass	3.93	.15	.10			
Caisson work, jackhammer, grinders & plug drill operators	3.96	.15	.10			
Wagon drill operator	4.43	.15	.10			
Wagon drill helper	4.33	.15	.10			
Tunnel muckers tunnel or open shaft	4.48	.15	.10			
Blast or powder man	4.63	.15	.10			
Tunnel miners	4.68	.15	.10			
Contracts Under $400,000:						
Laborers, construction	3.53	.15	.10			
Power tools, tenders of trowel trades, signal or top men (sewer & caisson)	3.66	.15	.10			
Crock or pipe layer, tunnel or bottom men on sewer & caisson work, jointmen(in trench, top & bottom), windglass	3.73	.15	.10			
Caisson work	3.66	.15	.10			
Wagon drill operator	4.23	.15	.10			
Wagon drill helper	4.13	.15	.10			
Tunnel muckers (tunnel or open shaft)	4.28	.15	.10			
Blast or powder man	4.53	.15	.10			
Tunnel miners	4.48	.15	.10			
Jackhammer - grinders & plug drill operators	3.86					

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Michigan-3-PEO K

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan 2-PEO N 1 of 1

POWER EQUIPMENT OPERATORS STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Engineer operating combination of boom & jib 220' or longer	$9.41	.40	.40	10%	.05	
Engineer operating combination of boom & jib 140' or longer, up to 220'	9.16	.40	.40	10%	.05	
Tower-crane & derrick operator (work station 50' or more above 1st sub-level)	9.16	.40	.40	10%	.05	
Crane operator & job mechanic	8.68	.40	.40	10%	.05	
Hoisting engineers	8.54	.40	.40	10%	.05	
Compressor or welder operator	7.84	.40	.40	10%	.05	
Oiler or fireman	6.875	.40	.40	10%	.05	

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-83
COUNTY: Berrien
DATE: Date of Publication
Supersedes Decision No. AM-375 dated August 18, 1971 in 36 FR 15787
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.275	.20	.15			
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers	8.40	.30	.20			
Stonemasons	8.40	.30	.20			
Carpenters & Soft floor layers:						
Chickaming, Three Okes & New Buffalo	8.66	.40	.40		.02	
Remainder of County	7.60	.35	.40		.01	
Piledrivermen, Chicaming, Three Okes and New Baffalo	8.66	.40	.40		.02	
Piledrivermen (Remainder of County)	8.00	.35	.40		.01	
Cement masons	7.60	.30	.20			
Electricians	7.85	2.8%	1%	2%	.2%	
Elevator constructors	8.06	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Glaziers	6.90	.30		4%	½%	
Ironwrokers, structural & ornamental	8.45	.40	.65		.01	
Ironworkers, reinforcing	8.45	.40	.65		.01	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Marble setters	7.65	.20	.25			
Marble setters' helpers	3.95					
Painters, brush	6.85					
Plasterers	7.80	.30	.20			
Plumbers & steamfitters (Niles)	7.85	.32	.40		.10	
Plumbers & steamfitters (Remainder of County)	8.80	.20	.50			
Roofers:						
Composition, damp & waterproof	7.50		.30		.03	
Slate, tile and asbestos	7.65		.30		.03	
Slate, tile helpers	4.75		.30		.03	
Sheet metal workers	8.15	.25	.40			
Sprinkler fitters	8.20	.25	.40		.05	
Terrazzo workers	7.20	.30				
Tile setters	7.20	.30				
Truck Drivers:						
Straight or dump	3.85	c5.30	c6.00			

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week per employee.

d. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

MICHIGAN - 3-LAB B

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Laborers (inexperienced)	$5.35	.35	.30			
Laborers	5.85	.35	.30			
Plaster tenders, material mixer, operators of portable mixers, air, electric or gasoline tools, motor driven buggies, swing scaffolds	6.00	.35	.30			
Jackhammer operators	6.10	.35	.30			
Signal men and top men on sewer & caisson work (open cut)	5.97	.35	.30			
Windlas (on caisson work)	6.07	.35	.30			
Crocklayers or pipelayers (caisson work)	6.17	.35	.30			
Top men on chimneys or towers over 30' in height	6.35	.35	.30			

Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

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Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS STEEL ERECTION						
CLASS A Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Calhoun
DECISION NUMBER: AP-84 DATE: Date of Publication
Supersedes Decision No. AM-376 dated August 18, 1971 in 36 FR 15791
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers	8.35	.30	.35			
Carpenters:						
Building	7.60	.35	.40		.01	
Cement masons	6.16	.22	.12		.02	
Electricians	8.32	.30	7%		.01	
Elevator constructors	7.53	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	50%JR					
Glaziers	5.91	.07				
Ironworkers, structural & ornamental & reinforcing	8.35	.50	.50		.03	
Lathers	7.29	.27	.10			
Lead burners	7.80	.30		c	.01	
Marble setters	8,30	.20	.25			
Marble setters' helpers	6.00	.30	.20			
Millwrights	7.75	.35	.40		.01	
Painters:						
Brush	5.55					
Spray	5.90					
Swing stage, bos'n chair & window jack	6.00					
Roller	5.55					
Sandblasting	5.90					
Piledrivermen	8.00	.35	.40		.01	
Piledrivermen (Marine)	7.85	.35	.40		.01	
Plasters	8.04	.32	.18		.03	
Plumbers	8.53	.50	.40			
Roofers:						
Slate, tile & abestos	7.35					
Composition	7.10					
Sheet metal workers	7.80	.37	.43	.50		
Soft floor layers	6.85	.35	.40		.01	
Steamfitters	8.53	.50	.40			
Stonemasons	7.65	.20	.25			
Sound & communication installers	4.80	.15		a+e		
Terrazzo workers	7.25	.20	.25			
Terrazzo workers' Helpers	6.00	.30	.20			
Tile setters	7.25	.20	.25			
Tile setters helpers	6.00	.30	.20			
Truck drivers straight & dump trucks less than 8 cu. yds.	4.80	d7.00	d5.00	.10		
Equipment 8 cu. yds. or over Tandem axle ro semi	4.90	d7.50	d5.00	.10		
Welders - receive rate prescribed for craft performing operation to which welding is incidental						

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. ... per week per employee.

e. One year of service, 1 week vacation, 2 years of service 2 weeks vacation, 5 years of service 3 weeks vacation.

Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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MICHIGAN - 3-LAB B

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
LABORERS:						
Laborers (inexperienced)	$5.35	.35	.30			
Laborers	5.85	.35	.30			
Plaster tenders, material mixer, operators of portable mixers, air, electric or gasoline tools, motor driven buggies, swing scaffolds	6.00	.35	.30			
Jackhammer operators	6.10	.35	.30			
Signal men and top men on sewer & caisson work (open cut)	5.97	.35	.30			
Windlas (on caisson work)	6.07	.35	.30			
Crocklayers or pipelayers (caisson work)	6.17	.35	.30			
Top men on chimneys or towers over 30' in height	6.35	.35	.30			

Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS:						
BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Underground Construction						
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS STEEL ERECTION						
CLASS A Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-85
COUNTY: Charlivoix
DATE: Date of Publication
Supersedes Decision No. AM-377 dated August 18, 1971 in 36 FR 15795
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers & Stonemasons	7.85	.35				
Carpenters	6.92	.35	.40		.02	
Cement masons	7.40	.35				
Electricians	7.88	.30	1%		.1%	
Elevator consturctors	7.18	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	5.20	.17	.10			
Ironworkers, structural & ornamental & reinforcing	8.35	.50	.50		.03	
Laborers:						
Laborers	5.15	.30	.20			
Air tool operator, electric & gas tool operator	5.30	.30	.20			
Power driven buggies	5.30	.30	.20			
Mortar mixers	5.30	.30	.20			
Plasterers' tender & plaster mixers	5.30	.30	.20			
Sewer & caisson workers	5.30	.30	.20			
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		f	.01	
Marble setters	7.85	.35				
Millwrights	7.42	.35	.40		.02	
Painters (Western ½ of County):						
Brush	5.90					
Spray	6.50					
Painters (Eastern ½ of County):						
Brush, commercial	3.50					
Spray	3.90					
Roller	3.80					
Steel	4.00					
Paperhanging	3.50					
Sandblasting	4.05					
Piledrivermen	7.37	.35	.40		.02	
Plasterers	7.85	.35				
Plumbers	7.92	.40	.30		.03	
Roofers	7.45					
Sheet metal workers	7.79	.35	.33	.60	.10	
Soft floor layers	6.92	.35	.40		.02	
Sprinkler fitters	8.20	.20	.30		.05	
Steamfitters	7.92	.40	.30		.03	
Terrazzo workers	7.85	.35				
Tile setters	7.85	.35				

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Truck Drivers:	$5.02					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day: C-Independence Day:
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Per week for each empooyee.

b. Six paid holidays; A through F.

c. Employer contributes 4% of regular hourly rate on vacation pay credit for employee who has worked inbusiness more than 5 years. Employer constributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

d. 1 year but less tha n 3 years - 1 week vacation; 3 or more years- 2 weeks vacation.

e. After 1 months employment 6 paid holidays

f Eight paid holidays, A though F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holidays, and the regular scheduled work days immediately preceding and follwing the holiday.

Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

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Michigan 8PEOH 1 of 2

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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Michigan 8 PEO 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

POWER EQUIPMENT OPERATORS STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
CLASS A						
Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B						
Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D						
Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E						
Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F						
Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan — COUNTIES: Chippewa & Mackinac
DECISION NUMBER: AP-86 — DATE: Date of Publication
Supersedes Decision No. AM-378 dated August 18, 1971 in 36 FR 15800
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Abestos workers	$6.95	.44	.95		.01	
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers	7.60	.40				
Carpenters:						
Building	6.59	.40	.40		.01	
Water front work	6.79	.40	.40		.02	
Cement masons	7.03	.40				
Electricians	7.50	.30	1%			
Cable Splicers	8.625	.30	1%			
Elevator constructors	5.885	.145	.17	1½%+a&b	.005	
Elevator constructors' helpers	70%JR	.145	.17	1½%+a&b	.005	
Elevator consturctors' helpers (prob.)	50%JR					
Ironworkers, ornamental, structural & reinforcing	6.95	.25		$1.30	.01	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Millwrights	6.94	.40	.40		.01	
Painters:						
Brush	5.50					
Hand taping	6.95					
Machine taping	7.25					
Paper Hanging	5.80					
Spray work additional 50¢ per hour						
Steel	7.50					
Steel to 30 ft. from ground or water level	8.00					
Sandblasting	6.00					
Piledrivermen	6.79	.40	.40		.01	
Plasterers	7.45	.40				
Plumbers	7.48	.35	.30		.02	
Roofers	6.00		.20	.40		
Sheet metal workers	7.55	.28	.30		.02	
Soft floor layers	6.59	.40	.40		.01	
Sprinkler fitters	8.20	.25	.40		.05	
Steamfitters	7.48	.35	.30		.02	
Stone masons	7.60	.40				
Terrazzo workers	7.40	.40				
Terrazzo workers' helpers q	6.40	.40				
Tile setters	7.40	.40				
Tile setters' helpers	6.40	.40				

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Truck drivers:						
Regular	$5.19	c9.50	c8.00	a		
Heavy duty, double axle, semi-drivers	5.29	c9.50	c8.00	a		
Euclids	5.49	c9.50	c8.00	a		
Truck repair and maintenance	5.36	c9.50	c8.00	a		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week for each employee.

d. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

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Michigan-7-PEO J

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND						
CLASS A						
Regular equipment operator, crane, dozer, front end loader, job mechanic	$6.68	.40	.45	.21	.01	
CLASS B						
Air track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine, trencher, winches, well points and freeze systems	6.49	.40	.45	.20	.01	
CLASS C						
Air compressor, conveyor, concrete saw, farm tractor (without attachments) generator, gurar post driver, mulching, pumps under 6", welders	6.12	.40	.45	.19	.01	
CLASS D						
Oiler, firemen, heater operator	5.71	.40	.45	.18		
STEEL CONSTRUCTION:						
CLASS 1						
Operator	6.93	.40	.45	.21	.01	
CLASS 2						
Compressor & welder	6.64	.40	.45	.20	.01	
CLASS 3						
Oiler & fireman	5.83	.40	.45	.18		

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Laborers:						
CLASS A						
Construction Laborers	$5.15	.35	.30			
CLASS B						
Material mixers, mortar mixers (hand or machine), vibrator op., concrete mixer, motor driven buggy op., chipping hammers, tamping machines, green cutting (whether run by air, electric or gas), and sand blasters	5.25	.35	.30			
CLASS C						
Cement gun nozzlemen, blasters, miners drillers, buster operator, layers of all non-metallic pipe	5.55	.35	.30			
CLASS D						
Underground Work, Tunnels and Shafts: Muckers, caisson workers, miners, drillers, blasters	5.70	.35	.30			

Mich Line Construction Area III U. P.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.17	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-87
COUNTY: Emmit
DATE: Date of Publication
Supersedes Decision No. AM-379 dated August 18, 1971 in 36 FR 15804
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers & Stonemasons	7.85	.35				
Carpenters	6.92	.35	.40		.02	
Cement masons	7.40	.35				
Electricians (Wawatam):						
Residential						
Industrial & Commercial - electrical contracts not to exceed $10,000	6.50	.30	1%		.1%	
All other work	7.15	.30	1%		.1%	
Electricians (Remainder of County)	7.88	.30	1%		.1%	
Glaziers	6.00					
Elevator constructors	7.18	.17	.185	2%+b&c	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+b&c	.005	
Elevator constructors' helpers (prob)	50%JR					
Ironworkers, structural & ornamental & reinforcing	8.35	.50	.50		.03	
Laborers:						
Air electric & gas driver tools	5.30	.30	.20			
Crock layers, pipelayers	5.30	.30	.20			
Mortar mixers & mechanized buggy operators	5.30	.30	.20			
Laborers	5.15	.30	.20			
Plasterers' tenders, plaster mixers	5.30	.30	.20			
Sewer & caisson workers	5.30	.30	.20			
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Marble setters	7.85	.30				
Marble setters' helpers	4.96	.25	.10			
Millwrights	7.42	.35	.40		.02	
Painters:						
Brush - residential or single unit	3.00					
Brush - commerical	3.50					
Spray	3.90					
Roller	3.80					
Piledrivermen	7.37	.35	.40		.02	
Plasterers	7.85	.35				
Plumbers	7.92	.40	.30		.03	
Roofers	6.45					
Sheet metal workers (commercial)	7.79	.35	.33	.60	.20	
Soft floor layers - resilient floor layers	6.92	.35	.40		.02	
Sprinkler fitters	8.20	.25	.30		.05	
Steamfitters	7.92	.40	.30		.03	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Terrazzo workers	7.85	.30				
Terrazzo workers' helpers	4.90	.25	.10			
Tile setters	7.85	.30				
Tile setters' helpers	4.96	.25	.10			
Truck drivers:	5.02					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Indepenedence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Per week per each employee.

b. Six paid holidays, A through F.

c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

d. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during scheduled work days immediately preceding and following the holidays.

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Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Linemen	$6.89	.25	1%	a	.25%
Cable Splicer	7.23	.25	1%	a	.25%
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%
Combination Winch truck driver - Groundman					
1st year	3.96	.25	1%	a	.25%
Over 1 Year	4.53	.25	1%	a	.25%
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS STEEL ERECTION						
CLASS A						
Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B						
Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D						
Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E						
Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F						
Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Gogebic
DECISION NUMBER: AP-89 DATE: Date of Publication
Supersedes Decision No. AM-381 dated August 18, 1971 in 36 FR 15813
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$7.80	.15		.40		
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers & Stonemasons	7.35	.30	.35			
Carpenters	6.59	.40	.40		.01	
Cement masons	6.85	.30	.35			
Electricians:						
Electrical contracts over $3,000 including industrial	6.40		1%	2%	1%	
Electrical contracts up to $3,000 except industrical	5.70		1%	2%	1%	
Elevator constructors	6.40	.17	.185	2%+b&d	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+b&d	.005	
Elevator constructors' helpers (prob.)	50%JR					
Ironworkers, structural & ornamental	6.95	.25		1.30	.01	
Ironworkers, reinforcing	6.95	.25		1.30	.01	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		e	.01	
Painters:						
Residential:						
Painters, paperhangers, rollers	3.50					
Commercial & Industrial:						
Brush, rollers & steel	3.75					
Spray	4.25					
Swing stage, bos'n chair window jack ro triple extension up to 40'	3.75					
Swing stage or chair 40' over	4.50					
Piledrivermen	6.79	.40	.40		.01	
Plasterers	7.35	.30	.35			
Plumbers	7.48	.35	.30		.02	
Roofers	6.50		.35	.50		
Sheet metal workers	7.55	.28	.30		.02	
Soft floor layers	6.59	.40	.40		.01	
Sprinkler fitters	8.20	.20	.30		.05	
Steamfitters	7.48	.35	.30		.02	
Terrazzo workers	7.35	.30	.35			
Tile setters	7.35	.30	.35			
Truck Drivers:						
Regular	5.19	a9.50	a8.00	b		
Heavy Duty, double axle & semi	5.29	a9.50	a8.00	b		

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Millwrights	6.94	.40	.40		.01	
Truck Drivers:						
Euclid	5.49	a9.50	a8.00	b		
Truck repair & maintenance	5/36	a9.50	a8.00	b		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day
E-Thanksgiving Day; F-Chirstmas Day.

FOOTNOTES:

a. Per week per employee.

b. Six paid holidays: A through F

d. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

e. Eight paid holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday,and the regular scheduled work days immediately preceding and following the holiday.

Building and Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Laborers:						
CLASS A						
Construction Laborers	$5.15	.35	.30			
CLASS B						
Material mixers, mortar mixers (hand or machine), vibrator op., concrete mixer, motor driven buggy op., chipping hammers, tamping machines, green cutting (whether run by air, electric or gas), and sand blasters	5.25	.35	.30			
CLASS C						
Cement gun nozzlemen, blasters, miners drillers, buster operator, layers of all non-metallic pipe	5.55	.35	.30			
CLASS D						
Underground Work, Tunnels and Shafts: Muckers, caisson workers, miners, drillers, blasters	5.70	.35	.30			

Mich Line Construction Area III U. P.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.17	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND						
CLASS A						
Regular equipment operator, crane, dozer, front end loader, job mechanic	$6.68	.40	.45	.21	.01	
CLASS B						
Air track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine, trencher, winches, well points and freeze systems	6.49	.40	.45	.20	.01	
CLASS C						
Air compressor, conveyor, concrete saw, farm tractor (without attachments) generator, gurar post driver, mulching, pumps under 6", welders	6.12	.40	.45	.19	.01	
CLASS D						
Oiler, firemen, heater operator	5.71	.40	.45	.18		
STEEL CONSTRUCTION:						
CLASS 1						
Operator	6.93	.40	.45	.21	.01	
CLASS 2						
Compressor & welder	6.64	.40	.45	.20	.01	
CLASS 3						
Oiler & fireman	5.83	.40	.45	.18		

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Ingham
DECISION NUMBER: AP-92 DATE: Date of Publication
Supersedes Decision No. AM-384 dated August 18, 1971 in 36 FR 15828
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Carpenters:						
Building & Heavy	8.76	.35	.20		.01	
Highway, bridge and airport	7.73	.40	.40		.01	
Bricklayers and stonemasons	8.55	.40	.40	e	.01	
Cement masons	6.16	.22	.15		.02	
Electricians:						
Townships of Onondaga, Leslie, Bunker Hill and Stockbridge	9.04	.30	1%			
Remainder of County	9.10	.30	1%+.15		.5%	
Elevator constructors	9.115	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Ironworkers:						
Structural & ornamental & reinforcing	8.17	8%	13%	16%	.04	
Laborers:						
Laborers	6.35	.35	.30			
Air tool operator	6.49	.35	.30			
Mortar mixers (hand or machine)	6.43	.35	.30			
Pipelayers or crock layers	6.71	.35	.30			
Plasterers' tenders	6.49	.35	.30			
Caisson workers	6.71	.35	.30			
Tunnel muckers	6.71	.35	.30			
Tunnelmen, concrete shovelers, car pushers & bottom men on sewer work	6.64	.35	.30			
Tunnel miners	6.965	.35	.30			
Port, conc. mixer op. (14-S under)	6.49	.35	.30			
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Piledrivermen	8.76	.35	.20		.01	
Marble setters	8.33	.40	.40	e		
Marble setters' helpers	5.61	.30	.20			
Millwrights	8.00	.45	7%+2%	17%	.04	
Plumbers & Steamfitters	7.99	.40	.30			
Roofers	6.60	.25				
Sheet metal workers	7.80	.37	.43	.50		
Soft floor layers	7.39	.35	.40	.50	.01	
Sprinkler fitters	8.20	.20	.30		.05	
Terrazzo workers	8.33	.40	.40	e		
Terrazzo workers' helpers	5.61	.30	.20			
Tile setters & mosaic workers	8.33	.40	.40	e		
Tile setters' helpers	5.61	.30	.20			

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Truck Drivers:						
Truck driver (on all trucks except) dump trucks of 8 cu. yds. cap. or over & pole trailers)	4.62	c14.50	c10.00	f		
Truck drivers (on dump trucks of 8 cu. yds. cap. or over & pole trailers)	4.72	c14.50	c10.00	f		
Low boy driver & double bottom drivers	4.82	c14.50	c10.00	f		
Structural steel drivers	5.02	c14.50	c10.00	f		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week per employee.

d. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. One paid holiday: C.

f. One year's service, one week's vacation; 3 year's service, 2 weeks vacation.

g. One year of service 2% preceeding 12 months' earnings not to exceed 40 hours pay; three or more years service 4% of preceeding 12 month's earnings not to exceed 80 hours pay.

h. 1 year of service, 1 weeks vacation; 3 years of service, 2weeks vacation;

i. One paid holiday, Labor Day.

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Michigan Painters Area I - 1 J 1 of 1

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Painters:						
Brush, roller & prepartory sanding	$8.28	.30	.40		.01	
Swing, chair window jacks and scaffolding	9.03	.30	.40		.01	
Structural steel to 20' in heights, towers, stacks	8.68	.30	.40		.01	
Spray	9.03	.30	.40		.01	
Paperhangers	8.63	.30	.40		.01	

Mich. Line Construction Area I

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Linemen	$6.89	.25	1%	a	.25%
Cable Splicer	7.23	.25	1%	a	.25%
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%
Combination Winch truck driver - Groundman					
1st year	3.96	.25	1%	a	.25%
Over 1 Year	4.53	.25	1%	a	.25%
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan-3-PEO K

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

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Michigan 8PEOH 1 of 2

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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Michigan 8 PEO 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan 2-PEO N 1 of 1

POWER EQUIPMENT OPERATORS STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Engineer operating combination of boom & jib 220' or longer	$9.41	.40	.40	10%	.05	
Engineer operating combination of boom & jib 140' or longer, up to 220'	9.16	.40	.40	10%	.05	
Tower-crane & derrick operator (work station 50' or more above 1st sub-level)	9.16	.40	.40	10%	.05	
Crane operator & job mechanic	8.68	.40	.40	10%	.05	
Hoisting engineers	8.54	.40	.40	10%	.05	
Compressor or welder operator	7.84	.40	.40	10%	.05	
Oiler or fireman	6.875	.40	.40	10%	.05	

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-93
COUNTY: Kalamazoo
DATE: Date of Publication
Supersedes Decision No. AM-385 dated August 18, 1971 in 36 FR 15833
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestow workers	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	8.35	.35	.30		.09	
Carpenters:						
Building	7.60	.35	.40		.01	
Cement masons	6.16	.22	.15		.02	
Electricians:						
(Townships of Ross & Charleston)	8.32	.30	7%		.01	
(Remainder of County)	8.25	.30	7.5%		.01	
Elevator constructors:						
Elevator constructors	7.53	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	5.91	.07				
Ironworkers, structural ornamental & reinforcing	8.35	.50	.50		.03	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		c	.01	
Marble setters	8.30	.20	.25			
Marble setters' helpers	4.96	.25	.10			
Painters:						
Brush & pan rollers	6.90		.20			
Structural steel	7.55		.20			
Swing state	7.55		.20			
Spray	7.60		.20			
Mechanical pressure roller	7.60		.20			
Piledrivermen	8.00	.35	.40		.01	
Plasterers	8.04	.32	.18		.03	
Plumbers & Steamfitters	8.66	.36	.48			
Roofers:	7.35					
Sheet metal workers	7.80	.37	.43	.50		
Soft floor layers	6.85	.35	.40		.01	
Sprinkler fitters	8.20	.20	.30		.05	
Steamfitters & Plumbers - Ft. Custer	8.53	.50	.40			
Stonemasons	8.35	.35	.30		.09	
Terrazzo workers	7.20	.30				
Terrazzo workers' helpers	4.96	.25	.10			
Tile setters	7.20	.30				
Tile setters' helpers	4.96	.25	.10			
Truck Drivers:						
Straight or dump trucks	3.85	e5.30	e6.00			
Sound Techicians	4.80	.15		a+b		

Welders - receive rate prescribed for craft performing operation to which welding is inicdental.

PAID HOLIDAYS
A-New Years's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thnaksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. 1 yr. of service, paid vac. 1 wk.; 2 yrs. service, paid vac. 2 wks.; 5 yrs. of service, paid vacation 3 weeks

e. Per week per employee.

MICHIGAN - 3-LAB B

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Laborers (inexperienced)	$5.35	.35	.30			
Laborers	5.85	.35	.30			
Plaster tenders, material mixer, operators of portable mixers, air, electric or gasoline tools, motor driven buggies, swing scaffolds	6.00	.35	.30			
Jackhammer operators	6.10	.35	.30			
Signal men and top men on sewer & caisson work (open cut)	5.97	.35	.30			
Windlas (on caisson work)	6.07	.35	.30			
Crocklayers or pipelayers (caisson work)	6.17	.35	.30			
Top men on chimneys or towers over 30' in height	6.35	.35	.30			

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Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Linemen	$6.89	.25	1%	a	.25%
Cable Splicer	7.23	.25	1%	a	.25%
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%
Combination Winch truck driver - Groundman					
1st year	3.96	.25	1%	a	.25%
Over 1 Year	4.53	.25	1%	a	.25%
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

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Michigan 8PEOH 1 of 2

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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Michigan 8 PEO 2 of 2

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS STEEL ERECTION						
CLASS A Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: Baraga, Houghton, Keweenaw & Ontonagon
DECISION NUMBER: AP-82 DATE: Date of Publication
Supersedes Decision No. AM-387 dated August 18, 1971 in 36 FR 15842
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers - Ontonagon Co.	$7.80	.15		.40		
Asbestos workers - Keweenaw, Houghton & Barago Cos.	6.40	.30	.10	.45+e		
Boilermakers:	8.48	.50	1.00	1.00	.01	
Bricklayers, Stonemasons, Plasterers Tile, Terrazzo workers	7.35	.30	.35			
Carpenters (Building)	6.59	.40	.40		.01	
Cement masons	6.85	.30	.35			
Electricians:						
Electrical contracts $5,000 or more	7.55	.30	1%		1%	
Electrical contracts less than $5,000	6.10	.30	1%		1%	
Elevator constructors	6.40	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR	.17	.185	2%+a&b	.005	
Ironworkers, structural	6.95	.25		1.30	.01	
Ironworkers, ornamental	6.95	.25		1.30	.01	
Ironworkers, reinforcing	7.65				.01	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		f	.01	
Millwrights	6.94	.40	.40		.01	
Painters:						
Brush (residential) single unit	4.25					
Brush (comm., indus.)	5.60					
Steel 0 to 40'	5.60					
Steel 40' to 100'	6.10					
Spray	6.10					
Taper or finishers	5.60					
Piledrivermen	6.79	.40	.40		.01	
Plumbers	7.48	.35	.30		.02	
Roofers	6.75		.35	.50		
Sheet metal workers	7.55	.28	.30		.02	
Soft floor layers	6.59	.40	.40		.01	
Sprinkler fitters	8.20	.20	.30		.05	
Steam fitters	7.48	.35	.30		.02	
Truck Drivers:						
Regular	5.19	f9.50	8.00	b		
Heavy duty, double axle, semi-drivers	5.29	f9.50	8.00	b		
Euclids	5.49	f9.50	8.00	b		
Truck repair and maintenance	5.36	f9.50	8.00	b		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a- Per week per employee.

b- Six paid holidays: A through F.

d- Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 Years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

e- $.05 holiday pay.

f- Eight paid holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

Mich. - 1 - LAB. N 1 of 1

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Laborers:						
CLASS A						
Construction Laborers	$5.15	.35	.30			
CLASS B						
Material mixers, mortar mixers (hand or machine), vibrator op., concrete mixer, motor driven buggy op., chipping hammers, tamping machines, green cutting (whether run by air, electric or gas), and sand blasters	5.25	.35	.30			
CLASS C						
Cement gun nozzlemen, blasters, miners drillers, buster operator, layers of all non-metallic pipe	5.55	.35	.30			
CLASS D						
Underground Work, Tunnels and Shafts: Muckers, caisson workers, miners, drillers, blasters	5.70	.35	.30			

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Mich Line Construction Area III U. P.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.17	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan-7-PEO J

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND						
CLASS A						
Regular equipment operator, crane, dozer, front end loader, job mechanic	$6.68	.40	.45	.21	.01	
CLASS B						
Air track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine, trencher, winches, well points and freeze systems	6.49	.40	.45	.20	.01	
CLASS C						
Air compressor, conveyor, concrete saw, farm tractor (without attachments) generator, gurar post driver, mulching, pumps under 6", welders	6.12	.40	.45	.19	.01	
CLASS D						
Oiler, firemen, heater operator	5.71	.40	.45	.18		
STEEL CONSTRUCTION:						
CLASS 1						
Operator	6.93	.40	.45	.21	.01	
CLASS 2						
Compressor & welder	6.64	.40	.45	.20	.01	
CLASS 3						
Oiler & fireman	5.83	.40	.45	.18		

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-94
COUNTY: Marquette
DATE: Date of Publication
Supersedes Decision No. AM-388 dated August 18, 1971 in 36 FR 15896
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.40	.30	.10	g.45		
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	6.78	.35	.35	.50	.01	
Carpenters (Building)	6.59	.40	.40		.01	
Carpenters (Waterfront work)	6.79	.40	.40		.01	
Cement masons	6.28	.35	.35	.50	.01	
Electricians:						
Electricial contracts $4,500 and under						
Electricians	6.70	.20	1%		.5%	
Cable splicers	7.71	.20	1%		.5%	
Electrical contracts over $4,500						
Electricians	7.80	.20	1%		.5%	
Cable splicers	8.97	.20	1%		.5%	
Elevator constructors	5.885	.145	.17	1½%+a&b	.005	
Elevator constructors' helpers	70%JR	.145	.17	1½%+a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Ironworkers, structural	6.95	.25		1.30	.01	
Ironworkers, ornamental	6.95	.25		1.30	.01	
Ironworkers, reinforcing	7.65				.01	
Lathers	7.29	.27	.10	.25	.01	
Leadburners	7.80	.30		f	.01	
Marble setters	6.53	.35	.35	.50	.01	
Millwrights	6.94	.40	.40		.01	
Painters:						
Commercial & industrial - multi unit housing	5.70			.45		
Swing stage & bos'n chair:						
0 to 40 ft.	6.20			.45		
Over 40'	6.70			.45		
Roller with handle up to 8 ft.	5.70			.45		
Roller with handle over 8 ft.	6.70			.45		
Structural steel:						
to 40 ft.	6.20			.45		
Over 40'	6.70			.45		
Taper and finisher - hand or machine	6.45			.45		
Sandlbasting, steam cleaning, acid cleaning amd priming	6.70			.45		
Paperhangers & glaziers	5.70			.45		
Piledrivermen	6.79	.40	.40		.01	
Plasterers	6.78	.35	.35	.50	.01	
Plumbers	7.48	.35	.30		.02	
Roofers	6.75	.35	.50			
Sheet metal workers	7.55	.28	.30		.02	
Soft floor layers	6.59	.40	.40		.01	
Sprinkler fitters	8.00	.20	.30		.05	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Steamfitters	7.48	.35	.30		.02	
Stonemasons	6.78	.35	.35	.50	.01	
Terrazzo workers	6.53	.35	.35	.50	.01	
Tile setters	6.53	.35	.35	.50	.01	
Tile setters' helpers	5.43	.35		.50		
Truck drivers:						
Regular	5.19	c9.50	c8.00	a		
Heavy Duty, double axle and semi	5.29	c9.50	c8.00	a		
Euclid type equipment	5.49	c9.50	c8.00	a		
Truck repair and maintenance	5.36	c9.50	c8.00	a		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

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PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week per employee.

f. Eight paid holidays, A through F plus washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

g. Includes $.05 holiday pay.

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Mich. - 1 - LAB. N 1 of 1

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Laborers:						
CLASS A						
Construction Laborers	$5.15	.35	.30			
CLASS B						
Material mixers, mortar mixers (hand or machine), vibrator op., concrete mixer, motor driven buggy op., chipping hammers, tamping machines, green cutting (whether run by air, electric or gas), and sand blasters	5.25	.35	.30			
CLASS C						
Cement gun nozzlemen, blasters, miners drillers, buster operator, layers of all non-metallic pipe	5.55	.35	.30			
CLASS D						
Underground Work, Tunnels and Shafts: Muckers, caisson workers, miners, drillers, blasters	5.70	.35	.30			

Mich Line Construction Area III U. P.

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.17	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan-7-PEO J

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
CLASS A						
Regular equipment operator, crane, dozer, front end loader, job mechanic	$6.68	.40	.45	.21	.01	
CLASS B						
Air track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine, trencher, winches, well points and freeze systems	6.49	.40	.45	.20	.01	
CLASS C						
Air compressor, conveyor, concrete saw, farm tractor (without attachments) generator, gurar post driver, mulching, pumps under 6", welders	6.12	.40	.45	.19	.01	
CLASS D						
Oiler, firemen, heater operator	5.71	.40	.45	.18		
STEEL CONSTRUCTION:						
CLASS 1						
Operator	6.93	.40	.45	.21	.01	
CLASS 2						
Compressor & welder	6.64	.40	.45	.20	.01	
CLASS 3						
Oiler & fireman	5.83	.40	.45	.18		

SUPERSEDEAS DECISION

STATE: Michigan
COUNTY: Mason
DECISION NUMBER: AP-95
DATE: Date of Publication
Supersedes Decision No. AM-389 dated August 18, 1971 in 36 FR 15850
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Dayl E-thanksgiving Day; F-Christmas Day.

FOOT NOTES:

A. Per week for employee.

B. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

c. $5.00 per month for life insurance.

d. $5.00 per week per employee.

e. One week's vacation after 1year, two weeks' vacation after 3 years.

f. Six paid holidays: A through F.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers: (Commercial & Industrial Bricklayers, marble, plasterers, tile setters & stone masons	7.60	.25	.25			
Carpenters:						
Carpenters & Soft floor layers (Commercial & industrial total contracts $20,00 or over	7.60	.35	.40		.01	
Cement masons	7.60	.25	.25			
Electricians:						
Grant, Freesoil & Meade	7.88	.30	1%		.1%	
Remainder of County	7.96	.20	1%+.25		.01	
Ironworkers, structural, ornamental & reinforcing	8.35	.50	.50		.03	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		b	.01	
Painters - Commercial:						
Brush, rooler & paperhangers	4.75					
Spray, swing stage, structural st steel pressure roller, & sandblasting	5.25					
Steeplejack	5.75					
Painters, brush - residential	3.75					
Piledrivermen	8.00	.35	.40		.01	
Plumbers	8.27	.69	.34	d		
Roofers:						
Slate, tile & asbestos	7.60					
Commposition	7.35					
Sheet metal workers	7.50	.42	.30	.52		
Steamfitters	8.27	.69	.34	d		
Sprinkler fitters	8.20	.20	.30		.04	
Truck drivers:						
Pick-up	5.87	a12.00		e&f		
Flat bed & dump	5.97	a12.00		e&f		
Welders- receive rate prescribed for craft performing operation to which welding is incidental.						

Mich. 9 LAB. E

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Laborers - construction demolition, flagmen, rodman & pumps	$5.25	.30	.20			
Mason tenders, mortar mixers, material mixers, all power tools, vibrator, chain saws, plasterers' tenders	5.40	.30	.20			
Jackhammer, acetylene torch, swing scaffolds, chimney towers, crane scaffold, windlass & rock crusher opr. (caisson work)	5.70	.30	.20			
Concrete shovelers, wheelers, grademen, sewer men, trench or excavation man, signal & topmen, open cut work, caisson workers.	5.60	.30	.20			
Crock layers or pipe layers	5.80	.30	.20			
Plasterers & tenders (machine pumped)	5.65	.30	.20			
Work on scaffold 20' in height or more	5.50	.30	.20			

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Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

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Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Linemen	$6.89	.25	1%	a	.25%
Cable Splicer	7.23	.25	1%	a	.25%
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%
Combination Winch truck driver - Groundman					
1st year	3.96	.25	1%	a	.25%
Over 1 Year	4.53	.25	1%	a	.25%
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

POWER EQUIPMENT OPERATORS STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS A Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-97
COUNTIES: Muskegon & Oceana
DATE: Date of Publication
Supersedes Decision No. AM-390 dated August 18, 1971 in 36 FR 15855
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	7.57	.25	.50			
Carpenters	7.60	.35	.40		.01	
Cement masons	6.53	.32	.18		.02	
Electricians	7.96	.30	1%+.25		.01	
Elevator constructors	7.18	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	6.00					
Ironworkers:						
Structural, ornamental & reinforcing	8.35	.50	.50		.01	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		c	.01	
Marble setters	6.35	.25	.50			
Marble setters' helpers	4.96	.25	.10			
Painters:						
Brush & roller 9" & under	6.35	.25	.20		.005	
Swing stage	6.35	.25	.20		.005	
Spray	6.35	.25	.20		.005	
Piledrivermen (Marine Construction	7.85	.35	.40		.01	
Piledrivermen	8.00	.35	.40		.01	
Plasterers	8.04	.32	.18		.03	
Plumbers & Steamiftters	8.27	.69	.34			
Roofers:						
Slate tile & asbestos	7.60					
Composition	7.35					
Sheet metal workers	7.50	e+.42	.30	.52		
Soft floor layers	6.85	.35	.40		.01	
Sprinkler fitters	8.20	.20	.30		.05	
Stonemasons	7.57	.25	.50			
Terrazzo workers	6.35	.25	.50			
Terrazzo workers' helpers	4.96	.25	.10			
Tile setters	6.35	.25	.50			
Tile setters' helpers	4.96	.25	.10			
Truck drivers, regular	5.87	d12.00		a & f		
Truck drivers, tandem	5.97	d12.00		a & f		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Per week for each employee.

e. $5.00 per month for life insurance.

f. One week vacation after 1 year, 2 weeks after 3 years.

Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vocation	App. Tr.	Oth
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preceding and the scheduled workday next following the day observed as the holiday.

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MICHIGAN - 3-LAB B

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
LABORERS:						
Laborers (inexperienced)	$5.35	.35	.30			
Laborers	5.85	.35	.30			
Plaster tenders, material mixer, operators of portable mixers, air, electric or gasoline tools, motor driven buggies, swing scaffolds	6.00	.35	.30			
Jackhammer operators	6.10	.35	.30			
Signal men and top men on sewer & caisson work (open cut)	5.97	.35	.30			
Windlas (on caisson work)	6.07	.35	.30			
Crocklayers or pipelayers (caisson work)	6.17	.35	.30			
Top men on chimneys or towers over 30' in height	6.35	.35	.30			

Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
POWER EQUIPMENT OPERATORS:						
BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Underground Construction						
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS STEEL ERECTION						
CLASS A						
Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B						
Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D						
Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E						
Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F						
Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-98
COUNTY: St. Clair
DATE: Date of Publication
Supersedes Decision No. AM-392 dated August 18, 1971 in 36 FR 15867
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.83	.64	.75			
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers & Stonemasons	8.91	.35	.30	.50		
Carpenters & Piledrivermen	8.35	.60	7%	10%	.02	
Cement masons	8.24	.35	.30	.50		
Electricians	8.85	.10+7½%	7%	10%	.06	
Elevator constructors	9.22	.19½	.195	2%+b&c	.005	
Elevator constructors' helpers	70%JR	.19½	1.95	2%+b&c	.005	
Elevator constructors' helpers (prob)	50%JR					
Glaziers	8.15	.50	.40			
Ironworkers:						
Structural, ornamental & reinforcing	8.17	8%	13%	16%	.04	
Lathers	7.27	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Marble setters	9.49	.30	.40	.50		
Marble setters' helpers	8.18	.30	.30			
Millwrights	8.00	.45	7%+2%	17%	.04	
Painters:						
Brush, preparatory work	8.80	.35				
Ladder work over 40' swing stage	8.95	.35				
Spray work over 40', swing stage 60' hook up-swing stage spray work 20' and over	8.95	.35				
Steel jack 40' to 99'	9.55	.35				
Plasterers	8.09	.35	.30	.50		
Plumbers	8.67	.25	.35			
Roofers:						
Roofers	5.35					
Helpers	4.90					
Sheet metal workers	8.44	.38	6%	10%	.02	
Soft floor layers	7.45	.45	.40	.52	.03	
Sprinkler fitters	8.20	.20	.30		.05	
Steamfitters	8.67	.25	.35			
Terrazzo workers:						
Terrazzo workers	8.12	.30	.40	.50		
Terrazzo worker' helpers & grinder	7.36	.30	.10	.25		
Tile setters	8.46	.30	.40			
Tile setters' helpers	7.60	.30	.40			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

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PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

b. Six paid holidays: A through F.

c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

d. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work day immediately preceding and follwoing the holiday.

Michigan Line Construction Area II

Mich. 1 - L

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Line Construction:						
Line & tower mechanic	$8.94	.66	3.4%	10%	½of1%	
Cable splicer	9.34	.66	3.4%	10%	½of1%	
Combination equipment operator and groundmen	7.24	.66	3.4%	10%	½0f1%	
Combination driver and groundmen	6.85	.66	3.4%	10%	½of1%	
Groundman	6.31	.66	3.4%	10%	½of1%	

Mich. 6 LAB. K 1 of 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Laborers:						
Laborers, mason tenders, flagman, demolition, furnance battery heater helpers	$6.80	.30	.20	.35		
Mortar mixers (hand or machine)	6.92	.30	.20	.35		
Air, electric and gas tool operators	7.05	.30	.20	.35		
Plaster tenders, hot dope carriers, tar kettle tenders, gasoline, vibrators, concrete gas buggies and concrete saw op.	6.97	.30	.20	.35		
Signal men and top men on sewer & water and caisson work (open cut work)	6.94	.30	.20	.35		
Tunnel men concrete shovelers car pushers bottom men (on sewer & water)	7.09	.30	.20	.35		
Windlass and tugger operators (on caisson work)	7.09	.30	.20	.35		
Crock layers (or pipe layers)	7.16	.30	.20	.35		
Caisson workers						
Muckers	7.16	.30	.20	.35		
Miners	7.35	.30	.20	.35		

Michigan 1 - PEO M 1 of 1

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Crane with boom & jib or leads 220' or longer	$8.62	.40	.40	10%	.05	
Crane with boom and jib or leads 140' or longer, up to 220'	8.37	.40	.40	10%	.05	
Engineer	8.13	.40	.40	10%	.05	
Engineers when operating compressor or welding machine	7.305	.40	.40	10%	.05	
Fireman or oiler	6.68	.40	.40	10%	.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
Underground Construction		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45		—	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
TRUCK DRIVERS:						
Pole trailers, low boys, straddle carriers, double bottoms and special load permits drivers	$5.25	a14.50	a10.00	b+c		
Semi drivers	5.15	a14.50	a10.00	b+c		
All other trucks	5.00	a14.50	a10.00	b+c		

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-May 30th;
C-July 4th; D-Labor Day; E-Thanksgiving
F-Christmas

FOOTNOTES:

a. Per week, per employee

b. 6 paid holidays for employees who have acquired seniority

c. Vacation pay: Less than 3 years, 4 hours of basic straight time pay per month. Three to ten years 8 hours of basic straight time per month. Ten years to 15 years, 12 hours of basic straight time per month. Over 15 years, 16 hours of basic straight time pay per month.

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Washtenaw
DECISION NUMBER: AP-99 DATE: Date of Publication
Supersedes Decision No. AM-393 dated August 18, 1971 in 36 FR 15872
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Contruction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers (Township; Bridgewater, Dexter, Freedom, Lime Lyndon, Machester, Sharon & Sylvan	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	8.40			.62		
Carpenters						
Building	8.19	.35	.20			
Cement masons	9.31			.62		
Electricians	8.33	.48	1%+.30	10%	½ of1%	
Elevator constructors	8.32	.17	.185	2%+a&b	.005	
Eelvator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Glaziers	8.15	.50	.40			
Ironworkers, structural, ornamental & reinforcing	8.17	8%	13%	16%	.04	
Laborers:						
Laborers	6.91	.35	.30			
Air tool (jackhammer, vibrator)	7.11	.35	.30			
Mortar mixers (hand or machine)	7.11	.35	.30			
Pipe laborers or crock laborer	7.23	.35	.30			
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		c	.01	
Marble setters	9.71			.62		
Marble setters' helpers	8.18	.30	.30			
Painters:						
Brush	8.17	.43	.20			
Spray	8.29	.43	.20			
Scaffold 15-35	9.07	.43	.20			
Sacffold over 35'	9.17	.43	.20			
Steeple Jack	10.17	.43	.20			
Piledrivermen & Millwrights	8.19	.35	.20			
Plasterers	9.71			.62		
Plumbers	8.04	.50	.65	1.00	.10	
Roofers:						
Composition	8.00	.55		.40	.10	
Slate metal workers	8.50	.55		.40	.10	
Sheet metal workers	8.44	.38	4%		.02	
Soft floor layers - resilient floor layers	8.19	.35	.20			
Sprinkler fitters	8.75	.30	.20		.055	
Steam fitters	8.04	.50	.65	1.00	.10	
Stone masons	9.71			.62		
Terrazzo workers	9.71			.62		
Tile setters	9.71			.62		
Tile setters' helpers	6.70	.30	.25			

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Welders - receive rate prescribed for craft perfroming operation to which welding is incidental.

PAID HOLIDAYS
A-New Year's Day' B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day Day; F-Christmas Day

FOOT NOTES:
a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

Michigan 2-PEO N 1 of 1

POWER EQUIPMENT OPERATORS STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
Engineer operating combination of boom & jib 220' or longer	$9.41	.40	.40	10%	.05	
Engineer operating combination of boom & jib 140' or longer, up to 220'	9.16	.40	.40	10%	.05	
Tower-crane & derrick operator (work station 50' or more above 1st sub-level)	9.16	.40	.40	10%	.05	
Crane operator & job mechanic	8.68	.40	.40	10%	.05	
Hoisting engineers	8.54	.40	.40	10%	.05	
Compressor or welder operator	7.84	.40	.40	10%	.05	
Oiler or fireman	6.875	.40	.40	10%	.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Crane with boom & jib or leads 220' or longer	$8.62	.40	.40	10%	.05	
Crane with boom and jib or leads 140' or longer, up to 220'	8.37	.40	.40	10%	.05	
Engineer	8.13	.40	.40	10%	.05	
Engineers when operating compressor or welding machine	7.305	.40	.40	10%	.05	
Fireman or oiler	6.68	.40	.40	10%	.05	

Mich. Line Construction Area I

Townships of Lyndon, Manchester, Sharon and Sylvan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Linemen	$6.89	.25	1%	a	.25%
Cable Splicer	7.23	.25	1%	a	.25%
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%
Combination Winch truck driver - Groundman					
1st year	3.96	.25	1%	a	.25%
Over 1 Year	4.53	.25	1%	a	.25%
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preceding and the scheduled workday next following the day observed as the holiday.

AP-99 P. 4 Michigan Line Construction Area II

Mich. 1 - L

Remainder of County	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Line Construction:						
Line & tower mechanic	$8.94	.66	3.4%	10%	½of1%	
Cable splicer	9.34	.66	3.4%	10%	½of1%	
Combination equipment operator and groundmen	7.24	.66	3.4%	10%	½0f1%	
Combination driver and groundmen	6.85	.66	3.4%	10%	½of1%	
Groundman	6.31	.66	3.4%	10%	½of1%	

Michigan 3-TD L

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
TRUCK DRIVERS:						
Pole trailers, low boys, straddle carriers, double bottoms and special load permits drivers	$5.25	a14.50	a10.00	b+c		
Semi drivers	5.15	a14.50	a10.00	b+c		
All other trucks	5.00	a14.50	a10.00	b+c		

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-May 30th;
C-July 4th; D-Labor Day; E-Thanksgiving
F-Christmas

FOOTNOTES:

a. Per week, per employee

b. 6 paid holidays for employees who have acquired seniority

c. Vacation pay: Less than 3 years, 4 hours of basic straight time pay per month. Three to ten years 8 hours of basic straight time per month. Ten years to 15 years, 12 hours of basic straight time per month. Over 15 years, 16 hours of basic straight time pay per month.

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Mich. 2-TD - F 1 of 1

UNDERGROUND CONSTURCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
TRUCK DRIVERS:						
Underground Construction						
Lowboys & euclid & double bottoms	$5.17	a 14.50	a 10.00	b&c		
Dump of 8 cu. yds. cap., or over pole trailers, semis & fuel trucks	5.02	a 14.50	a 10.00	b&c		
All other trucks	4.92	a 14.50	a 10.00	b&c		

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Per week for each employee.

b. Vacation pay allowance; up to 3 years of service ½ day per month; 3 to 10 years of service 1 day per month, 10 to 15 years of service 1½ days per month, 15 or more years of service 2 days per month.

c. 6 paid holidays: A through F.

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: Wayne, Oakland & Macomb
DECISION NUMBER: AP-600 DATE: Date of Publication
Supersedes Decision No. AM-394 dated August 18, 1971 in 36 FR 15877
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$8.83	.64	.75			
Boilermakers	8.48	.50	1.00	1.00	.01	
Bricklayers:						
Bricklayers, Caulkers & Cleaners	8.519	.50	8%	11%	.05	
Carpenters and Piledrivermen	8.3504	.60	7%	10%	.02	
Cement masons:						
Cement masons	7.7323	.60	10%	10%	.01	
Grinders & Chipping hammer	7.9323	.60	10%	10%	.01	
Swing Stage above 1st floor	8.0323	.60	10%	10%	.01	
Electricians	8.85	.10+7½%	7%	10%	.06	
Elevator constructors	8.02	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	8.15	.50	.40			
Ironworkers:						
Structural, ornamental & reinforcing	8.17	8%	13%	16%	.04	
Riggers and machinery movers	7.982	.60	1.10	11%	.01	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Marble setters	8.49	.30	.40	.50		
Marble setters' helpers	8.18	.30	.30			
Millwrights	8.00	.45	7%+2%	17%	.04	
Pipefitters	8.265	.75	.685	1.35	.05	
Plasterers	8.64	.48	.48			
Plumbers	8.42	.75	.535	1.24	.005	
Soft floor layers	7.56	.45	.41	.60	.03	
Roofers:						
Composition	8.47	.40	.55	.30		
Slate and Tile	9.22	.40	.55	.30		
Sheet metal workers	8.44	.54	6%	10%	.02	
Sprinkler fitters	9.65	.35	.40		.055	
Stonemasons	8.519	.50	8%	11%	.05	
Terrazzo workers:						
Terrazzo workers	8.12	.30	.40	.50		
Grinders & helpers	7.36	.30	.10	.25		
Tile setters	8.46	.30	.40			
Tile setters' helpers	7.60	.30	.30			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

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Welders - receive rate prescribed for craft perfroming operation to which welding is incidental.

PAID HOLIDAYS
A-New Year's Day' B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day Day; F-Christmas Day

FOOT NOTES:
a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

Michigan - Painters Area 11 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Painters:						
Brush & paperhangers	$7.95	.55	.65	.75		
Brush cleaning & other prepartory work (other than spraying or steelejack work) on scaffolds of 50' from ground or higher, preparatorial work & painting on open steel under 40' when no scaffolding is used, swing stage work, window jacks and window belts (exterior & interior), spraymen & sandblasters on scaffolds 40' above ground or floor level, preparatorial work and painting on all highway bridges or over passes up to 40' in height	8.45	.55	.65	.75		
Spraymen and sandblasters at a scaffold height of 40' from floor level or higher	8.575	.55	.65	.75		
Spraymen and sandblaster working from swing stage 20' or higher	8.70	.55	.65	.75		
Steeplejacks working on elevations 40' or more	9.20	.55	.65	.75		

Mich 8-Lab A 1 Of 1

Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LABORERS:						
Laborer	$6.45	.45	.35	.50		
Mortar mixer, Scaffold builder	6.53	.45	.35	.50		
Signal man, air electric or gasoline tool operator	6.63	.45	.35	.50		
Win lass and Tugger operator	6.63	.45	.35	.50		
Jackhammer operator	6.63	.45	.35	.50		
Vibrator operator	6.63	.45	.35	.50		
Crock grade man	6.68	.45	.35	.50		
Crock layer and pile layer	6.78	.45	.35	.50		
Caisson workers	6.83	.45	.35	.50		

Michigan Line Construction Area II

Mich. 1 - L

Line Construction:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Line & tower mechanic	$8.94	.66	3.4%	10%	½of1%	
Cable splicer	9.34	.66	3.4%	10%	½of1%	
Combination equipment operator and groundmen	7.24	.66	3.4%	10%	½0f1%	
Combination driver and groundmen	6.85	.66	3.4%	10%	½of1%	
Groundman	6.31	.66	3.4%	10%	½of1%	

Michigan 1 - PEO M 1 of 1

Building & Heavy Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Crane with boom & jib or leads 220' or longer	$8.62	.40	.40	10%	.05	
Crane with boom and jib or leads 140' or longer, up to 220'	8.37	.40	.40	10%	.05	
Engineer	8.13	.40	.40	10%	.05	
Engineers when operating compressor or welding machine	7.305	.40	.40	10%	.05	
Fireman or oiler	6.68	.40	.40	10%	.05	

Mich - 5 - LAB Underground I 1 of 1

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
LABORERS:						
Tunnel, Shaft & Caisson Work: Tunnel, shaft & caisson laborer, dump men, shanty man, hog house tender, testing man (on gas)	$5.40	.40	.25			
Bricklayer tender, mortar men and material mixers	5.48	.40	.25			
Air tool operator (jackhammer man, bush hammer man and grinding man), first bottom man, second man, concrete man, concrete form man, concrete repair man, cement invert laborer, concrete shoveler, conveyor man, floor man, gasoline & electric tool operator, gunnite man, grout operator, heading dinky man, inside lock tender, pea gravel operator, pump man, outside lock tender, scaffold man, top signal man, switch man, signal man, track man, tugger man, utility man, vibrator man, winch operator and pipe jacking	5.53	.40	.25			
Tunnel, shaft & caisson mucker, bracer man, liner plate man, long haul dinky driver and well point man	5.68	.40	.25			
Tunnel, shaft & caisson miner, drill runner, key board operator, power knife operator, reinforced steel man	5.88	.40	.25			
Dynamite man and powder man	6.13	.40	.25			
Open Cut Work:						
Construction laborers	5.40	.40	.25			
Mortar mixers, material mixers and bricklayer tender	5.48	.40	.25			
Air, gasoline and electric tool operators, tar kettle operators, joint men (in trench only), signal men	5.53	.40	.25			
Windlass and tugger men	5.53	.40	.25			
Trench or excavating grade man	5.58					
Pipe layers (including crock or other conduits)	5.73	.40	.25			

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Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan 2-PEO N 1 of 1

POWER EQUIPMENT OPERATORS STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Engineer operating combination of boom & jib 220' or longer	$9.41	.40	.40	10%	.05	
Engineer operating combination of boom & jib 140' or longer, up to 220'	9.16	.40	.40	10%	.05	
Tower-crane & derrick operator (work station 50' or more above 1st sub-level)	9.16	.40	.40	10%	.05	
Crane operator & job mechanic	8.68	.40	.40	10%	.05	
Hoisting engineers	8.54	.40	.40	10%	.05	
Compressor or welder operator	7.84	.40	.40	10%	.05	
Oiler or fireman	6.875	.40	.40	10%	.05	

UNDERGROUND CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
TRUCK DRIVERS:						
Underground Construction						
Lowboys & euclid & double bottoms	$5.17	a 14.50	a 10.00	b&c		
Dump of 8 cu. yds. cap., or over pole trailers, semis & fuel trucks	5.02	a 14.50	a 10.00	b&c		
All other trucks	4.92	a 14.50	a 10.00	b&c		

Michigan 3-TD L

Building & Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Pole trailers, low boys, straddle carriers, double bottoms and special load permits drivers	$5.25	a14.50	a10.00	b+c		
Semi drivers	5.15	a14.50	a10.00	b+c		
All other trucks	5.00	a14.50	a10.00	b+c		

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-May 30th;
C-July 4th; D-Labor Day; E-Thanksgiving
F-Christmas

FOOTNOTES:

a. Per week, per employee

b. 6 paid holidays for employees who have acquired seniority

c. Vacation pay: Less than 3 years, 4 hours of basic straight time pay per month. Three to ten years 8 hours of basic straight time per month. Ten years to 15 years, 12 hours of basic straight time per month. Over 15 years, 16 hours of basic straight time pay per month.

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Genesee
DECISION NUMBER: AP-88 DATE: Date of Publication
Supersedes Decision No. AM-8613 dated May 19, 1972 in 37 FR 10293
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos Workers	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	8.70	.40	.60			
Carpenters	8.59	.35	.40		.01	
Carpenters - Heavy	7.73	.40	.40		.01	
Cement masons	8.05	.30	.18		.02	
Electricians	9.20	.30	1%+.15			
Elevator constructors	7.77	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Ironworkers, structural & ornamental & reinforcing	8.17	8%	13%	16%	.04	
Laborers:						
Construction laborers	7.13	.30	.20			
Mortar mixer (including concrete mixer ½ cu. yd. or smaller)	7.23	.30	.20			
Signal men & top men (on sewer & caisson work)	7.23	.30	.20			
Air, gasoline, or electric tool operators, jackhammer & air spade	7.23	.30	.20			
Tunnel men (concrete shovelers, car pushers, etc.) & bottom men (on sewer work)	7.33	.30	.20			
Windlass & niggerhead operators (on caisson work)	7.33	.30	.20			
Burner	7.33	.30	.20			
Crock layers (or pipe layers) conduit & any vitrified tile except 4" drain tile around building	7.43	.30	.20			
Caisson workers	7.43	.30	.20			
Tunnel muckers	7.43	.30	.20			
Tunnel miners	7.58	.30	.20			
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		c	.01	
Marble setters	8.70	.40	.60			
Marble setters' helpers	6.00	.30	.30			
Painters:						
Brush & Roller	6.95	.50	.40			
Spray	7.25	.50	.40			
Piledrivermen	8.59	.35	.40		.01	
Piledrivermen - Heavy	7.73	.40	.40		.01	
Plasterers	8.04	.32	.18		.03	
Plumbers	8.71	.47	.66			
Riggers & machinery movers	7.982	.60	1.10	11%	.01	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Roofers:						
Composition	8.15	.45	.40			
Composition helpers	4.68	.45	.40			
Slate & tile, wood fiber	8.50	.45	.40			
Slate & tile helpers & wood fiber helper	4.93	.45	.40			
Sheet metal workers	7.09	.59	.90	1.00		
Sprinkler fitters	8.20	.20	.30		.05	
Soft floor layers - resilient floor layers	8.59	.35	.40		.01	
Steamfitters	8.71	.47	.66			
Stonemasons	8.70	.40	.60			
Terrazzo workers	6.40	.35	.45			
Terrazzo workers' helpers	6.00	.30	.20			
Tile setters	6.40	.35	.45			
Tile setters' helpers	6.00	.30	.20			
Truck Drivers	4.30	d6.00	d7.00			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E- Thanksgiving Day; F-Christmas Day.

FOOT NOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Cresit for employee who has worked in business less than 5 years.

c. Nine paid holidays, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Per week per each employee.

Michigan-3-PEO K

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

Mich. Line Construction Area I

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan 8PEOH 1 of 2

——Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

POWER EQUIPMENT OPERATORS STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
CLASS A						
Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B						
Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D						
Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E						
Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F						
Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-90
Supersedes Decision No. AM-8615 dated May 19, 1972 in 37 FR 10298
COUNTIES: Grande Traverse & Leelanau
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	6.60	.25			.01	
Carpenters building	6.92	.35	.40		.02	
Carpenters - Heavy	7.49	.40	.40		.01	
Cement masons	6.15	.25			.01	
Electricians	7.88	.30	1%		.1%	
Elevator constructors	7.18	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	5.20	.17	.10			
Ironworkers, structural, ornamental & Reinforcing	8.35	.50	.50		.03	
Laborers:						
Laborers	5.15	.30	.20			
Air tool op. (Jackhammer, vibrator)	5.30	.30	.20			
Mortar mixers	5.30	.30	.20			
Crock and pipe layers	5.30	.30	.20			
Plasterers' tenders	5.30	.30	.20			
Sewer and caisson workers	5.30	.30	.20			
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		f	.01	
Marble setters	6.60	.25			.01	
Marble setters' helpers	5.61	.30	.20		.02	
Millwrights	7.42	.35	.40		.02	
Painters:						
Brush	5.90					
Spray	6.50					
Drywall taping	6.20					
Piledrivermen - Heavy	7.49	.40	.40		.01	
Plumbers	7.92	.40	.30		.03	
Plasterers	6.60	.25			.01	
Piledrivermen	7.37	.35	.40		.02	
Roofers	6.45					
Sheet metal workers (Comm.)	7.79	.35	.33	.60	.02	
Soft floor layers	6.92	.35	.40		.02	
Sprinkler fitters	8.20	.20	.30		.05	
Steamfitters	7.92	.40	.30		.03	
Stone masons	6.60	.25			.01	
Terrazzo workers	6.60	.25			.01	
Terrazzo workers' helpers	5.61	.30	.20			
Tile setters	6.60	.25			.01	
Tile setters' helpers	5.61	.30	.20			
Truck Drivers:	5.02					

28 - Michigan X 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Per week per employee.

d. One year but less than 3 years--1 week's vacation; 3 or more years--2 week's vacation.

e. After 1 month's employment, 6 paid holidays.

f. Nine paid holidays, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

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Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS:						
BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

Michigan-6-PEO S

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS STEEL ERECTION						
CLASS A Crane operator with main boom & jib 220' or longer	$9.55	.40	.45		.05	
CLASS B Crane operator with main boom & jib 140' or longer, up to 220', tower cranes, gantry crane, whirley derrick	9.30	.40	.45		.05	
CLASS C Regular equipment operator, crane, dozer, loader, hoist, straddle wagon, job mechanic	9.05	.40	.45		.05	
CLASS D Air tugger (single drum), material hoist, pump 6" or over	8.95	.40	.45		.05	
CLASS E Air compressor, welder, generators, conveyors	7.95	.40	.45		.05	
CLASS F Oiler or fireman	6.90	.40	.45			

SUPERSEDEAS DECISION

STATE: Michigan
COUNTY: Saginaw
DECISION NUMBER: AP-96
DATE: Date of Publication
Supersedes Decision No. AM-8616 dated May 19, 1972 in 37 FR 10303
DESCRIPTION OF WORK: Building Construction (Excluding single family homes and garden type apartments up to and including 4 stories), and Heavy Const.

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	8.77	.45	.50			
Carpenters (Building)	8.59	.35	.40		.01	
Carpenters - Heavy	7.73	.40	.40		.01	
Cement masons	8.12	.35	.50			
Electricians	9.50		1%+.15		½of1%	
Elevator constructors	7.77	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob)	50%JR					
Glaziers	3.65					
Ironworkers, structural, ornamental & reinforcing	8.17	8%	13%	16%	.04	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		d	.01	
Marble setters	8.55					
Millwrights	8.00	.45	7%+2%	17%	.04	
Painters:						
Industrial, brush	6.80	.35	.20			
Residential & Commercial	6.80	.35	.20			
Spray	7.55	.35	.20			
Sandblasting (Inside)	7.80	.35	.20			
Swing stage, boatswain chair, sandblasting, (outside) work over 40" open structural steel	7.40	.35	.20			
Piledrivermen	8.59	.35	.40		.01	
Piledrivermen - Heavy	7.73	.40	.40		.01	
Plasterers	7.67	.45		.50		
Plumbers	8.95	.44	.50		.01	
Roofers	8.50	.55	.45			
Sheet metal workers	8.87	.40	.30			
Resilient floor layers	8.59	.35	.40		.01	
Sprinkler fitters	8.20	.20	.30		.05	
Steam fitters	8.95	.44	.50		.01	
Stonemasons	8.77	.45	.50			
Terrazzo workers	8.55					
Terrazzo workers' helpers & grinders	7.36	.30	.10	.25		
Tile setters	8.55					
Truck drivers:						
Under 8 yds.	3.67	c7.80	c8.00	.17		
Over 8 yds.	3.77	c7.80	c8.00	.17		
Euclids	3.87	c7.80	c8.00	.17		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksfiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays, A through F

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week per employee.

d. Mine paid holidays, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular schecduled workdays immediately preceding and following the holiday.

f. 4% vacation; 2% holiday fund.

Mich. Line Construction Area I

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	O—
LINE CONSTRUCTION:						
Linemen	$6.89	.25	1%	a	.25%	
Cable Splicer	7.23	.25	1%	a	.25%	
Comb. digger Op. - Groundman	5.39	.25	1%	a	.25%	
Comb. Tractor Op. - Groundman	5.39	.25	1%	a	.25%	
Light equipment Op. - Groundman	4.74	.25	1%	a	.25%	
Distribution line truck driver operator - Groundman	4.74	.25	1%	a	.25%	
Combination Winch truck driver - Groundman						
1st year	3.96	.25	1%	a	.25%	
Over 1 Year	4.53	.25	1%	a	.25%	
Comb. Truck driver - Groundman	3.84	.25	1%	a	.25%	

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Seven paid holidays: A through F plus Veterans Day providing the employee worked the scheduled workday preseding and the scheduled workday next following the day observed as the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Laborers:						
Construction laborers	6.83	.30	.20			
Mechanized mortar mixing, air, electric & gas driven tools, vibrators, signal men and top men on sewer & caisson work (open cut)	6.95	.30	.20			
Air or electric driven pavement pavement breaker, plasterers tenders, plaster mixers	7.03	.30	.20			
Tunnel men, concrete shovelers, car pushers, etc., and grade men on sewer, trench or excavating grade men	7.05	.30	.20			
Windlass (on caisson work)	7.00	.30	.20			
Crock layers (and pipe layers on all sewer, water and gas lines)	7.25	.30	.20			
Caisson workers	7.15	.30	.20			
Tunnel miners	7.50	.30	.20			
Drillers and blasterers, burners and welders	7.60	.30	.20			

Michigan-3-PEO K

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY						
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

Michigan 8PEOH 1 of 2

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45		—	

Michigan 2-PEO N 1 of 1

POWER EQUIPMENT OPERATORS STEEL ERECTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Engineer operating combination of boom & jib 220' or longer	$9.41	.40	.40	10%	.05	
Engineer operating combination of boom & jib 140' or longer, up to 220'	9.16	.40	.40	10%	.05	
Power-crane & derrick operator (work station 50' or more above 1st sub-level)	9.16	.40	.40	10%	.05	
Crane operator & job mechanic	8.68	.40	.40	10%	.05	
Hoisting engineers	8.54	.40	.40	10%	.05	
Compressor or welder operator	7.84	.40	.40	10%	.05	
Oiler or fireman	6.875	.40	.40	10%	.05	

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-91
Supersedes Decision No. AM-8617 dated May 19, 1972 in 37 FR 10309
DESCRIPTION OF WORK: Building construction, (Excluding single family homes and garden type apartments and including 4 stories), and Heavy Const.

COUNTY: Huron
DATE: Date of Publication

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Building and Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$6.95	.44	.95		.01	
Boilermakers	8.40	.50	1.00	1.00	.01	
Bricklayers	8.77	.45	.50			
Carpenters:						
Building	8.59	.35	.40		.01	
Carpenters - Heavy	7.73	.40	.40		.01	
Cement masons	8.02	.45	.50			
Electricians	8.85	7½%+.10	7%	10%	.06	
Elevator constructors	7.77	.17	.185	2%+q&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (c)	50%JR					
Ironworkers, structural ornamental reinforcing	8.17	8%	13%	16%	.04	
Lathers	7.29	.27	.10	.25	.01	
Lead burners	7.80	.30		c	.01	
Marble setters	9.49	.30	.40	.50		
Marble setters' helpers	8.18	.30	.30			
Millwrights	8.00	.45	7%+2%	17%	.04	
Painters" (East of Highway 53)						
Brush (hand)	8.30	.35				
Swing stage - 60 hook up	9.05	.35				
Spray work - under 40'	8.80	.35				
Spray work - 40' scaffold	8.95	.35				
Painters: (West of Highway 53)						
Commercial:						
Brush	6.45	.42	.30			
Srpay	7.20	.42	.30			
Piledrivermen	8.59	.35	.40		.01	
Piledrivermen - Heavy	7.73	.40	.40		.01	
Plasterers	7.67	.45		.50		
Plumbers:						
Western ½ of County	8.89	.35	.45			
Eastern ½ of County	8.67	.25	.35			
Riggers & machinery movers	6.00	.60	1.10	10%	.01	
Roofers	7.50	.40	.20		.01	
Sheet metal workers	8.87	.40	.30			
Sprinkler fitters	8.20	.20	.30		.05	
Soft floor layers	7.94	.35	.40	.50	.01	
Steam fitters (Western ½ of County)	8.89	.35	.45			
Steam fitters (Eastern ½ of County)	8.67	.25	.35			
Stone masons	8.77	.45	.50			

PAID HOLIDAYS (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work day immediately preceding and following the holiday.

d. Includes .05 holiday fund.

Michigan 10 Lab. I 1 of 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Laborers:						
Construction laborers	6.83	.30	.20			
Mechanized mortar mixing, air, electric & gas driven tools, vibrators, signal men and top men on sewer & caisson work (open cut)	6.95	.30	.20			
Air or electric driven pavement pavement breaker, plasterers tenders, plaster mixers	7.03	.30	.20			
Tunnel men, concrete shovelers, car pushers, etc., and grade men on sewer, trench or excavating grade men	7.05	.30	.20			
Windlass (on caisson work)	7.00	.30	.20			
Crock layers (and pipe layers on all sewer, water and gas lines)	7.25	.30	.20			
Caisson workers	7.15	.30	.20			
Tunnel miners	7.50	.30	.20			
Drillers and blasterers, burners and welders	7.60	.30	.20			

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Michigan-3-PEO K

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CLASS A						
Crane with boom & job or leads 220' or longer	$9.20	.40	.45		.05	
CLASS B						
Crane with boom and jib or leads 140' or longer, up to 220', tower cranes, gantry cranes, whivley derrick	8.95	.40	.45		.05	
CLASS C						
Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hust, job mechanic and head greese man	8.70	.40	.45		.05	
CLASS D						
Pumps 6" or over, well points & freeze systems, air tugger (single drum), material hust (buck type)	8.60	.40	.45		.05	
CLASS E						
Engineers when operating air compressor, welding machine, generators, conveyors, pumps under 6" and greese man	7.60	.40	.45		.05	
CLASS F						
Fireman, oiler or heater operator	6.90	.40	.45			

Michigan Line Construction Area If

Mich. 1 - L

Line Construction:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Line & tower mechanic	$8.94	.66	3.4%	10%	½of1%	
Cable splicer	9.34	.66	3.4%	10%	½of1%	
Combination equipment operator and groundmen	7.24	.66	3.4%	10%	½0f1%	
Combination driver and groundmen	6.85	.66	3.4%	10%	½of1%	
Groundman	6.31	.66	3.4%	10%	½of1%	

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Michigan 8PEOH 1 of 2

Underground Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS:						
Power shovels, crane (crawler, truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging capacity), mechanic, end loader (over 1-1/2 cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant operator (concrete), backfiller tamper, well drilling slip form paver, slope paver, conveyor loader (euclid type)	$8.74	.40	.45		.05	
Trencher (8' digging capacity & smaller), endloader (1-1/2 cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller) than D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more - inclusive of generator), hoist, boom truck (power swing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher	8.61	.40	.45		.05	
Air compressors (2 or more - less than 600 CFM,) air compressors (600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum-1/2 yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck-mounted - includes compressor)	7.88	.40	.45		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS: (Cont'd)						
Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hrs. or more a day - gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self-propelled (6' wide or over), stump remover, mulching equipment, farm tractor, (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 hp. or over)	$7.31	.40	.45		.05	
Oiler & firemen	7.31	.40	.45			

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
POWER EQUIPMENT OPERATORS STEEL ERECTION						
Engineer operating combination of boom & jib 220' or longer	$9.41	.40	.40	10%	.05	
Engineer operating combination of boom & jib 140' or longer, up to 220'	9.16	.40	.40	10%	.05	
Tower-crane & derrick operator (work station 50' or more above 1st sub-level)	9.16	.40	.40	10%	.05	
Crane operator & job mechanic	8.68	.40	.40	10%	.05	
Hoisting engineers	8.54	.40	.40	10%	.05	
Compressor or welder operator	7.84	.40	.40	10%	.05	
Oiler or fireman	6.875	.40	.40	10%	.05	

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
TRUCK DRIVERS:						
Pole trailers, low boys, straddle carriers, double bottoms and special load permits drivers	$5.25	a14.50	a10.00	b+c		
Semi drivers	5.15	a14.50	a10.00	b+c		
All other trucks	5.00	a14.50	a10.00	b+c		

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-May 30th;
C-July 4th; D-Labor Day; E-Thanksgiving
F-Christmas

FOOTNOTES:

a. Per week, per employee

b. 6 paid holidays for employees who have acquired seniority

c. Vacation pay: Less than 3 years, 4 hours of basic straight time pay per month. Three to ten years 8 hours of basic straight time per month. Ten years to 15 years, 12 hours of basic straight time per month. Over 15 years, 16 hours of basic straight time pay per month.

SUPERSEDEAS DECISION

STATE: Tennessee
DECISION NUMBER: AP-138
Supersedes Decision No. AM-8612 dated May 19, 1972 in 37 FR 10327
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Utility Construction.

COUNTY: Shelby
DATE: Date of Publication

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.,
Asbestos workers	$7.875	.25	.25		
Boilermakers	6.25	.30	.50		.01
Bricklayers	7.55	.25	.20		.07
Carpenters, piledrivermen and soft floor layers	6.85	.30			.03
Cement masons	6.55	.25	.15		.06
Cement masons machine operator	6.80	.25	.15		.06
Electricians and Linemen	6.83	.30	1%		.5%
Cable splicers	6.93	.30	1%		.5%
Elevator constructors	6.08	.17	.185	2%+a&b	.005
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	6.80	.35	.20		
Ironworkers:					
Structural and Ornamental	7.45	.25	.25		.125
Reinforcing	7.45	.25	.25		.125
Lathers	6.80	.20			.01
Leadburners	6.90	.30		c	.01
Marble setters	5.75	.20			
Millwrights	6.84	.25			.06
Painters:					
Brush	6.25		.20		.05
Steel, spray and sandblasting	6.50		.20		.05
Plasterers	7.00				.01
Plumbers	7.90	.05	.15		.04
Roofers:					
Composition	6.30		.20		
Slate, tile, asbestos and precast tile	6.55		.20		
Sheet metal workers	7.20	.40	.15	.30	.02
Sprinkler fitters	8.05	.30	.40		.05
Steamfitters, air conditioning mechanics and pipefitters	6.40	.30	.30		
Stonemasons	7.55	.25	.20		.07
Terrazzo workers	5.75	.20			
Tile setters	5.75	.20			
Truck drivers:					
Up to 5 tons	3.695		d		
5 tons & over including special equipment	4.095		d		
Welders - riggers and riveters receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays, A through F plus Washington's Birthday, Good Friday & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contribution $2.00 per week.

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
GROUP A						
General and common laborers, concrete laborers, track laborer-walkers, cement finisher helpers, plumber helpers, carpenter tenders, asphalt rakers-tampers, form strippers, roofing helpers	$3.475					
GROUP B						
Well driller helpers, storm and sanitary pipe layers, mat weavers	3.575					
GROUP C						
Motor buggie operators, chain saw operators	3.625					
GROUP D						
Jackhammer, vibrator and electric hammers and all air tool and pneumatic tools	3.63					
GROUP E						
Deep hole man	3.825					
GROUP F						
Powdermen, toolroom attendant, torchman on demolition and salvage, sand hog (free air)	4.025					
GROUP G						
Hod carriers, mason tenders and plasterer tenders	4.90					
GROUP H						
Mortar mixers	5.00					

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Shovels, Backhoe, Dragline Cranes, Derricks, Gantreys, Grad lls, winches with booms, motor patrol (finish), trenching machines (18 inches or over) pile driver, tug boat operator, mechanics, core drills, 3 drum hoist, foundation equipment	$6.275	.20	.20			
Pushdozer, locomotive, trenching mach. (18 inches or smaller), tandem roller, paver, mixer mobiles, 2-drum hoists, bulldozer, traxcavator, scraper, front end loader, fork lift back filler, blade grader, central mixing plants	6.275	.20	.20			
Elevator graders, winches (operated from tractors and trucks w/o booms), sheepsfoot, dinkey operators (over 10 tons), earth compactors, distributors (bituminous surfaces), light equip. mechanics, mixers (larger than 11's), tractors (over 40 H.P.), 1 drum hoists	5.28	.20	.20			
Locomotive firemen (boilers 100 H.P. & over), air compressor (stationary), concrete placing machines, earth drills, finishing machines, scale operator, tractors (without attachments, 40 H.P. or less), dinkey operators (10-Tons or less), motor crane driver and oiler, mixers (11's or smaller), pump on excavator 4" and larger	5.15	.20	.20			
Portable air compressor, mechanic helper, firemen (low pressure pumps under 4 inches), oilers, welder helper	4.75	.20	.20			

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HEAVY CONSTRUCTION	Basic Hourly Rates	FRINGE BENEFITS PAYMENTS H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$4.91					
Carpenters	4.07					
Cement masons	3.97					
Ironworkers, reinforcing	3.98					
Ironworkers, structural	4.38					
Painter or sand blaster	3.84					
Laborers:						
Laborers, unskilled	2.50					
Air tool operator	2.72					
Mortar mixer, chain saw, pipelayer, conc. rubber	2.70					
Concrete saw op., guard rail erector, sign erector	2.79					
Firemen	2.76					
Asphalt raker	2.87					
Concrete edger	2.89					
Powderman	3.25					
Form setter, steel road	2.94					
Nozzleman or gunman (gunite)	3.97					
Flagman	2.50					
OPERATING ENGINEERS:						
Dragline op., shovel op., crane op., end loader 5 yds. & over, pile driver op., motor patrol finish, mechanic (class I),	4.07					
Backhoe operator, concrete paver op.	4.03					
End loader under 5 yds., mechanic, class II, motor patrol (rough), central mixing (asphalt or concrete), concrete finishing machine, soil cement machine, asphalt paver	3.65					
Bulldozer or push dozer op., scraper op., trenching machine, tractor (boom and hoist),	3.69					
Roller (high type),	3.54					
Spreader (self-propelled)	3.48					
Distributor (bituminous)	3.37					
Roller, other than finish, dozer or loader - stock pile only	3.24					
Tractor, crawler, utility	3.31					
Concrete mixer, less than 1 yd., earth drill	3.02					
Mulcher or seeder, scale op., motor crane driver & oiler	3.00					
Tractor, farm	2.78					
Curb machine	2.77					
Ditch paver, mechanic helpers	2.74					
Pump operator, welder helper	2.71					
Track drill operator	2.84					
Oiler	2.77					
TRUCK DRIVERS:						
2 axles	2.77					
3 axles	2.82					
4 axles	2.97					
5 axles or more or heavy off the road trucks or haulers	3.18					
Welders - Rate for Craft.						

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WATER, SEWER AND UTILITIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Bricklayers	$3.50					
Carpenters	3.50					
Cement masons	3.00					
Laborers	2.07					
Truck drivers:						
Up to 3 tons	2.32					
Over 3 tons	2.50					
Power Equipment Operators:						
Air compressors	2.37					
Backhoe	3.50					
Blade grader	3.50					
Bulldozer	3.45					
Cranes, derricks & [illegible]ines	3.85					
Front end loader	3.50					
Mechanics	3.42					
Motor grader	3.50					
Scrapers	3.34					
Shovels	3.50					
Tractors	2.37					
Trenching machines	3.30					

[FR Doc.72-22285 Filed 12-28-72;8:48 am]